



Reference: NOCLAR
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Date: 15 August 2017

Circular 57 of 2017: Non-compliance with Laws and Regulations (NOCLAR)

The South African Institute of Chartered Accountants (SAICA) Code of Professional Conduct (SAICA Code) was updated in December 2016 to include ethics requirements and guidance to assist members and associates in dealing with non-compliance with laws and regulations (NOCLAR). Sections 225 and 360 of the SAICA Code set out the professional accountant's responsibilities in responding to NOCLAR or suspected NOCLAR. These sections are effective as of 15 July 2017.

The new NOCLAR provisions affect all SAICA members and associates (professional accountants), whether you are in public practice providing professional services to clients, or whether you are in business carrying out professional activities as an employee of an organisation.

Chartered accountants in public practice providing audit services to medical schemes

Section 36(5)(b) of the Medical Schemes Act, No.131 of 1998 (the Act) requires an auditor to inform the Registrar in writing of any matter relating to the affairs of the medical scheme of which he or she became aware of, in the performance of his or her functions as auditor and which, in the opinion of the auditor, may prejudice the medical scheme's ability to comply with that Chapter of the Act (Financial Matters).

Section 36(8)(a) of the Act requires an auditor, in respect of a return or statement which he or she is required to examine in terms of that Chapter of the Act (Financial Matters), to certify whether that return or statement complies with the requirements of the Act and whether the return or statement, including any annexure thereto, presents fairly the matters dealt with therein.

The Registrar therefore requires an auditor to perform a limited assurance engagement in terms of ISAE 3000 (Revised), to conclude on whether the scheme complied with the criteria identified in the limited assurance report.

An auditor concludes whether anything has come to the auditor's attention that causes the auditor to believe that the Scheme has not complied, in all material respects, with the specified sections of the Act and related Regulations. Materiality is however set as one, as any non-compliance is required to be reported on to the Council for Medical Schemes (CMS). Therefore, all instances of non-compliance are regarded as material and therefore all are listed. Any instance of non-compliance will therefore result in a qualified conclusion.

The ISAE 3000 (Revised) report (which is submitted as part of the annual statutory return) is the auditor report which the CMS requires for an auditor to report on compliance with Section 36(5)(b). These criteria are however limited to the financial aspects of the Act, which an auditor will include in the auditor's normal audit procedures.

The CMS issued Circular 11 of 2006 in terms of which the following non-compliance disclosures are required:

- All non-compliance matters noted should be disclosed in the notes to the audited financial statements, irrespective of whether they are considered to be material or not;
- All non-compliance matters which are material for the appreciation of the members should be reported on individually in the report of the Board of Trustees (BoT). The CMS considers all non-compliance to be of such a nature. The nature of the non-compliance must be disclosed as the CMS does not consider it sufficient to make reference to the relevant notes in the Annual Financial Statements (AFS).

Medical schemes are required to disclose the following information in respect of all non-compliance matters (regardless of whether the scheme has addressed the non-compliance or not):

- Nature and impact of the non-compliance;
- Cause of the non-compliance; and
- Corrective course of action adopted to ensure compliance, including the timing of the corrective action.

Corrective courses of action implemented would include exemptions obtained, suspension and termination of benefits in respect of outstanding contributions, and any other actions taken.

All NOCLAR matters will therefore be reported by auditors of medical schemes to CMS as part of the ISAE 3000 (Revised) report, as well as in the BoT Report and AFS.

Chartered accountants in public practice providing audit services to any accredited administrator, accredited managed care organisation and accredited broker

Chartered accountants in public practice who need to report any NOCLAR matters in terms of Section 225(29) of the SAICA Code in relation to any accredited administrator, accredited managed care organisation and accredited broker to the CMS, must report such matters to the General Manager of the Compliance and Investigations Unit.

Chartered accountants in public practice providing professional services other than audits to any registered medical scheme, accredited administrator, accredited managed care organisation and accredited broker

Chartered accountants in public practice providing professional services other than the audit of financial statements who need to report any NOCLAR matters in terms of Section 225(51) of the SAICA Code in relation to any registered medical scheme, accredited administrator, accredited managed care organisation and accredited broker to the CMS, must report such matters to the General Manager of the Compliance and Investigations Unit.

Chartered accountants in business (i.e. employed by a registered medical scheme, accredited administrator, accredited managed care organisation or accredited broker)

Chartered accountants in business who need to report any NOCLAR matters in terms of Sections 360(25) and 360(36) of the SAICA Code in relation to any registered medical scheme, accredited administrator, accredited managed care organisation and accredited broker to the CMS, must report such matters to the General Manager of the Compliance and Investigations Unit.

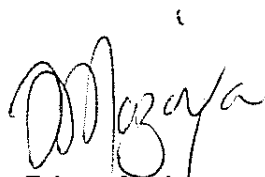
Contact details of the relevant person to whom NOCLAR matters needs to be addressed

Any NOCLAR matters to be reported to the Council for Medical Schemes should be addressed to the General Manager of the Compliance and Investigations Unit, Mr. Stephen Mmatli.

Mr. Mmatli's contact details are as follow:

Email: s.mmatli@medicalschemes.com

Postal address: *For attention: S. Mmatli*
Council for Medical Schemes
Private Bag X34
Hatfield
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Tebogo Maziya
General Manager: Financial Supervision Unit
Council for Medical Schemes