

Review of Submissions – Specific Comments Table
Exposure Draft 02/16: Proposed Amendments to APES 110 (NOCLAR & NAS)

Note: General comments relating to ED 02/16 are addressed in a separate table. This table excludes minor editorial changes.

Item No.	Paragraph No. in Exposure Draft	Respondent	Respondents' Comments
1	Transitional Provisions, paragraphs 7 (NOCLAR) and 8 (NAS)	CA ANZ	<p>Whilst Chartered Accountants ANZ is supportive of the amendments to the Code we believe that the proposed application date of 15 July 2017 does not provide sufficient time for our members, their clients and other professional organisations to complete the necessary preparations before the revised Code becomes operative.</p> <p>We understand this date was selected to facilitate international consistency but, on consultation with our members, we believe a longer period of time is required. This additional time is required for our members, other professional organisations and our members' clients. In respect of our members in public practice and in business they are required to:</p> <ul style="list-style-type: none"> • Complete an impact assessment in relation to the proposed changes, • Develop and deliver training to their teams, • Amend existing policies or contracts that are impacted by the changes, for example employment contracts, client engagement letters, client confidentiality policies, director appointment contracts, director appointment contracts and consultation policies, • Develop policies and processes for when potential non-compliance with laws and regulations is identified, and • Amend policies and processes in relation to non-audit services that can be provided to audit clients, and communicate these policies to their clients. <p>Other professional organisations and regulators will need time to assess and address the impact the non-compliance with laws and regulations changes may have on their respective codes and rules. An example of this is our members who are registered tax agents, BAS agents and tax (financial) advisers who are required to comply with the Tax Agent Services Act 2009.</p> <p>Clients who receive non-assurance services from their auditor will also require time to find a new service provider should the auditor be no longer able to provide these services.</p>
2	Transitional Provisions, paragraphs 7 (NOCLAR) and 8 (NAS)	CPA	<p>We do not support the proposed effective date of 15 July 2017. We note IESBA's effective date is one year after issue and APESB's own practice has generally been to allow at least one year before major changes to the Code, as those proposed in this Exposure Draft, become effective. Given the magnitude and importance of the new requirements imposed by NOCLAR that necessitate education and training, as well as the development of policies and procedures for members in business and practice, we support an effective date of at least one year after the issue of the proposed amendments. We are of the view that the availability of early adoption of the NOCLAR provisions will allow their earlier application, where necessary.</p>
3	N/A	Deloitte	<p>However, in relation to the NOCLAR amendments, we recommend that APESB and the professional bodies to whom its standards apply:</p>

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			<ul style="list-style-type: none"> Actively engage with other bodies and professional organisations of which its members are also members to consider the interaction of these requirements with the requirements of other relevant professional conduct codes and legislation to understand if there are any conflicting obligations and provide further advice or clarification where appropriate. Monitor any proposed legislation (e.g. new whistleblowing rules) to assess whether any changes may be required to APES 110 as a result.
4	Transitional Provisions, paragraphs 7 (NOCLAR) and 8 (NAS)	IPA	<p>The proposed operative date of 15 July 2017 is aligned to that of the IESBA. The IESBA adopted an operative date of approximately one year after the release of its amendments to the Code. Given the significance of the changes, we considered this to be far too short. We would have preferred an operative date of two years hence.</p> <p>If the 15 July date was to proceed, this would only represent a couple of months between the finalisation of the exposure draft and the release of the revised Code. We are not aware of any particular or compelling reasons which support this effective date. Given that the IESBA has spent six years on consultation and the content of the Standard has been known for some time, then we believe this does not reflect well on our domestic process.</p> <p>Importantly, there would be insufficient time to create an awareness of the revisions, for training to be conducted, and for processes and systems to be revised. This is compounded by the number of entities employing professional accountants who are affected by the changes. Even though the IPA has already commenced the process of raising awareness and training, this will be totally insufficient in such a short period of time. The sheer scope of application and the task of implementation are enormous and should not be under-estimated.</p> <p>At a minimum, the operative of the amendments to the Code should be aligned to the operative date of the related ASA 250 <i>Consideration of Laws and Regulations in the Audit of Financial Report</i>. That date being 15 December.</p> <p>We would prefer an operative date of the amendments to the Code to be 15 July 2018.</p> <p>We note that in overseas jurisdictions, only a couple have applied the 15 July 2017 date. We believe that APESB has sufficient reason to defer the IESBA's operative date by a year.</p> <p>In addition, the IPA believes that further guidance will be needed as to how to implement and apply NOCLAR; for instance, how to interpret what constitutes "non-compliance", the "public interest", and numerous other concepts; and to clarify the legal, regulatory and ethical responsibilities regarding how to respond to the Standard. There will be much ambiguity and greyness in how NOCLAR is to be interpreted and applied, not just across Australia, but also consistently across the world.</p> <p>It is also likely that stronger whistle blower protections will be needed in Australia in a broader and more general sense. We note that this is currently being proposed by the Federal Government in terms of strengthening whistle blower protections, though these are not likely to come into effect for some time and the final scope and terms are yet to be decided. At this stage there are only proposals being put forward for consideration. APESB should also be involved in this Federal Government consultation as a relevant stakeholder. In fact, we note in this regard, that IESBA will be answering questions such as how the Standard will apply in countries that don't have safe harbour provisions for whistle blowers.</p>

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			<p>We further note that IESBA will also be providing more guidance including “implementation support material”. Even though IESBA currently has some material on implementing NOCLAR including a Q&A video series and developments being notified through Twitter (#NOCLAR and #IESBA), we appreciate that more will follow.</p>
5	Transitional Provisions, paragraphs 7 (NOCLAR) and 8 (NAS)	Pitcher Partners	<p>However, we do not support the proposed effective date of 15 July 2017.</p> <p>We understand that the APESB intends to approve the Australian pronouncement at the May 2017 meeting (for July 2017 mandatory application). A mandatory application date that is less than 2 months after the release of the Australian pronouncement will not provide sufficient time for Australian accounting professionals to understand their responsibilities and to effectively implement the NOCLAR response framework.</p> <p>In contrast to the APESB’s timetable, the IESBA’s key project milestones for the development and implementation of the NOCLAR response framework are as follows:</p> <ul style="list-style-type: none"> • Second exposure draft issued in May 2015. • Final pronouncement issued in July 2016. • Mandatory application date of 15 July 2017 (i.e., 12 months after the issue of the final pronouncement). <p>In addition, in order to create awareness of the NOCLAR response framework and to assist professional accountants to understand their responsibilities, the IESBA released a number of informative videos, fact sheets, and other guidance material (including <i>Staff Questions & Answers</i>).</p> <p>The IESBA <i>Staff Questions & Answers</i> publication (released in February 2017), acknowledges that the implementation of the NOCLAR response framework by professional services firms may include articulating the approach to specific elements of the framework in their policies and methodologies. This may include such matters as:</p> <ul style="list-style-type: none"> • The process for the escalation of matters within the engagement team, and within the firm. • When to consult with legal counsel or other external parties. • Who within the firm should be involved in discussions with management and, where appropriate, Those Charged with Governance. • The protocols for communication within a group engagement team, with a network firm and, if not within the firm or a network, with the external auditor of a client. • Determination of the need for further action. <p>We agree that these are important matters to be considered by professional services firms as part of their implementation of the NOCLAR response framework. Further, organisations employing ‘members in business’ will also need to give consideration to similar matters as part of their implementation and/or support of the NOCLAR response framework.</p> <p>We believe the process followed by the IESBA, which includes a mandatory application date that is 12 months after the release of the final pronouncement, provides an appropriate timeframe for professional accountants and organisations employing professional accountants (affected by the international pronouncement) to fully understand their responsibilities and to effectively implement the NOCLAR response framework by the mandatory application date.</p>

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			<p>Consistent with the approach followed by major Australian and international standard setting bodies (including the IESBA), in our opinion, the NOCLAR response framework should have a mandatory application date in Australia of not less than 12 months after the release of the final Australian pronouncement.</p> <p>This would provide a more appropriate timeframe for Australian accounting professionals to fully understand their responsibilities (as will be set out in the final Australian pronouncement, when issued) and to effectively implement the NOCLAR response framework by the mandatory application date.</p> <p>It is our view that where practicable, and after giving due consideration to the impact on Australian Accounting Professionals, the mandatory application date of Australian Accounting Professional & Ethical Standards should align with that of international standards (where the Australian pronouncement is an equivalent to an international pronouncement). In order to achieve this outcome (i.e., synchronise mandatory application dates) and provide Australian Accounting Professionals with an appropriate timeframe for implementation, we strongly recommend that the APESB issue Australian equivalent pronouncements as soon as reasonably possible following the issue of the international pronouncement. For example, in the case of the NOCLAR response framework, we would have expected the APESB to issue the Australian equivalent pronouncement in July 2016 (rather than the intended issue date of May 2017).</p> <p>We believe that an appropriate timeframe is crucial to the successful implementation of the NOCLAR response framework in the Australian environment. Accordingly, we do not support the proposed effective date of 15 July 2017.</p> <p>In our opinion, the NOCLAR response framework should have a mandatory application date in Australia of not less than 12 months after the release of the final Australian pronouncement.</p>

Staff Instructions:

- Comments of a “general” nature should be dealt with first, followed by paragraph specific comments.
- Respondents’ comments must be copied verbatim into this table.
- Comments should be dealt with in paragraph order, not respondent order.
- Use acronyms only for respondents. Update the attached table with details of additional respondents.

RESPONDENTS

1	CA ANZ	Chartered Accountants Australia and New Zealand
2	CPA	CPA Australia
3	Deloitte	Deloitte Touche Tohmatsu Australia
4	IPA	Institute of Public Accountants
5	Pitcher Partners	Pitcher Partners