

IESBA Sustainability**Question 7 - Agree****Regulators and Oversight Authorities, incl. Monitoring Group members****BAOA - Botswana Accountancy Oversight Authority**

We support the provisions added. This will allow both the Audit Engagement Partner and the Sustainability Assurance Practitioner to be informed about the (actual or suspected) non-compliance of the sustainability assurance client. It also sets out factors to consider when considering making such communications.

SGX - Singapore Exchange Limited

Yes, as the identification of (actual or suspected) NOCLAR in sustainability assurance will most likely have an impact on the audit of the financial statements given the financial materiality aspect of sustainability reporting.

UKFRC - United Kingdom Financial Reporting Council

Yes.

Investors and Other Users**DIR - Daiwa Institute of Research Ltd**

Yes.

Public Sector Organizations**UNCTAD ARL - UNCTAD's Latin America Regional Alliance**

I do support 100% of respondents

Independent National Standard Setter**APESB - Accounting Professional & Ethical Standards Board (Australia)**

APESB supports the provisions added in extant Section 360 and the new requirements in the proposed Section 5360. We agree that it is important for the auditor and the sustainability assurance practitioner to communicate any actual or suspected NOCLAR to each other. Such communication is likely to have a material impact on the audit of the financial statements or the disclosure of the sustainability information, and therefore, both parties should be made aware of this matter.

Professional Accounting Organizations (PAOs)**AIC - Asociacion Interamericana de Contabilidad (Inter-American Accounting Association)**

We consider important and support the requirements included in both the current Section 360, paragraphs R360 18a through 360 18a A2 of Chapter 3 and Section 5360, paragraphs R5360.18a through 5360. 18a A2 of Chapter 1, both chapters of the ED, that the financial statement auditor and the sustainability assurance practitioner evaluate the possibility of communicating. To each other non-compliance with laws and regulations of which the practitioner becomes aware in the course of providing services to the

sustainability assurance client, whether actual or suspected, and that such non-compliance pertains to the entity and is not committed by other entities in the value chain.

BICA - Botswana Institute of Chartered Accountants

It is essential to support the provisions that encourage auditors and sustainability assurance practitioners to communicate any actual or suspected NOCLAR to each other. This practice ensures transparency and effective resolution of ethical dilemmas.

However, it's worth noting that local regulatory authority BAOA have not yet passed a law to the companies in Botswana to adhere to the IFRS (International Financial Reporting Standards) regulations.

CFAR - Chamber of Financial Auditors of Romania

We support the provisions added in extant Section 360 and in Section 5360 (paragraphs R5360.18a to 5360.18a A2 in Chapter 1 of the ED) for the auditor and the sustainability assurance practitioner to consider communicating (actual or suspected) NOCLAR to each other.

CPAA - CPA Australia

CPA Australia is supportive of these additional provisions since they do not create an obligation (i.e., the relevant provision is worded as “shall consider”) and the relevant factors to consider include “whether doing so would be contrary to law or regulation”. This latter point is critical, as the engagements undertaken by an auditor and a sustainability assurance practitioner might conceivably be totally separate and be performed by firms or individuals that have no relationship with each other. They may be contravening privacy and confidentiality laws by sharing information about a client.

EFAA - European Federation of Accountants and Auditors for SMEs

We support the provisions added in extant Section 360 and in Section 5360 (paragraphs R5360.18a to 5360.18a A2 in Chapter 1 of the ED) for the auditor and the sustainability assurance practitioner to consider communicating (actual or suspected) NOCLAR to each other.

We believe it is vital that the auditor and sustainability assurance practitioner assist one another in the detection and reporting of actual or suspected NOCLAR.

We welcome the fact that Section 5360 does not extend to situations where the NOCLAR has been committed by entities in the sustainability assurance client's value chain. This limitation is logical, pragmatic, and analogous to extant Section 360, where the NOCLAR provisions do not apply to situations where the NOCLAR has been committed by a third party.

ICPAU - Institute of Certified Public Accountants of Uganda

We support the proposed revisions regarding communication of actual or suspected NOCLAR between the auditor and the sustainability assurance practitioner. We believe that this will provide a more comprehensive oversight role in addressing potential risks associated with NOCLAR. We believe that such collaboration will promote transparency and accountability, reinforcing public trust in both financial reporting and sustainability assurance processes. This augments the need to avoid greenwashing but also purposes

the background which is to the effect that sustainability related information is increasingly used to support not only capital allocation by investors, but also other decisions by customers, current or potential employees, government agencies and other stakeholders.

IICA - Institute of Indonesia Chartered Accountants

Yes

IPA - Institute of Public Accountants (Australia)

IPA supports the NOCLAR provisions to be included in IESSA and the revised provisions to be added to extant sections 360 and 260.

MIA-MALTA - The Malta Institute of Accountants

MIA notes that this is an important requirement, particularly in cases where the sustainability assurance practitioner is not the engagement leader on the statutory audit. During an audit of the financial statements, the engagement team is only responsible to read the other information contained in the Annual Report and consider whether it is materially inconsistent with the financial statements or with their knowledge obtained during the course of the audit. NOCLAR, in particular for listed entities (but also equally important for other entities falling within scope), may result not only in the possibility of delisting or revocation of license but may also have a significant impact in terms of market capitalisation which in turn may impact going concern.

MICPA - Malaysian Institute of Certified Public Accountants

We have no objection to the above-mentioned provisions for the auditor and the sustainability assurance practitioner to consider communicating NOCLAR to each other.

Accounting Firms and Sole Practitioners

MOORE - Moore Global Network Limited

Yes, we support the provisions added to the extant Code and those in Section 5360. We believe that communication between the auditor and the sustainability assurance practitioner would enhance both engagements and a NOCLAR discovered by either practitioner could impact on the opinion/conclusion of the other.

PP - Pitcher Partners Advisors Proprietary Limited

Yes, we support the added provisions.

PwC - PricewaterhouseCoopers International Limited

Overall response: Yes, with comments below

The requirements are drafted in a way that it is a "consideration" of the practitioner and the guidance is clear that there may be several factors that may preclude the ability to make such communication. In addition, the conforming amendment to R260.15 (see question 8 below) places responsibility on the senior professional accountant in business to determine whether disclosures of the matter to the entity's external auditor or sustainability assurance practitioners are needed. This approach seems appropriate.

Academia and Research Institutes

DIRC - Deakin University Integrated Reporting Centre

We support the provisions added in extant Section 360 and in Section 5360 for the auditor and the sustainability assurance practitioner to consider communicating (actual or suspected) NOCLAR to each other.

NSU - Nova Southeastern University (Florida)

Question 7: Only two students addressed this question, as below.

- Yes, I support the provisions added for communication of NOCLAR between the auditor and the sustainability assurance practitioner. Collaboration and transparency between professionals involved in assurance activities are crucial for maintaining integrity and addressing ethical concerns effectively.
- Yes, I support these provisions. It's important for auditors and sustainability assurance practitioners to communicate about any actual or suspected non-compliance with laws and regulations (NOCLAR) to ensure that appropriate actions are taken to address the issue.

Question 7 - Agree With Comments

Regulators and Oversight Authorities, incl. Monitoring Group members

CEAOB - Committee of European Auditing Oversight Bodies

Responding to non-compliance with laws and regulations (NOCLAR)

Unless prohibited by law or regulation the SAP should be required to communicate NOCLAR to the client's external auditor rather than just consider whether to communicate this information as proposed in the ED-IESSA (R5360.18a). Similarly, the PA should report any NOCLAR to the client's SAP (R360.18a).

ESMA - European Securities and Market Authority

Non-Compliance with Laws And RegulationsTM (NOCLAR®) in relation to value chain actors

ESMA notes that the ED does not address provisions for cases of Non-Compliance with Laws And Regulations relating to actors in the value chain of a sustainability assurance client.

We understand that this provision is mostly envisaged to keep alignment with the existing requirements in Section 360 of the International Code of Ethics which focuses on non-compliance within the perimeter of a client's activities and those working for or under the direction of the client.

However, we question whether this approach fully reflects the specificities of sustainability reporting where the value chain elements would be potentially quite relevant. Reporting on sustainability information would, in fact, require, both under EU and international standards, consideration of risk, opportunities and impacts stemming from the relationship with value chain actors.

To the extent the client has identified material risk, opportunities and impacts stemming from its value chain, the conclusion expressed by the assurance provider should enhance the degree of confidence of the intended users about the sustainability information also with regards to these value chain aspects. Therefore, ESMA would recommend

reconsidering the extension of NOCLAR provisions to value chain actors when this is relevant for the purpose of ultimately assessing the compliance of the value chain-related disclosure of the client with applicable sustainability reporting requirements.

ESMA also recommends strengthening the requirements relating to the communication on any non-compliance or suspected non-compliance of the client between the sustainability assurance practitioner and the client's external auditor (par. R5360.18a and par. R360.18a). In particular, these requirements should envisage that this communication shall take place unless otherwise provided for by applicable laws and regulations.

IAASA - Irish Auditing & Accounting Supervisory Authority

Responding to non-compliance with laws and regulations (NOCLAR)

Unless prohibited by law or regulation the SAP should be required to communicate NOCLAR to the client's external auditor rather than just consider whether to communicate this information as proposed in the ED-IESSA (R5360.18a). Similarly, the PA should report any NOCLAR to the client's SAP (R360.18a).

IFIAR - International Forum of Independent Audit Regulators

Responding to non-compliance with laws and regulations (NOCLAR)

Unless prohibited by law or regulation, we agree with the proposal that the SAP should be required to communicate NOCLAR to the client's external auditor (R5360.18a). Similarly, the PA should report any NOCLAR to the client's SAP (R360.18a). Communication between the SAP and PA is an important step in ensuring high quality engagements and we think "shall consider whether to communicate" might lead to inconsistent interpretation across practitioners. Additionally, we encourage the IESBA to explore whether fraud or suspected fraud that is identified should be included as mandatory matter of communication.

IOSCO - International Organization of Securities Commissions

We generally support the proposed provisions for the auditor and the sustainability assurance practitioner to communicate actual or suspected NOCLAR to each other. However, we believe the communication requirements should be strengthened as the requirement associated with a consideration is not always clear, could be perceived as optional, and may result in inconsistent application.

Further, to comply with the principle of confidentiality, we believe the proposed provisions should be updated to include provisions to obtain the entity's permission where legally required, preferably in writing, to initiate discussions with the professional accountant (PA)/SAP. Additionally, where the entity fails or refuses to grant permission to discuss the entity's non-compliance or suspected non-compliance with the PA/SAP, the PA/SAP shall determine if further action is needed in the public interest and the nature and extent of such further action.

IRBA - Independent Regulatory Board for Auditors

Question 7: Partially yes, with comments for your consideration below.

We agree with the requirement in paragraph R5360.18a that requires the sustainability assurance practitioner to consider communicating NOCLAR with the auditor. This aligns with the extant requirement in R260.15 for a professional accountant (in business) to determine whether disclosure of the matter to the employing organization's external auditor, if any, is needed.

We disagree with the conforming amendment to paragraph R360.18a that requires the auditor to consider communication with the sustainability assurance practitioner. We understand that NOCLAR provisions are designed to help professional accountants determine when it is appropriate to breach confidentiality. We question whether this requirement might pose a risk of inappropriate confidentiality breaches, especially since sustainability assurance practitioners may not have the same professional obligations or oversight as auditors. For example, the Auditing Profession Act 26 of 2005, as amended, requires registered auditors to report reportable irregularities. Therefore, while registered auditors in South Africa are expected to handle confidential information responsibly due to their regulatory standards, the same is not true for non-professional accountants or sustainability assurance practitioners without such obligations.

NASBA - National Association of State Boards of Accountancy (US)

NASBA understands the provisions added in extant Section 360 (paragraphs R360.18a to 360.18a A2 in Chapter 3 of the ED) and in Section 5360 (paragraphs R5360.18a to 5360.18a A2 in Chapter 1 of the ED) for the auditor and the sustainability assurance practitioner to consider communicating (actual or suspected) NOCLAR to each other. From a regulator perspective, those provisions would close a communication loophole that currently exists. However, given the diversity of legal frameworks among jurisdictions, there could be a significant challenge in implementation. The requirement for a professional service provider to communicate NOCLAR to another professional service provider could be subject to limitations of other laws and legal requirements based on the jurisdiction.

PAABZ - The Public Accountants and Auditors Board of Zimbabwe

Response 1:

The respondents supports the IESBA'S proposal for the auditor and the sustainability assurance practitioner to consider communicating NOCLAR to each other provided that this communication is done on confidential basis and all the relevant factors stated in 5360.18a A1 will be religiously considered before such communication takes place.

Response 2:

The other respondents believe that this is a truly delicate area particularly where there are 2 separate, non-associated firms or entities conducting either of the 2 engagements. It is a matter of judgement as to what needs to be shared and this will mean that each entity will have to understand the scope, extent and nature of the others work and then communicate. There is a real risk of sharing confidential information in either direction. It should be borne in mind that 2 separate reports will be prepared on a distinctly different basis and it may not be necessary to share information. The potential of the knowledge gap of what is and is not confidential information is open to subjectivity/risk and we believe that this section be struck off. Each entity and assurance engagement has their

scopes and limitations and these should be respected and followed. If anything, should there be different firms conducting the different audits, it is for the financial auditors to utilise the work of the sustainability assurance provider to determine how it will impact the audit opinion.

Investors and Other Users

SAAJ - The Securities Analysts Association of Japan

We basically agree with the proposal to add a requirement for the communication of (actual or suspected) NOCLAR between the auditor and the sustainability assurance practitioner for assurance engagements on sustainability information that meets certain criteria and to waive confidentiality in such cases.

Under the objective of profession-agnostic standards, it is important to add the requirement for the communication of NOCLAR to maintain high quality assurance and to meet the need for connectivity between financial and sustainability information. As users, we believe that, in addition to responding to NOCLAR, additional requirements are needed to prevent material inconsistencies between the two sets of information. In this regard, paragraph 65 of the Explanatory Memorandum indicates that the communication in a broader sense other than the context of NOCLAR is a matter for the relevant assurance standards to determine and that the IESBA will coordinate with the IAASB on this matter as needed. We hope the IESBA's coordination with the IAASB, such as encouraging the IAASB to provide additional requirements on this matter.

However, we have the following suggestions for improvement:

- To respond more effectively to NOCLAR, we encourage the IESBA to require “shall communicate NOCLAR to each other” rather than “shall consider communicating NOCLAR to each other”. Under the provision “shall consider communicating NOCLAR to each other”, the decision whether to communicate NOCLAR depends on the judgment of the assurance practitioner and the auditor. Therefore, there is concern, in particular, as to whether the assurance practitioner who is not a PA can make the appropriate judgment. We believe that “shall communicate” would strengthen the checks and balances on the preparer. Even if the standard is finalized with “shall consider communicating”, we encourage the IESBA to consider measures to enhance the effectiveness of responding to NOCLAR, such as providing guidance to auditors and assurance practitioners in making appropriate judgments. The same applies to the requirement for the communication among sustainability assurance practitioners as stated in the third bullet point.
- Also, to respond more effectively to NOCLAR, we encourage the IESBA to provide guidance on the communication between the sustainability assurance practitioner and the auditor and management or those charged with governance (TCWG). Firms with various backgrounds other than audit firms are likely to become sustainability assurance practitioners under the objective of profession-agnostic standards. We believe that there is a need for easy-to-understand guidance that considers assurance practitioners who are not PAs and do not have experience in financial statement audits. In addition, there would be many cases where the sustainability assurance practitioner and the auditor belong to different firms, given the current situation where firms other than audit firms widely provide sustainability assurance engagements.

However, as communication is likely to be more difficult when they belong to different firms than when they belong to the same firm, we encourage the IESBA to provide guidance to clarify how to communicate to each other when belonging to different firms.

- In the case of sustainability disclosure standards that require an entity to disclose information on all material sustainability-related risks and opportunities, such as the ISSB Standards, a single firm would be the sustainability assurance practitioner, using the work of external experts. In Japan, sustainability disclosure standards are to be developed and legislated based on the ISSB Standards. In this situation, it may be sufficient to add provisions on the communication between the sustainability assurance practitioner and the auditor. However, in the transition period until the practice on statutory sustainability disclosures is well established, there may be multiple sustainability assurance practitioners in voluntary and other reports. As users who emphasize connectivity between financial and sustainability information, we prefer that a single firm be the assurance practitioner, even for voluntary and other reports. That said, given the objective of framework-neutral standards and the emphasis on connectivity between topics of sustainability information, we encourage the IESBA to add a requirement for the communication among sustainability assurance practitioners, with due consideration to laws and regulations and security requirements on information in each jurisdiction.
- To strengthen the response to “greenwashing”, we encourage the IESBA to provide guidance and an explanatory memorandum to clarify that NOCLAR includes material misstatements in statutory disclosures as non-compliance with laws and regulations. The laws and regulations subject to the NOCLAR provisions are indicated in paragraph 5360.3 as “(a) Laws and regulations generally recognized to have a direct effect on the determination of material amounts, impacts and disclosures in the client’s financial statements or sustainability information” and paragraph 5360.5 A2 provides examples of laws and regulations dealing with “securities markets and trading”. Based on these provisions, we understand that material misstatements in statutory disclosures that could constitute non-compliance under laws and regulations dealing with securities markets or trading are included in NOCLAR. However, we do not believe that this understanding is readily apparent to many stakeholders. This clarification that NOCLAR includes not only non-compliance with laws and regulations dealing with environment and human rights, but also non-compliance with laws and regulations due to misstatements in statutory disclosures, would enable assurance practitioners to take further actions to prevent misstatements or mitigate the effects of misstatements.

Preparers and Those Charged With Governance

ICFOA - International CFO Alliance

Yes, we believe it is appropriate to require a sustainability assurance practitioner to communicate NOCLAR to the financial statements’ auditor, and vice versa. Any assumption that most of sustainability assurance will be provided by large one-stop consultancies/practitioners may not be correct [Par 60, bullet 3 of the Explanatory Memorandum]. SMEs are often resource constrained and may not be able to afford the services of a large one-stop sustainability assurance provider likely leading to individual

assurance providers on different aspects of the sustainability report. We propose consideration for a requirement to review the financial audit and the sustainability information being assured in conjunction with one and other, minimally at a Board of Director level to ensure integration and the application of the appropriate materiality aspects as per the definition of Sustainability Information [(a) (i) and (ii)].

Public Sector Organizations

AGNZ - Office of the Auditor General of New Zealand

We support the provisions added in extant Section 360 and in Section 5360.

However, we disagree with the IESBA conclusion not to report NOCLAR to other sustainability assurance practitioners that are known to be working for the sustainability client. We question why an other sustainability practitioner is not afforded the same status as the auditor in terms of NOCLAR that may have a bearing on their conclusions. In addition, “erring” on the side of disclosure is more likely to increase the effectiveness of the collective assurance provided by sustainability assurance practitioners.

GAO - US Government Accountability Office

We believe it is reasonable to require a sustainability assurance provider and an external auditor to consider communicating (actual or suspected) noncompliance to each other. We believe that these requirements may be more appropriate for a performance standard rather than in the Code, which consists of ethics and independence requirements.

UNCTAD ARP - UNCTAD African Regional Partnership

95% of the respondents endorse the additional provisions aimed at facilitating communication between the auditor and the sustainability assurance practitioner.

The dissenting response suggested that both the auditor and sustainability practitioner must maintain public confidence by remaining impartial, objective, and ensuring their work is beyond reproach. They should be able to exercise discretion independently, without being influenced by any communicated suspicion.

Independent National Standard Setter

NZAuASB - New-Zealand Auditing & Assurance Standard Board

Yes, we support the requirements. We agree communication is required from both the external auditor to the sustainability assurance practitioner and the sustainability assurance practitioner to the external auditor.

We recommend that the IESBA issue additional guidance relating to NOCLAR that covers practical timing issues, sustainability related examples and scenarios to explain how NOCLAR should be considered in relation to specific reporting frameworks and what thinking process the sustainability assurance practitioner should follow when dealing with NOCLAR.

We are concerned about the timing of the communication. As both engagements might not be undertaken at the same time, it is not clear what steps should be taken if NOCLAR has been communicated and if the other practitioner has already issued the audit/assurance report.

Professional Accounting Organizations (PAOs)

ACCA - Association of Chartered Certified Accountants

We support the provisions of the requirements added in extant Section 360.18a A1 and Section 5360.18a A1 for auditors and sustainability assurance practitioners to communicate actual or suspected non-compliance with laws and regulations (NOCLAR) to each other. It has the benefit of enhanced collaboration between auditors and SAPs which may potentially lead to a more comprehensive understanding of potential risks and issues affecting an entity's sustainability performance. Sharing information about actual or suspected NOCLAR between auditors and sustainability assurance practitioners may also help identify and address compliance-related risks more effectively, contributing to improved risk management. We also believe that by encouraging communication and application of implications associated with NOCLAR, the ED aligns with the ethical principles of integrity, objectivity, and confidentiality, as outlined in the extant code, and demonstrates a commitment to transparency and ethical behaviour in addressing potential misconduct or wrongdoing.

However, it is important to recognise that local laws and regulations in certain jurisdictions may prohibit communicating such information between auditors and sustainability assurance practitioners where the audit firm undertaking the audit of an entity is different to the firm undertaking the sustainability assurance engagement.

Examples of laws and regulations given in paragraph 5360.5 A2 includes a broad range of issues that may indeed be relevant in a sustainability assurance engagement. However, it should be clarified that the practitioner is not expected to search for cases of NOCLAR and section 5360 deals only with (actual or suspected) NOCLAR that the practitioner becomes aware of while providing services to the sustainability assurance client.

We encourage the IESBA to ensure clear guidelines and protocols for communication between auditors and sustainability assurance practitioners to ensure professional independence, objectivity, and confidentiality are maintained while addressing NOCLAR issues. Producing this guidance may require co-ordination with professional bodies for example in what is required to be documented on how NOCLAR judgements are made. As with a financial statement audit, effective communication about NOCLAR requires clear channels of communication, mutual trust, and coordination and there may be some practical challenges in applying this in practice, particularly for example with large groups.

Whilst acknowledging our support we also note that there may be legal or regulatory restrictions on sharing information about NOCLAR between auditors and sustainability assurance practitioners, particularly if it involves confidential or sensitive information, which is noted in 5360.20 A1 of the ED and may require further exploration.

AE - Accountancy Europe

Yes, we agree that the auditor and the sustainability assurance practitioner should consider communicating (actual or suspected) NOCLAR to each other, having considered the factors listed in paragraphs 360.18a A1 and 5360.18a A1, respectively.

Examples of laws and regulations given in paragraph 5360.5 A2 includes a broad range of issues that may indeed be relevant in a sustainability assurance engagement.

However, it should be clarified that the practitioner is not expected to search for cases of NOCLAR and section 5360 deals only with (actual or suspected) NOCLAR that the practitioner becomes aware of in the course of providing services to the sustainability assurance client.

We also believe that sustainability assurance practitioners should primarily focus on non-compliance that might result in fines, litigation or other consequences materially affecting entity's sustainability information.

CAANZ - Chartered Accountants Australia and New Zealand

We support the proposal to require the sustainability assurance practitioner to consider whether to communicate the non-compliance or suspected non-compliance with laws and regulations to the external auditor, and vice versa. However, it is unclear whether such a communication would be in breach of the confidentiality requirements of the Code. We recommend the IESBA clarifies that disclosure is permitted pursuant to paragraph R114.1(d) of the Code, similar to extant paragraph R360.26 that relates to disclosure of non-compliance or suspected non-compliance to an appropriate authority.

CAI - Chartered Accountants of Ireland

Except for the following observations and recommendations, we support the proposed amendments to Sections 360.18a to 360.18a A2, Responding to Non-compliance with Laws and Regulations, applying to PAIPs:

- R360.18a is only appropriate in the context of a professional accountant acting as an External Auditor for the client. We recommend including this clarification within the requirement.
- We believe R360.18a should be more assertive in requiring the SAP's default position to be to communicate, unless there are relevant factors that would prohibit such communication or make it impractical to do so. The requirement should also be extended to require the PAIP, in the instances where the decision is not to communicate, to document their consideration of relevant factors in this regard.
- Regarding 360.18a A1, sustainability assurance engagements will initially be with the objective of providing limited assurance, and at a future date requirements to provide reasonable assurance will apply. We recommend including the PA's consideration of the scope of the sustainability assurance engagement, for example whether it is to provide limited or reasonable assurance, in the list of factors to consider.
- Regarding the factor, included in 360.18a A1, "Whether management or those charged with governance have already informed the client's sustainability assurance practitioner about the matter", we recommend including, immediately following this, 'and there is evidence to support this'.
- The clarity of 360.18a A2 could be improved, reducing risk of misinterpretation, by referring instead to Sustainability Engagement Leader. See our response to question 19 regarding the recommendation to improve the definition of "Engagement Leader" in the glossary.
- Regarding 360.18a A2, we recommend including that communicating the matter to the client's SAP does not mitigate or absolve the professional accountant of any

other requirement within this Code, nor of any other professional or legal obligation they may have in relation to the matter communicated.

Except for the following observations and recommendations, we support the proposals for Sections 5360.18a to 5360.18a A2, Responding to Non-compliance with Laws and Regulations, applying to SAPs:

- We believe 5360.18a should be more assertive in requiring the SAP's default position to be to communicate, unless there are relevant factors that would prohibit such communication or make it impractical to do so. The requirement should also be extended to require the SAP, in the instances where the decision is not to communicate, to document their consideration of relevant factors in this regard.
- Regarding the factor, included in 5360.18a A1, "Whether management or those charged with governance have already informed the client's sustainability assurance practitioner about the matter", we recommend including, immediately following this, 'and there is evidence to support this'.
- Regarding 5360.18a A2, we recommend including that communicating the matter to the client's external auditor does not mitigate or absolve the SAP of any other requirement within this Code, nor of any other professional or legal obligation they may have in relation to the matter communicated.
- We believe there is merit in extending a requirement to consider communication between the External Auditor and the SAP in circumstances beyond communicating matters relating to non-compliance with laws and regulations. Please see our response to question 19 in this regard.

CNCC-CNOEC - Compagnie Nationale des Commissaires aux Comptes

We agree in principles that the sustainability assurance provider should have a responsibility to comply with NOCLAR, and we agree that the financial auditor and the sustainability assurance provider should be able to communicate with one another in case of NOCLAR.

In France, the sustainability assurance providers, whether they be PAs or non-PAs, have an obligation to report to the public prosecutor the criminal acts they would discover in the course of their engagement.

The financial auditor and the sustainability assurance provider (whether PA or non-PA) are also relieved from professional secrecy towards one another. However, the law clearly mentions that they should communicate only the information which is strictly necessary for the accomplishment of each other's engagement.

Therefore, we consider that the communication of NOCLAR between the auditor and the sustainability assurance provider should be limited to what is strictly necessary for each other's engagement.

For example, if the auditor discovers a purely financial fraud from a staff of the accounting department, he will not need to communicate it to the sustainability assurance provider.

That being said, we have two concerns with the NOCLAR section:

First, we are concerned with the extension of the examples of laws and regulations that might be subject to NOCLAR in paragraph 5360.5. A2. We are particularly concerned with

the introduction of consumer rights in this list because they are very wide, and the sustainability assurance provider may not know them extensively. NOCLAR was relatively well defined when it was dealing with financial information because it was mirroring ISA 250. Now that it would also apply to sustainability, there is the risk of a scope creep.

Second, we disagree with the conforming amendments brought to section 360 which introduce a NOCLAR responsibility to the financial auditor towards non-compliance affecting the sustainability information. The financial auditor and the sustainability assurance providers should only be dealing with the NOCLAR concerning their own respective topics: NOCLAR affecting the financial information for the financial auditor, NOCLAR affecting the sustainability information for the sustainability assurance provider. And then, they should be allowed / required to communicate with one another if the identified NOCLAR has an impact on the other professional's topic.

We therefore ask that section 360 be left as it is with no conforming amendments except for the paragraphs on mutual communication of NOCLAR.

CPAC - Chartered Professional Accountants Canada Public Trust Committee

The PTC supports the provisions added in extant Section 360 and in Section 5360 for the auditor and the sustainability assurance practitioner to consider communicating (actual or suspected) non-compliance with laws and regulations (NOCLAR) to each other are crucial for enhancing transparency and accountability.

The PTC also agrees that consistent with the approach taken in extant Section 360 of Code, Section 5360 should only apply to the practitioner's client and not extend to third parties such as entities in a sustainability assurance client's value chain. However, our members observed that it is not clear in proposed paragraph 5407.2 A1 whether a sustainability assurance practitioner who is performing assurance work (i.e., options (a) and (c)) on the sustainability information of an entity in the client's value chain would be required to consider NOCLAR at the value chain entity in expressing an opinion on their client's sustainability information.

The PTC recommends the IESBA clarify in paragraph 5407.2 A1, or in an additional paragraph of application material immediately following it, that Section 5360 does not apply to a sustainability practitioner who performs assurance procedures with respect to entities in a sustainability assurance client's value chain, but the practitioner may find guidance in that section helpful in considering how to respond in those situations.

We also think that proposed paragraph 5360.7 A3 is less clear in this regard than corresponding paragraph 360.7 A3, because it does not provide examples of the activities that the practitioner might be undertaking at or with respect to an entity in a sustainability assurance client's value chain (i.e., a due diligence assignment for a client is the example provided in Part 3). The PTC recommends that the IESBA consider providing a similar, clear example of the work that a practitioner might be doing at or with respect to an entity in a sustainability assurance client's value chain by referring to paragraph 5407.2 A1, which describes this. For example, we think the IESBA should consider whether the following application material might be clearer and better aligned with the corresponding paragraph in Part 3:

5360.7 A3 *This section does not address:*

(a) *Personal misconduct unrelated to the business activities of the sustainability assurance client; and*

(b) *Non-compliance by parties other than those specified in paragraph 5360.5 A1. This includes, for example, circumstances where a ~~professional accountant sustainability assurance practitioner has been engaged by a client to~~ performs assurance procedures at, or with respect to, an entity in the sustainability assurance client's value chain in accordance with paragraphs 5407.2 A1 (a) or (c), ~~a due diligence assignment on a third party entity~~ and the identified or suspected non-compliance has been committed by that ~~third-party~~ value chain entity.*

The ~~sustainability assurance practitioner~~ ~~accountant~~ might nevertheless find the guidance in this section helpful in considering how to respond in these situations.

HKICPA - Hong Kong Institute of Certified Public Accountants

Our local stakeholders do not object to the proposed provisions added in extant Section 360 and in Section 5360 for the auditor and the sustainability assurance practitioner to consider communicating NOCLAR to each other but they are of the view that the overall NOCLAR requirements in respect of sustainability assurance engagements should not be at the same level as those imposed on financial statement audits. In terms of current practice, practitioners are required to comply with the relatively less stringent requirements set out under “Professional Services Other than Audits of Financial Statements” in Section 360 of the extant Code for sustainability assurance engagements.

They have also expressed concern regarding the suitability of implementing the NOCLAR provisions (Section 5360) at the present time. Paragraph R5360.11 requires practitioners to discuss NOCLAR matters with the appropriate level of management and, where appropriate, those responsible for governance if they identify suspect instances of NOCLAR. Given that practitioners may be engaged to provide limited assurance for only a limited portion of the client's sustainability information and sustainability assurance may be obtained on a voluntary basis, the compliance efforts required to adhere to the NOCLAR provisions could potentially place an undue cost on sustainability assurance practitioners.

Furthermore, sustainability assurance is still evolving and the guidelines are continually being developed. Imposing the NOCLAR requirements to a new market like sustainability assurance may have unintended consequences for practitioners. For example, practitioners may unintentionally fail to identify situations that fall under NOCLAR given the evolving nature of sustainability reporting resulting in inadvertent non-compliance. Therefore, our local stakeholders are of the view that NOCLAR requirements should be restricted to sustainability information that is subject to assurance and suggest this to be explicitly stated in Section 5360. The IESBA should take care not to place undue cost on practitioners especially in cases when they may be engaged to provide limited assurance for only a limited portion of the client's sustainability information.

Considering these concerns, we recognize the need for more non-authoritative materials such as case studies to illustrate the expected work effort involving a limited assurance engagement versus that of a reasonable assurance engagement.

ICAEW - Institute of Chartered Accountants in England and Wales

Yes, in principle, we support these provisions.

However, we note that there may be practical considerations to be addressed, to ensure that information about the client is only exchanged in compliance with legal and professional obligations of confidentiality and data protection.

ICAS - The Institute of Chartered Accountants of Scotland

Public interest

As noted in our response to Question 1, we believe that it is 'in the public interest' that sustainability practitioners act ethically, rather than being 'of public interest', i.e. 'of interest to the public', and would therefore suggest the following amendment (in red) to paragraph 5360.4:

'5360.4 It is **of in the** public interest that sustainability assurance practitioners act ethically in order to maintain public trust and confidence in sustainability information that is subject to assurance. When responding to non-compliance or suspected non-compliance, the objectives of the practitioner are: (a) To comply with the principles of integrity and professional behaviour.'

Value chain

Paragraph 57 of the Explanatory Memorandum states:

"57. Section 5360 only applies to NOCLAR committed by the parties listed in paragraph 5360.5 A1 such as TCWG and management of a sustainability assurance client. As mentioned in paragraph 5360.7 A3(b), it does not extend to situations where the NOCLAR has been committed by entities in the sustainability assurance client's value chain. This is similar to extant Section 360, where the NOCLAR provisions do not apply to situations where the NOCLAR has been committed by a third party. Nevertheless, the sustainability assurance practitioner might find the guidance in Section 5360 helpful in considering how to respond in a situation of NOCLAR within the client's value chain."

Is there not a difference with the value chain work being carried out by sustainability assurance practitioners because that work is on value chain information which then forms part of the client's information? For example, very often issues in relation to modern slavery are further down the supply chain, and changes in legislation are beginning to take place around the globe, such as the US law (Uyghurs Forced Labour Prevention Act) which states that you cannot have access to the US market unless you can prove that there is no forced labour in the supply chain and the EU's Corporate Sustainability Due Diligence Directive (CSDDD) prohibiting products made with forced labour from being imported into or exported from the European Union. Germany's Supply Chain Act has fines of up to 2% of annual turnover for larger companies.

Paragraph 5360.7 A3 states the following:

"This section does not address:

(a) Personal misconduct unrelated to the business activities of the sustainability assurance client; and

(b) Non-compliance by parties other than those specified in paragraph 5360.5 A1. This includes, for example, when the identified or suspected noncompliance has been committed by an entity in the sustainability assurance client's value chain.

The sustainability assurance practitioner might nevertheless find the guidance in this section helpful in considering how to respond in these situations.”

If, for example, a sustainability assurance practitioner discovers modern slavery in the value chain in the course of their work, is the Code rigorous enough when it states in paragraph 5360.7 A3: ‘The sustainability assurance practitioner might nevertheless find the guidance in this section helpful in considering how to respond in these situations.’?

Whilst we appreciate that value chains provide many practical challenges we question, given the current regulatory developments across the globe, whether the proposed approach in relation to NOCLAR in value chains would be deemed to be sufficient. Is there a risk that an SAP at a later date could be accused of ‘turning a blind eye’?

Communicating the Matter to the Sustainability Assurance Client's External Auditor (R5360.18a and R5360.18a A1) / Communicating the Matter to the Client's Sustainability Assurance Practitioner (paragraphs 360.18a and 360.18a A1)

In relation to the above, the Explanatory Memorandum Paragraph 63 states the following:

“63. The proposed new requirements in paragraphs R5360.18a and R360.18a and the corresponding application material were based on extant paragraphs R360.33 to 360.35 A1. From a confidentiality perspective, this corresponds to a situation covered under paragraphs 5114.3 A1(b)(iv) for Part 5 and 114.3 A1(b)(iv) for the revisions in Part 3 where the practitioner might be required to disclose confidential information or when such disclosure might be appropriate to comply with technical and professional standards, including ethics requirements.”

We believe there is a need for practitioners to take great care in relation to confidentiality in these circumstances, and also for them to be aware that there are provisions in the Code in relation to when the SAP might have a duty or right to disclose confidential information. It might therefore be helpful to remind users of the Code, and particularly non-PAs, to refer to the fundamental principle of confidentiality in these paragraphs, by referencing Subsection 5114 (Subsection 114), or using wording similar to that used in paragraph 220.9 A2 (and paragraph 270.3 A4) (in red below) which refers to the need to remain alert to the principle of confidentiality:

“220.9 A2 The professional accountant might determine that the employing organization has not taken appropriate action. If the accountant continues to have reason to believe that the information is misleading, **the following further actions might be appropriate provided that the accountant remains alert to the principle of confidentiality:**

- Consulting with:
 - o A relevant professional body.
 - o The internal or external auditor or sustainability assurance practitioner of the employing organization.
 - o Legal counsel.

- Determining whether any requirements exist to communicate to:
 - o Third parties, including users of the information.
 - o Regulatory and oversight authorities”

Reference may also need to be made here to paragraphs R5360.6 and 5360.6 A1 (and R360.6 and 360.6 A1) to reiterate that users need to remain alert to the potential issue of ‘tipping off’.

Additional guidance - timing

We note that as an SAP responsible for signing the overall report, you would need to be alert to the timing of a NOCLAR communication from other practitioners and also from any other source i.e. what if you hear about it on the day of signing? As such, the learning/education of those new to this space is key. We appreciate that there are limits to the revisions possible in the Code, and such matters might need to be covered within Frequently Asked Questions.

IDW - Institute der Wirtschaftsprüfer (Germany)

We understand that an SAP might encounter or be made aware of NOCLAR or suspected NOCLAR that could impact both the reporting entity’s financial statements and sustainability information and thus acknowledge that reference is made to both in Section 5360. Our concern is whether this might give rise to an expectation that cannot be addressed if the SAP does not report NOCLAR to the auditor either because the SAP had not become aware thereof or is prevented by confidentiality provisions (legal or within a Code of conduct – here IESBA should be clear as to this issue given the confidentiality provisions in the IESBA Code) from informing the financial statement auditor of such instances. It may appear that the auditor and SAP should have had better cooperation, leading to a reputational issue.

In some jurisdictions, like Germany, laws currently prevent financial statement auditors from such communication, although we have recommended to the German legislator that this be addressed in transposing the CSRD into German law. In addition to the issue of confidentiality, we do not believe use of the term “shall consider whether to communicate ... to ...external auditor ...” in para. R5360.18a is helpful, because could be read to imply the SAP has a choice, whereas the intent is for all NOCLAR to be communicated unless doing so would be contrary to law or regulation in the specific circumstances of the engagement. We therefore suggest the wording be appropriately revised to align to that of para. 5360.18s A2 to emphasize the impact on audit quality aspect. Furthermore, given the importance of NOCLAR, considering whether management or TCWG have already informed the entity’s external auditor about the matter (para. 5360.18a A1 and 5360.34 A1) needs to go hand in hand with a consideration of whether the information provided was complete and accurate (i.e., it is not an absolution without further consideration on the part of the SAP). Inconsistency between jurisdictions will likely prevent effective and consistent application of the proposed approach and is not in the public interest.

We support the equivalent approach to NOCLAR being based on a SAP possibly encountering or being made aware of NOCLAR or suspected NOCLAR, but are concerned that public expectations may be unrealistic in this area, as sustainability is a

very broad remit governed by a vast number of relevant laws and regulations. We therefore urge IESBA to take steps so as to mitigate the expectations in this area. That said, we also suggest IESBA ensure further specifically sustainability-related examples of laws and regulation be included in 5360.5 A2, including e.g., those that seek to protect biodiversity, or ensure the proper functioning of a circular economy. As sustainability reporting develops further IESBA may review this periodically. Para. 5360.7 A2 could be clearer – specifically, does the term “stakeholder” include the environment? For example, under the EU’s double materiality approach, a SAP may become aware of instances of NOCLAR that have an external impact on the environment that may not necessarily immediately impact the reporting entity.

With regard to 5360.7 A3 we would like to point out that under legislation in some jurisdictions (e.g., the EU’s expected Corporate Sustainability Due Diligence Directive (CS3D)) a SAP might become aware of NOCLAR committed by a party within the entity’s value chain which may therefore impact the reporting entity whose sustainability information is subject to the assurance engagement. Contrary to the requirement in R5360.9 in conjunction with the statement in 5360.7 A3 outlining what the section does not address, we suggest it would be in the public interest for this Part of the Code to provide guidance as to ethical action when a SAP encounters such circumstances (i.e., IESBA might consider a similar – appropriately modified – approach to that applicable to groups in para. R5360.16).

IFAC - International Federation of Accountants

We support the principle behind these requirements but note there may be regulatory prohibitions in some jurisdictions that would prevent two independent parties that have not directly contracted with each other sharing information about a common client. This may make communication of NOCLAR between practitioners’ problematic, for example, where the sustainability assurance practitioner is different from the financial statements auditor. In some jurisdictions it may be possible to navigate this issue through wording on engagement letters, but in others regulatory changes may be needed which may be unlikely.

We appreciate the effort taken in this case to avoid creating an obligation to communicate through the word ‘consider’ in R5360.18a, however this approach may also be problematic. Requirements with such conditional terminology can mislead smaller practitioners into believing there are obligations to disclose confidential information where this is not necessarily the case. Larger firms are better placed to interpret such guidance and navigate the interplay between local requirements and ethical requirements in the Code. This inconsistency could be especially problematic in jurisdictions where legislation would prohibit any sharing of confidential information between independent parties. We note the application guidance in 5360.18a A1 attempts to reassure that disclosure would not be needed where contrary to law or regulation, but it would be useful to more explicitly state that disclosure should not be made where contrary to law or regulation.

Linked to the above point, within the ED, 5360.5 A2 provides examples of laws and regulations the section addresses. While these are only examples and in application guidance rather than requirements, we note the areas identified are very broad, including factors such as environmental protection, protection of human rights, public health and

safety and consumer rights. These would heavily vary jurisdiction by jurisdiction; it is difficult to see how an assurance provider could be expected to be aware of all these areas. It is also not clear what the threshold for communicating known or suspected breaches would be, as some such infringements may be minor or even expected in the course of normal business (e.g., an internally acceptable level of goods developing faults that could breach consumer good acts). Further clarity in this area would be useful as the reporting of trivial matters would add little value to any assurance engagement and could take attention away from more important risks.

ISCA - Institute of Singapore Chartered Accountants

The auditor may or may not be aware of all the SAPs who are performing SAEs for the same sustainability assurance client especially in the context of group audits. Furthermore, given the diverse scope and nature of SAEs, it will be challenging for the auditor to identify all the relevant SAPs who might be affected by any (actual or suspected) NOCLAR and hence, need to communicate to them. As such, we suggest that IESBA remove the proposed paragraph R360.18a and only require that SAPs consider whether to communicate NOCLAR to the auditor (proposed paragraph R5360.18a).

IWP - Institut Österreichischer Wirtschaftsprüferinnen

We believe that paragraph 5360.5 A2 (and, correspondingly, 360.5 A2) should be reduced to those areas with are relevant for sustainability reporting or financial reporting, respectively.

Also, it should be clarified that the practitioner is not expected to search for cases of NOCLAR and that section 5360 deals only with (actual or suspected) NOCLAR that the practitioner becomes aware of in the course of providing services to the sustainability assurance client.

R5360.8 should clearly state that, in some jurisdictions where there are legal or regulatory provisions governing how sustainability assurance practitioners should address non-compliance or suspected non-compliance, such legal or regulatory provisions prevail.

JICPA - Japanese Institute of Certified Public Accountants

We support the provisions added in extant Section 360 and in Section 5360 for the auditor and the sustainability assurance practitioner to consider communicating NOCLAR to each other.

However, we believe that the levels of the requirements in paragraphs R360.18a and R5360.18a are inconsistent with paragraph R5360.31. Paragraphs R360.18a and R5360.18a set out that the professional accountant/sustainability assurance practitioner “shall consider whether to communicate the non-compliance or suspected non-compliance,” while paragraph R5360.31 sets out that the practitioner “shall communicate the non-compliance or suspected non-compliance” when the firm performs both an audit engagement and a sustainability assurance engagement that is not within the scope of the International Independence Standards in Part 5 for the same client. Paragraph R5360.31 is consistent with paragraph R360.31 in the extant Code. Accordingly, we suggest the provisions in paragraphs R360.18a and R5360.18a be set out in two cases, one case in which a firm performs both an audit engagement and a sustainability assurance engagement that is within the scope of Part 5, and the other case in which it

does not. These paragraphs should set out that the practitioner “shall communicate the non-compliance or suspected non-compliance” in the former case, and “shall consider whether to communicate the non-compliance or suspected non-compliance” in the latter case. This will be consistent with extant paragraph R360.31 and proposed paragraph R5360.31.

In addition, if different firms are performing an audit engagement and a sustainability assurance engagement that is within the scope of the International Independence Standards in Part 5 for the same client, we suggest the IESBA consider whether there may be issues regarding confidentiality arising from communication relating to NOCLAR between the auditor and the sustainability assurance practitioner.

KICPA - Korean Institute of Certified Public Accountants

The KICPA supports the proposals. However, they may face practical challenges arising from communicating NOCLAR to other assurance practitioner (or auditor) outside the client who is neither the client’s management nor those charged with governance, including a sharp increase in the need to make strict decisions about potential breach of laws and regulations. Considering such challenges, the KICPA respectfully requests the IESBA to provide specific and practical guidance to help determine whether or not to communicate NOCLAR.

MIA-Malaysian - Malaysian Institute of Accountants

We support the proposed provisions in Sections 360 and 5360 for the auditor and the sustainability assurance practitioner to consider communicating (actual or suspected) NOCLAR to each other.

However, further clarity may be required on the mechanisms of communication between the external auditor and SAP. The NOCLAR requirements are currently drafted as a “consideration” since there may be circumstances that may preclude the ability of the auditors and the SAPs to make such communications to each other.

In practice, in circumstances where the auditor and sustainability assurance practitioners are from different firms, there will be significant barriers to ensure such communication is done due to confidentiality obligations. It may therefore be necessary to obtain consent from the three parties involved i.e. the client, external auditor and the SAP. IESBA should consider the implications of the current language and whether the objective of communicating NOCLAR requirements could be met.

NBA - Royal Netherlands Institute of Chartered Accountants

We agree with the reaction of Accountancy Europe dated May 10, 2024.

PAFA - The Pan-African Federation of Accountants

We support the underlying principle of the provisions introduced in extant Section 360 and Section 5360 for the communication of (actual or suspected) NOCLAR between auditors and sustainability assurance practitioners. However, it’s important to note that regulatory constraints in certain jurisdictions may prohibit independent parties, who haven’t directly contracted with each other, from sharing information about a mutual client. This regulatory landscape could potentially hinder communication of NOCLAR between practitioners,

particularly when the sustainability assurance practitioner differs from the financial statement auditor.

SAICA - South African Institute of Chartered Accountants

We support the provisions added in extant section 360 and section 5360 to the extent that it does not breach confidentiality laws, and or independence provisions under existing laws and regulations.

Although we support the communication of actual or suspected NOCLAR, we have some concerns on the proposed sections. Section 5360 places the responsibility on the sustainability assurance provider to consider non-compliance with laws and regulations recognised to have a direct effect on the determination of material amounts and disclosures in the client's financial statements. The concerns are whether the sustainability assurance practitioner would have knowledge of which laws and regulations would have this impact. There are several obligations to both the external auditor and sustainability assurance practitioner with regards to NOCLAR. These obligations include reporting to management and or other bodies. It is not clear who the obligation would be with, and the current requirement seem to be that both would need to report. This could lead to inconsistencies. It might be useful to clarify who would be primarily responsible for these actions.

SOCPA - Saudi Organization for Chartered and Professional Accountants

SOCPA agrees with the provisions added to the sections referred above for the auditor and the sustainability assurance practitioner to consider communicating actual or suspected NOCLAR. However, SOCPA believes there is a lack of clarity regarding materiality in the above referred sections. The absence of a requirement to consider the likely materiality of the NOCLAR to the audit of the client's financial statements for sustainability assurance practitioners who are not professional accountants may lead to uncertainty or inconsistency in decision-making. Non-PA practitioners may struggle to assess the financial materiality of NOCLAR without expertise in financial reporting. Therefore, SOCPA believes some form of guidance for non-PA practitioners to apply in such scenarios should be included as well.

SOCPA also believes the decision not to extend communication requirements to other sustainability assurance practitioners performing engagements for the same client may result in incomplete information sharing. While the exposure draft assumes that usually an entity engages one sustainability assurance practitioner, there could be instances when a group of companies engages more than one sustainability assurance practitioner. The limited scope in the exposure draft may hinder the effectiveness of NOCLAR detection and response efforts, in engagements involving multiple practitioners.

WPK - Wirtschaftsprüferkammer (Germany)

We generally agree with the IESBA that a mutual communication between the auditor of the financial statements and the sustainability assurance practitioner can be very useful for both parties. However, compliance with the principle of confidentiality is usually most likely to prevent the auditor (and potentially the sustainability assurance provider as well) to give such information to third parties, including to each other. Such information transfer

would be only permitted, if expressly allowed or required by national law / regulation or explicitly agreed with the client.

Other Assurance Providers and Accreditation Bodies (non-PAs)

IAF - International Accreditation Forum

[see mainly the following points: Section 5360]

In the accreditation system, NOCLAR is applicable only as long as laws and regulation require to do so.

JAB - Japan Accreditation Board

Regarding section R5360.18a, in related to NOCLAR or suspected NOCLAR, we support the two way communication. Furthermore, we recommend the sustainability assurance practitioner shall communicate the non-compliance or suspected non-compliance to the sustainability assurance client's external auditor, if any.

According to ISO 14064-3 : 2019 chapter 5.4.3, the accredited assurance bodies will contact related parties if any suspected NOCLAR is identified, requires as follows.

5.4.3 Intentional misstatement

If a matter comes to the verifier's/validator's attention that causes the verifier/validator to believe in the existence of intentional misstatement or noncompliance by the responsible party with laws and regulations, the verifier/validator shall communicate the matter to the appropriate parties as soon as practicable.

In addition to this, the group companies have a greater impact on the market, so it should not exclude the requirements for group companies. If immediate application is difficult for the group company depended on the countries, we recommend IESSA to provide option that the country can determine the transitional measures for NOCLAR.

Regarding further communication requirements for matters other than NOCLAR between financial statement auditors and sustainability assurance practitioners, it is necessary to consider the further communication requirements, in case of when potential concern against green wash, and in the existence of intentional misstatement or noncompliance against laws and regulations. However, the information about the client obtained from sources other than the client (e.g. complainant, regulatory authority) shall be confidential between the client and the validation/verification body. The provider (source) of this information shall be confidential to the body and shall not be shared with the client, unless agreed by the source.

Accounting Firms and Sole Practitioners

EY - Ernst & Young Global Limited

Yes, we support these provisions. In regard to paragraph 360.18a A1, we would suggest including as a factor whether the non-compliance or suspected non-compliance might be relevant to the SAP's sustainability assurance engagement, as not all non-compliance or suspected non-compliance might be relevant to the sustainability assurance engagement.

MAZARS - Mazars Group

We support the new requirements in 5360.18a to consider communicating actual or suspected NOCLAR to the auditor of the sustainability assurance client and the symmetrical requirement being added to extant R360.18 to require auditors of the financial statements to consider communicating with the sustainability assurance practitioner. We also support the decision by the IESBA not to extend the scope of paragraphs R5360.31-33 to sustainability assurance practitioners for the reasons set out in paragraph 67 of the explanatory memorandum, in particular the need to avoid unnecessary complexity.

We note the IESBA concluded not to include a requirement to consider communicating to other sustainability assurance practitioners performing engagements for the same entity, part of the justification for which was that, at least in the UK, large companies usually engage a single assurance practitioner. We recommend that the IESBA carries out further research to confirm whether this is indeed the situation in other jurisdictions. We could envisage a situation where, for example, a different specialist practitioner may be appointed to review a GHG statement and if issues arose during that engagement, it would likely be appropriate to communicate to another assurance practitioner providing assurance on the wider sustainability information. We appreciate, however, that this may be rare.

We welcome the important, and helpful, clarification in R5360.7.A3 that the requirements do not extend to situations where NOCLAR has been committed by entities in the value chain for sustainability engagements.

MU - Muhammad Umar - Mo Chartered Accountants

Principally, communication between the auditor and the sustainability assurance practitioner is encouraged. We do not see how the work of the auditor will impact the work of the sustainability assurance provider but will be useful vice versa. Further, legal requirements may not permit the auditor to communicate to others if it is going to jeopardise investigations or evidence. All cases of NOCLAR should be judged on their own merits and appropriate reporting mechanisms adopted. There should not be a blanket requirement requiring auditors to communicate with anyone like it does apply under current confidentiality rules.

PKF - PKF Global

PKF Global Response: We generally support the provisions in R360.18a to 360.18a A2 in Chapter 3 of the ED), and in Section 5360 (paragraphs R5360.18a to 5360.18a A2 in Chapter 1 of the ED) for the auditor and the sustainability assurance practitioner to consider communicating (actual or suspected) NOCLAR to each other. We are concerned that the wording in the proposed provisions may not lead to consistent practice, specifically regarding the word “consider” in the phrase the “...the [professional accountant] / [the sustainability assurance practitioner] shall consider whether to communicate...”.

RSM - RSM International Limited

We support the provisions added in extant Section 360 (paragraphs R360.18a to 360.18a A2 in Chapter 3 of ED-IESSA) and in Section 5360 (paragraphs R5360.18a to 5360.18a A2 in Chapter 1 of ED-IESSA) for the auditor and the sustainability assurance practitioner

to consider communicating actual or suspected non-compliance with laws and regulations (NOCLAR) to each other. The requirements of Section 5360, Responding to Non-Compliance with Laws and Regulation, of ED-IESSA are consistent with the requirements in extant Section 360, Responding to Non-Compliance with Laws and Regulation, of the Code.

We note that extant Section 360 of the Code does not include a communication requirement for PAs performing an audit of financial statements to communicate to PAs performing non-audit services for the client regarding actual or suspected NOCLAR. In addition, proposed paragraph R360.18a of ED-IESSA is limited to sustainability assurance engagements that are within the scope of the IIS in proposed Part 5 of ED-IESSA. As noted in our response to question #5, we believe the sustainability assurance engagements that would be in the scope of the IIS in proposed Part 5 of ED-IESSA are the types of sustainability assurance engagements that would have a similar level of public interest as audits of financial statements. Thus, we support the requirement proposed in paragraph R360.18a of ED-IESSA as well as the exclusion of sustainability assurance engagements not within the scope of the IIS in proposed Part 5 of ED-IESSA, since they generally would have a similar public interest to non-audit services.

However, not all NOCLAR identified by PAs performing an audit of financial statements may be relevant to a sustainability assurance engagement. In addition, if the financial statement group or component auditor becomes aware of non-compliance in an entity within the group that is different than the entity with a sustainability assurance engagement, it is unclear if the financial statement group or component auditor would need to communicate with the sustainability assurance practitioner. Accordingly, we suggest that the IESBA add the following factor to consider regarding communication to the SAP after the second bullet in proposed paragraph 360.18a A1 of ED-IESSA:

- The relevance of the actual or suspected non-compliance with laws and regulations to sustainability matters or the entity where the sustainability assurance engagement is being performed.

Proposed paragraph 5360.18a of ED-IESSA applies to SAPs of sustainability assurance engagements within the scope of the IIS in proposed Part 5 of ED-IESSA. This would apply to all SAPs, including PAs and non-PAs. We noted that if an SAP is a PA, they would also be required to comply with the communication requirements in paragraph R360.31 of the Code if the PA performing the audit of financial statements is the same firm or paragraph R360.32 of the Code if the PA performing the audit of financial statements is a network firm. (Paragraph R360.33 of the Code is equivalent to proposed paragraph 5360.18a of ED-IESSA, so a SAP that is a PA would comply with paragraph R360.33 of the Code when by complying with proposed paragraph 5360.18a of ED-IESSA. We recommend that the IESBA clarify this by adding the following to proposed paragraph 5360.18a of ED-IESSA:

R5360.18a The sustainability assurance practitioner shall consider whether to communicate the non-compliance or suspected non-compliance to the sustainability assurance client's external auditor, if any. If the sustainability assurance practitioner is a professional accountant for:

- (a) An audit client of the firm or a component of an audit client of the firm, the accountant shall also apply paragraph R360.31 of the Code; or
- (b) An audit client of a network firm or an audit client of a network firm, the accountant shall also apply paragraph R360.32 of the Code.

Footnote 24 in paragraph 59 of the EM explains that the factor regarding the likely materiality of the matter to the audit of the client's financial statements included in extant paragraph 360.34 A1 was not replicated in Part 5 because 'it might not be reasonable to expect a practitioner who is not a professional accountant (non-PA) to recognize the materiality of a NOCLAR situation to the audit of the client's financial statements.' While that may be the case, the non-PA practitioner can enquire of the financial statement auditor regarding the materiality. Accordingly, we recommend that the following be added as a fifth bullet in paragraph 5360.34 A1:

- The likely materiality of the matter to the audit of the client's financial statements or, where the matter relates to a component of a group, its likely materiality to the audit of the group financial statements. The sustainability assurance practitioner may obtain or discuss the materiality with the external auditor.

Academia and Research Institutes

AFAANZ - The Auditing and Assurance Standards Committee of the Accounting and Finance Association of Australia and New Zealand

Yes, but there is a need to extend the provisions to accommodate the potential communication of suspected or actual NOCLAR with all assurance practitioners.

We support the added provisions requiring the auditor and assurance practitioner to consider communicating actual and suspected NOCLAR with each other. Actual or suspected NOCLAR threatens the professional accountant's and sustainability assurance practitioner's compliance with the fundamental principles of integrity and professional behaviour and knowledge of such instances helps a professional accountant and sustainability assurance practitioner respond appropriately.

Research on the drivers / causes of organisational misconduct (see for example Greve et al. 2010 and Paruchuri et al. 2024 for reviews) highlight the potential for individual instances of NOCLAR to be indicative of wider issues within the organisation. Communication of actual or suspected NOCLAR to the auditor / assurance practitioner facilitates their consideration of the implications thereof on their ability to comply with the fundamental principles of integrity and professional behaviour.

We are concerned, however, that such a requirement is not being extended to other sustainability assurance practitioners. We believe that knowledge of actual or suspected NOCLAR is just as relevant for other assurance practitioners in meeting requirements with reference to the fundamental principles of integrity and professional behaviour as it is for auditors. In this regard, Bouzzine and Lueg (2023) highlights the relationship between past and future behaviour in the CSR domain. Seele and Gatti (2017) highlight potential differences in the interpretation of seemingly misleading CSR information, and Dialogic Accounting Theory (e.g., Manetti et al 2021) highlights the breadth with which corporate reporting can interact with stakeholder interests. Actual or suspected NOCLAR can have far reaching implications beyond the site of the identified instance. Being aware of actual

or suspected NOCLAR assists all sustainability assurance practitioners address idiosyncratic implications for their ethical conduct. We encourage the IESBA to extend paragraph R5360.18a to require consideration of whether to communicate actual or suspected NOCLAR to other sustainability practitioners.

While we acknowledge IESBA's reasons for not extending the requirements to other sustainability assurance practitioners (as outlined in paragraph 60 of the Explanatory Memorandum), we are of the view that the infrequency with which a company may engage more than one sustainability assurance practitioner is insufficient justification for not addressing that circumstance. Enquiries with academic colleagues investigating the sustainability assurance market reveals that there are instances, albeit rare, of companies engaging multiple sustainability assurers. Moreover, as the breadth of sustainability information being reported on expands, and assurance is demanded / required on that information, the required subject matter expertise may mean that instances of multiple assurance practitioners will become more common. We believe it to be in the public interest for assurance practitioners to consider whether to communicate actual or suspected NOCLAR with other sustainability assurance practitioners of the client.

Others

IIA - The Institute of Internal Auditors

Inclusion of Internal Audit in Notifications of Non-Compliance:

The IIA recommends explicitly listing the internal audit function among the parties to be notified about actual or suspected non-compliance with laws and regulations. Internal audit functions report to the highest governing authorities within organizations and are key to strong governance and sustainability reporting. Internal audit's role is pivotal in evaluating and mitigating risks of non-compliance within organizations. Their early involvement ensures a comprehensive response and aids in the safeguarding of organizational integrity and ethical standing.

Internal auditors possess a unique and comprehensive understanding of the organization's operations, processes, and risk landscape. Their expertise and position within organizations allow them to assess the implications of non-compliance in a holistic manner, ensuring that potential organizational risks are identified and addressed promptly. To illustrate how internal audit fits into governance alongside the governing body, senior management, and other external stakeholders, The IIA would like to reference the Updated Three Lines Model. Moreover, the internal audit function coordinates with stakeholders both internally and externally to provide robust assurance. In Europe, for example, sustainability regulations require the involvement of an increasing number of stakeholders beyond the organization to provide sustainability assurance, which positions internal auditors in the vanguard of assurance professionals.

Furthermore, internal auditors play a crucial role in the development and implementation of effective internal controls and governance practices that can prevent future instances of non-compliance. By being included in the list of notified parties about issues of actual and suspected non-compliance, internal auditors can act swiftly to further investigate root causes and recommend remedial actions, thereby reducing the potential impact on the organization's reputation, operations, and financial standing. This may even overlap with

ongoing internal audit performance or activity that the internal audit function is already leading. Their involvement is essential for fostering a culture of transparency, accountability, and ethical behavior across all levels of the organization.

SECTION 5360 RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS (Page 56)

R5360.11 If the sustainability assurance practitioner identifies or suspects that non-compliance has occurred or might occur, the practitioner shall discuss the matter with the appropriate level of management, **the internal audit function**, and, where appropriate, those charged with governance.

5360.11 A4 The sustainability assurance practitioner might also consider discussing the matter with internal auditors, where applicable.

R5360.12 If the sustainability assurance practitioner believes that management is involved in the noncompliance or suspected non-compliance, the practitioner shall discuss the matter with those charged with governance **and the internal audit function of the organization**.

Question 7 - Disagree

Professional Accounting Organizations (PAOs)

AICPA - American Institute of Certified Public Accountants Professional Ethics Executive Committee

Overall response: No.

Detailed comments:

Communication among auditor and SAPs

We do not agree that the auditor and SAP should consider communicating a NOCLAR to each other when those practitioners are not within the same firm or network firm. Because of the diverse nature of these engagements, there may be numerous SAPs and the auditor may not be aware of who is performing each sustainability assurance engagement that meets the criteria in 5400.3a. Once the NOCLAR has been communicated to the client, it's the client's responsibility to communicate NOCLAR to other assurance providers or the auditor.

As was the case with extant NOCLAR provisions, confidentiality requirements in the United States prohibit firms from communicating confidential client information with firms outside the firm or firm's network, so we cannot require that the auditor or sustainability assurance practitioner communicate or consider communicating NOCLAR with a firm outside the firm or firm's network. Other jurisdictions may face similar barriers because of laws, regulations, or professional standards. Therefore, we recommend that R5360.18a and R360.18a be moved to application guidance that indicates that a practitioner may consider, rather than shall consider, and that the confidentiality requirements applicable to the practitioner be included as a relevant factor that may be considered.

New and overly broad terminology

We find the proposed addition of “impacts” in 5360.3 and 360.3 very confusing. It is unclear what NOCLAR “generally recognized to have a direct effect on the determination of material...impacts...in the client’s sustainability information” means. It is also unclear what NOCLAR “generally recognized to have a direct effect on the determination of material...impacts...in the client’s financial statements” means, as this is not a concept in the extant code related to financial statements.

Misalignment with the IAASB

There is misalignment between IESBA and the IAASB about whether NOCLAR applies to value chain entities. IESBA excludes value chain entities as explained in the proposed 5360.7 A3. However, it is our understanding that the IAASB may not be excluding value chain entities in ISSA 5000 “Fraud and Non-compliance with Law or Regulation” paragraphs 59-61. Under such a circumstance, it seems that the practitioner could be subject to NOCLAR provisions for the value chain entity. This inconsistency will contribute to the inoperability of these requirements in this situation.

PICPA - Pennsylvania Institute of Certified Public Accountants

Noncompliance with Laws and Regulations (NOCLAR) – We do not agree with the proposed requirement that the auditors should communicate NOCLAR to sustainability assurance practitioners (SAPs) outside of the firm or firm’s network. State statutes within the U.S. include confidentiality provisions that would prohibit practitioner compliance. In addition, given the ways in which sustainability assurance is proliferating, there could be SAP’s performing work at a client which the auditor is not aware of. Finally, the committee requests further clarification of the concepts included in the proposed language “generally recognized to have a direct effect on the determination of material...impacts...in the client’s sustainability information.” [Question 7]

Accounting Firms and Sole Practitioners

BDO - BDO International Limited

BDO disagrees, with the following additional comments:

BDO agrees that for coherent reporting of financial and sustainability information and assurance over such information, that it is important for the sustainability assurance practitioner and the external auditor to have the same information over any NOCLAR. However, considering that there is no direct contractual relationship between the sustainability assurance practitioner and the external auditor, any direct communication would not be covered by clear responsibilities and related consequences.

Section 5360.4 (b) establishes a requirement for the sustainability assurance practitioner to alert management or, where appropriate, Those Charged With Governance (TCWG). Based on the contractual agreement for the external audit, management and/or TCWG are already responsible to share this information with the external auditor. This appears to be the appropriate flow of information.

Local professional standards might also prohibit communicating engagement information (including suspected NOCLAR) to third parties, making such communication practically unfeasible.

Any direct communication between the sustainability assurance practitioner and the external auditor of specifically suspected NOCLAR may prevent management and/or TCWG to respond to any raised concern and clarify any potential NOCLAR first.

Communicating NOCLARs between the external auditor and the sustainability practitioner would need to be contractually covered in any confidentiality clauses of engagement letters between the auditor or practitioner and their client.

Furthermore, the proposed requirement in R5360.18a of when to communicate is very subjective and different interpretations in this regard may result in inconsistent implementation across practitioners and firms. The factors do not consider the extent or seriousness of non-compliance and how this would inform the requirement to communicate.

A practical consideration would also be whether the external auditor would be expected to know if the client has appointed a sustainability assurance practitioner and what their contact details are.

There are a number of NOCLAR obligations for both the external auditor and the sustainability practitioner. These obligations include reporting to management and/or other bodies. It is not clear who the obligation would be with and the current requirements seem to be that both would need to report. If the parties are in the same firm, there could be a firm wide process, but in different firms, there is a risk of inconsistent interpretations, and as a result inconsistent reporting to management and inconsistent determination whether to disclose the matter to an appropriate authority. It might be useful to clarify who would be primarily responsible for these actions or if there is any expectation for the parties to discuss and agree the way forward.

Due to different reporting matters, the sustainability assurance practitioner and the external auditor will likely obtain assurance over different processes and different information. Due to the different assurance objectives of these two engagements, any NOCLAR might be of different relevance for the engagements. This may lead to duplication of efforts when understanding and clarifying the facts and circumstances of the underlying subject matter.

DTTL - Deloitte Touch Tohmatsu Limited

Deloitte Global believes the provisions in Sections 360 and 5360 relating to the communication of NOCLAR matters are confusing and potentially duplicative when the audit and sustainability assurance engagement is carried out by the same firm. For example, it is not clear that where a sustainability assurance practitioner is providing a service to an audit client of the firm or network firm, the communication requirement would be captured under paragraphs R5360.31 and R5360.32 or R360.31 and R360.32. The proposed IESSA should make the distinction between the two sections clearer to ensure there is no overlap.

However, Deloitte Global has broader concerns regarding to the proposals in sections 360 and 5360 beyond the communication requirements of NOCLAR as detailed below.

Consideration of impacts to sustainability information in Section 360

In Section 360 of the extant Code, professional accountants are expected to respond to instances of non-compliance with laws and regulations that have a direct impact on the client's financial statements. The extant provisions are based on the application of the International Standard on Auditing 250 (Revised) (ISA 250 (Revised)), Consideration of Laws and Regulations in an Audit of Financial Statements and were specifically designed at the time to address the concerns raised by stakeholders around confidentiality issues with the NOCLAR whistleblower provisions. We question the appropriateness of simply extending the examples in Section 360 to laws and regulations that may impact the client's sustainability information. This significantly expands the professional accountant's responsibilities to disclose non-compliance with respect to these laws and places an expectation on all accountants to have a practical understanding of sustainability information to do so. Some laws and regulations proposed to be added to the extant Code under Section 360 are very broad, such as those relating to the "protection of human rights," "labor conditions and rights of employees," and "consumer rights," which may significantly expand the requirements of the section, thereby further deviating from the principles agreed by the Board at the time when Section 360 was written.

Consideration of impacts to financial information in Section 5360

Equally, Deloitte Global considers that the provisions in Section 5360 should not overly emphasize financial statement impacts, which seem contrary to the goal of having a profession-agnostic standard. Most laws and regulations included under 5360.5 A2 are not relevant examples in the context of sustainability information (e.g., "securities markets and trading," "banking and other financial products and services," and "tax and pension liabilities and payments,") and should be removed. Additionally, given Section 360 was written based on the requirements from ISA 250 (Revised), Deloitte Global believes for Section 5360 to be operable there needs to be a corresponding performance standard, similar to ISA 250 (Revised), that defines the boundaries of the sustainability assurance practitioner's responsibilities when dealing with NOCLAR situations in the context of sustainability assurance engagements.

GTIL - Grant Thornton International Limited

As a general comment, GTIL has overall concerns with the applicability of the NOCLAR provisions to sustainability assurance engagements because once again, these requirements are very specific to financial statement audit engagements, and we believe the Board has not gotten a comprehensive understanding of how these requirements would apply to sustainability assurance engagements.

Furthermore, we have concerns that non-Professional Accountants that are sustainability assurance practitioners will fail to understand the NOCLAR requirements and how to operationalize them, especially understanding applicable confidentiality laws and regulations in different jurisdictions.

Lastly, we do not support sustainability assurance practitioners and auditors communicating NOCLAR to firms outside their network, as confidentiality laws in various jurisdictions may prohibit such communications.

KMPG - KPMG IFRG Limited

The proposed provisions for the auditor and the SAP to consider communicating (actual or suspected) NOCLAR to each other should not be categorized as requirements of the Code.

When management is aware of non-compliance, it is their responsibility to take timely and appropriate actions, including communicating with their auditors based on their inquiries and procedures, and any assessed impacts to the financial statements (e.g., for contingent liability losses and disclosures). We do not agree that it is the auditor's role to communicate NOCLAR that the auditor becomes aware of to another practitioner, including the SAP, or vice versa that the SAP would be required to communicate to the auditor. This communication is the responsibility of management and/or those charged with governance (TCWG). In some jurisdictions, this type of communication between service providers may be prohibited by law, regulation, or professional standards, or restricted by client confidentiality provisions. Further, in the case where a firm performs both the audit and SAE, the firm would already know of the NOCLAR.

The scope, nature and frequency of SAEs can be diverse, with multiple engagements taking place for the same entity simultaneously and perhaps by different networks. The auditor may or may not be aware of other providers who are performing SAEs or which of those may be affected by any (actual or suspected) NOCLAR.

Therefore, we do not support the requirement to consider communicating (actual or suspected) NOCLAR. As proposed, the communication may be misinterpreted as being expected or required. We do, however, support these provisions being included in Part 5 as application material, along with additional factors indicating when the communication might be appropriate, such as when there might be a risk that the NOCLAR would have an impact on the other engagement.

Another possible alternative to the proposed provisions is to have the auditor confirm with management and/or TCWG that management or TCWG have communicated or will communicate the NOCLAR to their SAP (or auditor).

Comments on specific paragraphs in Section 5360

- 5360.3 (a) - The effect on “the client’s financial statements” may not be relevant when the SAP is not the auditor. Therefore, this point should just consist of laws and regulations that are relevant (i.e., directly related) to the sustainability information.
- 5360.3 (b) - The effect of “indirect” laws and regulations may not be relevant to an SAE as it is not clear what the potential “indirect” impact of such NOCLAR to sustainability information would be.
- 5360.4 (b) - Not all SAPs may know when it would be appropriate to alert TCWG of (actual or suspected) NOCLAR. Clarification of the use of the phrase “where appropriate” should be provided.
- 5360.5 A3 - It is not clear how the results of NOCLAR (i.e., fines, litigation, other consequences) would materially affect the sustainability information. If it is just those that potentially “directly” affect the information, this should be clarified.
- 5360.7 A2 - Not all SAPs may understand what is meant by matters that are “clearly inconsequential.” Guidance and considerations for making the determination should be included, particularly given the proposed standard would scope out clearly inconsequential matters from Section 5360.

- R5360.10 - The last sentence states “...circumstances in which it has occurred or might occur.” “Might occur” implies the future and we do not believe the SAP would be responsible to identify matters that might occur in the future. We note that the same phrase is used in extant R360.10, and wonder if it is meant to say, “might have occurred.” The same wording is used in paragraphs R5360.11 and R360.11.
- 5360.11 A4 - We see this point as much less relevant for an SAP than an auditor and suggest deleting it.

We did not repeat comments provided above that would be applicable to respective paragraphs for SAEs not within the scope of the International Independence Standards (paragraphs R5360.29 through 5360.40 A1).

Others

IBA - The International Bar Association

Subsection R5360.18a of the ED requires an SAP to consider whether to communicate a non-compliance or suspected non-compliance with law or regulation (NOCLAR) by a sustainability assurance client to that client’s external auditor (if any).

If IESSA applies to ‘not only all SAEs provided to sustainability assurance clients but also all other services provided to the same sustainability assurance clients’ (as discussed in our response to Question 4), then subsection 5360.18a suggests that lawyers should consider disclosing to an external party a client’s non-compliance or suspected non-compliance with laws or regulations that is uncovered in the course of providing legal services.

We recognise that this subsection is worded as a requirement to ‘consider’ rather than as an obligation to communicate NOCLAR to an external auditor. Additionally, the application guidance at subsection 5360.18a A1 provides that factors relevant to considering the communication in accordance with subsection R5360.18a include whether doing so would be contrary to law or regulation (among other things).

However, despite those qualifications, in our view, subsection 5360.18a presents complexities for lawyers that may prove a barrier to adoption. Legal practitioners have duties of confidentiality under jurisdictional professional conduct rules and legal obligations to maintain legal professional privilege. Disclosing NOCLAR that was uncovered in the course of legal services to a third party would be fundamentally inconsistent with those duties.

This is a further reason why the scope of IESSA should be limited to the undertaking of SAEs only – and that lawyers’ professional conduct obligations apply in respect of any legal services provided to a sustainability assurance client (see response to Question 4).

If the application of R5360.18a was limited to circumstances in which a legal practitioner in their capacity as SAP uncovered NOCLAR in the course of undertaking a SAE, then we still see difficulty with respect to its application: it suggests that two unrelated parties communicate with each other about their common client, and this gives rise to confidentiality concerns.

Question 7 - No Specific Comments

Regulators and Oversight Authorities, incl. Monitoring Group members

ACRA - Accounting and Corporate Regulatory Authority (Singapore)

Investors and Other Users

Ceres Accelerator

IAIP - Indian Association of Investment Professionals (CFA Society India)

MSCI - Morgan Stanley Capital International

NBIM - Norges Bank Investment Management

Preparers and Those Charged With Governance

Asma Jan Muhammad

BD - Bruno Dirringer

Professional Accounting Organizations (PAOs)

CBPS-CFC-IBRACON

FACPCE - Federación Argentina de Consejos Profesionales de Ciencias Económicas

GAA - Global Accounting Alliance

INCP - National Institute of Public Accountants of Colombia

NYSSCPA - New York State Society of CPAs

Other Assurance Providers and Accreditation Bodies (non-PAs)

AccountAbility

Accounting Firms and Sole Practitioners

Assirevi - Association of Italian Audit Firms

BKTI - Baker Tilly International

Academia and Research Institutes

NNN - Nada Naufal Director at the American University of Beirut

NRS - Professor Nicole Ratzinger-Sakel