

## **Proposed Standard: APES 110 Code of Ethics for Professional Accountants (including Independence Standards)**

**[Supersedes APES 110 Code of Ethics for Professional Accountants (Issued in December 2010 and amended in December 2011, May 2013, November 2013, May 2017 and March 2018)]**

Prepared and issued by  
Accounting Professional & Ethical Standards Board Limited

**EXPOSURE DRAFT**      **02/18**  
ISSUED:                      April 2018

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## Commenting on this Exposure Draft

This Exposure Draft, Proposed Amendments to APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)*, was developed and approved by the Accounting Professional & Ethical Standards Board Limited (APESB).

The proposals in this Exposure Draft may be modified in light of comments received before being issued in final form. Comments are requested by **30 June 2018**.

Comments should be addressed to:

The Chairman  
Accounting Professional & Ethical Standards Board Limited  
Level 11, 99 William Street  
Melbourne Victoria 3000  
Australia

APESB would prefer that respondents express a clear overall opinion on whether the proposed amendments, as a whole, are supported and that this opinion be supplemented by detailed comments, whether supportive or critical, on any matter. APESB regards both critical and supportive comments as essential to a balanced view of the proposed amendments.

Respondents are asked to submit their comments electronically through the APESB website, using the link <http://www.apesb.org.au/apesb-exposure-drafts-open-for-comment>.

Please submit comments in both a PDF and Word file. All comments will be considered a matter of public record and will ultimately be posted on the website [www.apesb.org.au](http://www.apesb.org.au).

APESB prefers that comments are submitted via its website. However, if there are practical difficulties, comments can also be sent to [sub@apesb.org.au](mailto:sub@apesb.org.au) or mailed to the address noted above.

## Obtaining a copy of this Exposure Draft

This Exposure Draft is available on the APESB website: [www.apesb.org.au](http://www.apesb.org.au). Alternatively, any individual or organisation may obtain one printed copy of this Exposure Draft without charge until **30 June 2018** by contacting:

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Fax: (03) 9670 5611

## Reasons for issuing Exposure Draft 02/18

APESB proposes to revise the existing APES 110 *Code of Ethics for Professional Accountants* (“the Code”) issued in December 2010 and including all amendments up to **March 2018**. The proposed revisions have been developed to incorporate changes resulting from the issue by the International Ethics Standards Board for Accountants (IESBA) of a restructured and renamed *International Code of Ethics for Professional Accountants (including International Independence Standards)*.

## Key requirements and guidance in Exposure Draft 02/18

The Exposure Draft contains substantial revisions comprising:

- Structural and drafting enhancements developed under the IESBA’s Structure of the Code project;
- Revisions to the provisions pertaining to safeguards in the Code, developed under the IESBA’s Safeguards project;
- New requirements and application material relating to pressure to breach the fundamental principles, developed under the IESBA’s Review of Part C project (Section 270);
- Revisions to clarify the responsibilities of Members in Business when preparing and reporting financial information, developed under the IESBA’s Review of Part C project (Section 220);
- Revisions to clarify the applicability of the provisions in Part C of the extant Code to Members in Public Practice, developed under the IESBA’s Review of Part C project (paragraphs R120.4, R300.5 and 300.5 A1); and
- New application material relating to professional scepticism and professional judgement, developed under the IESBA’s Professional Scepticism (short-term) project (paragraphs 120.5 A1, 120.5 A2, 120.5 A3, 120.13 A1 and 120.13 A2).

Stakeholders should refer to the accompanying *Explanatory Memorandum of Exposure Draft 02/18 APES 110 Code of Ethics for Professional Accountants (including Independence Standards)* for further details on the revisions and additions included in this Exposure Draft. In particular, Stakeholders should consider the Australian specific revisions noted on page 8 of the Explanatory Memorandum.

Stakeholders should not rely on this summary in the Exposure Draft or the Explanatory Memorandum to determine what changes, if any, are required to their current practices, policies or methodologies. Stakeholders should read the entire Exposure Draft to determine the significance of its proposals.

## Proposed Operative Date

It is proposed that the operative date for the Code is 1 January 2020.

Earlier adoption of these provisions will be permitted.

# APES 110 Code of Ethics for Professional Accountants (including Independence Standards)

[Supersedes APES 110 Code of Ethics for Professional Accountants (Issued in December 2010 and amended in December 2011, May 2013, November 2013, May 2017 and March 2018)]

ISSUED: [DATE]

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## GUIDE TO THE CODE

(This Guide is a non-authoritative aid to using the Code.)

### Purpose of the Code

1. The *Code of Ethics for Professional Accountants (including Independence Standards)* (“the Code”) sets out fundamental principles of ethics for Members, reflecting the profession’s recognition of its public interest responsibility. These principles establish the standard of behaviour expected of a Member. The fundamental principles are: integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.
2. The Code provides a conceptual framework that Members are to apply in order to identify, evaluate and address threats to compliance with the fundamental principles. The Code sets out requirements and application material on various topics to help Members apply the conceptual framework to those topics.
3. In the case of audits, reviews and other Assurance Engagements, the Code sets out *Independence Standards*, established by the application of the conceptual framework to threats to Independence in relation to these engagements.

### How the Code is Structured

4. The Code contains the following material:
  - *Glossary*, which contains defined terms (together with additional explanations where appropriate) and described terms which have a specific meaning in certain parts of the Code. For example, as noted in the Glossary, in Part 4A, the term “Audit Engagement” applies equally to both Audit and Review Engagements.
  - Part 1 – *Complying with the Code, Fundamental Principles and Conceptual Framework*, which includes the fundamental principles and the conceptual framework and is applicable to all Members.
  - Part 2 – *Members in Business*, which sets out additional material that applies to Members in Business when performing Professional Activities. Members in Business include Members employed, engaged or contracted in an executive or non-executive capacity in, for example:
    - Commerce, industry or service.
    - The public sector.
    - Education.
    - The not-for-profit sector.
    - Regulatory or professional bodies.Part 2 is also applicable to individuals who are Members in Public Practice when performing Professional Activities pursuant to their relationship with the Firm, whether as a contractor, employee or owner.
  - Part 3 – *Members in Public Practice*, which sets out additional material that applies to Members in Public Practice when providing Professional Services.

- *Independence Standards*, which sets out additional material that applies to Members in Public Practice when providing assurance services, as follows:
    - Part 4A – *Independence for Audit and Review Engagements*, which applies when performing Audit or Review Engagements.
    - Part 4B – *Independence for Assurance Engagements Other than Audit and Review Engagements*, which applies when performing Assurance Engagements that are not Audit or Review Engagements.
5. The Code contains sections which address specific topics. Some sections contain subsections dealing with specific aspects of those topics. Each section of the Code is structured, where appropriate, as follows:
- Introduction – sets out the subject matter addressed within the section, and introduces the requirements and application material in the context of the conceptual framework. Introductory material contains information, including an explanation of terms used, which is important to the understanding and application of each Part and its sections.
  - Requirements – establish general and specific obligations with respect to the subject matter addressed.
  - Application material – provides context, explanations, suggestions for actions or matters to consider, illustrations and other guidance to assist in complying with the requirements.

## **How to Use the Code**

### *The Fundamental Principles, Independence and Conceptual Framework*

6. The Code requires Members to comply with the fundamental principles of ethics. The Code also requires Members to apply the conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles. Applying the conceptual framework requires exercising professional judgement, remaining alert for new information and to changes in facts and circumstances, and using the reasonable and informed third party test.
7. The conceptual framework recognises that the existence of conditions, policies and procedures established by the profession, legislation, regulation, the Firm, or the employing organisation might impact the identification of threats. Those conditions, policies and procedures might also be a relevant factor in the Member's evaluation of whether a threat is at an Acceptable Level. When threats are not at an Acceptable Level, the conceptual framework requires the Member to address those threats. Applying safeguards is one way that threats might be addressed. Safeguards are actions individually or in combination that the Member takes that effectively reduce threats to an Acceptable Level.
8. In addition, the Code requires Members to be independent when performing Audit, Review and other Assurance Engagements. The conceptual framework applies in the same way to identifying, evaluating and addressing threats to Independence as to threats to compliance with the fundamental principles.
9. Complying with the Code requires knowing, understanding and applying:
- All of the relevant provisions of a particular section in the context of Part 1, together with the additional material set out in Sections 200, 300, 400 and 900, as applicable.

- All of the relevant provisions of a particular section, for example, applying the provisions that are set out under the subheadings titled “General” and “All Audit Clients” together with additional specific provisions, including those set out under the subheadings titled “Audit Clients that are not Public Interest Entities” or “Audit Clients that are Public Interest Entities.”
- All of the relevant provisions set out in a particular section together with any additional provisions set out in any relevant subsection.

#### *Requirements and Application Material*

10. Requirements and application material are to be read and applied with the objective of complying with the fundamental principles, applying the conceptual framework and, when performing Audit, Review and other Assurance Engagements, being independent.

#### *Requirements*

11. Requirements are designated with the letter “R”, denoted in **bold-type** and, in most cases, include the word “shall.” The word “shall” in the Code imposes an obligation on a Member or Firm to comply with the specific provision in which “shall” has been used.
12. In some situations, the Code provides a specific exception to a requirement. In such a situation, the provision is designated with the letter “R” but uses “may” or conditional wording.
13. When the word “may” is used in the Code, it denotes permission to take a particular action in certain circumstances, including as an exception to a requirement. It is not used to denote possibility.
14. When the word “might” is used in the Code, it denotes the possibility of a matter arising, an event occurring or a course of action being taken. The term does not ascribe any particular level of possibility or likelihood when used in conjunction with a threat, as the evaluation of the level of a threat depends on the facts and circumstances of any particular matter, event or course of action.

#### *Application Material*

15. In addition to requirements, the Code contains application material that provides context relevant to a proper understanding of the Code. In particular, the application material is intended to help a Member to understand how to apply the conceptual framework to a particular set of circumstances and to understand and comply with a specific requirement. While such application material does not of itself impose a requirement, consideration of the material is necessary to the proper application of the requirements of the Code, including application of the conceptual framework. Application material is designated with the letter “A.”
16. Where application material includes lists of examples, these lists are not intended to be exhaustive.

#### *Appendix to Guide to the Code*

17. The Appendix to this Guide provides an overview of the Code.



**OVERVIEW OF THE CODE**

**GLOSSARY**  
(ALL MEMBERS)

**PART 1**  
**COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK**  
(ALL MEMBERS - SECTIONS 100 TO 199)

**PART 2**  
**MEMBERS IN BUSINESS (INCLUDING EMPLOYMENT  
RELATIONSHIPS OF MEMBERS IN PUBLIC PRACTICE)**  
(SECTIONS 200 TO 299)

(PART 2 IS ALSO APPLICABLE TO INDIVIDUAL MEMBERS IN PUBLIC PRACTICE  
WHEN PERFORMING PROFESSIONAL ACTIVITIES  
PURSUANT TO THEIR RELATIONSHIP WITH THE FIRM)

**PART 3**  
**MEMBERS IN PUBLIC PRACTICE**  
(SECTIONS 300 TO 399)

**INDEPENDENCE STANDARDS**  
(PARTS 4A AND 4B)

**PART 4A – INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS**  
(SECTIONS 400 TO 899)

**PART 4B – INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER  
THAN AUDIT AND REVIEW ENGAGEMENTS**  
(SECTIONS 900 TO 999)

# CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS (including INDEPENDENCE STANDARDS)

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## SCOPE AND APPLICATION

- 1.1 Accounting Professional & Ethical Standards Board Limited (APESB) issues APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (this Code). This Code is operative from 1 January 2020 and supersedes APES 110 *Code of Ethics for Professional Accountants* (issued in December 2010 and subsequently amended in December 2011, May 2013, November 2013, May 2017 and **March 2018**). Earlier adoption of this Code is permitted. The transitional provision relating to Key Audit Partner rotation shall apply up to the date specified in the transitional provision on page 218.
- R1.2 Subject to paragraph 1.4, all Members in Australia shall comply with APES 110 including when providing Professional Services in an honorary capacity.**
- R1.3 All Members practising outside of Australia shall comply with APES 110 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**
- 1.4 This Code is not intended to detract from any responsibilities which may be imposed by law or regulation. The AUASB has issued auditing standards as legislative instruments under the *Corporations Act 2001* (the Act). For audits and reviews under the Act, those standards have legal enforceability. To the extent that those auditing standards make reference to relevant ethical requirements, the requirements of APES 110 have legal enforceability due to Auditing Standard ASA 102 *Compliance with Ethical Requirements when Performing Audits, Reviews and Other Assurance Engagements*.
- 1.5 All references to Professional Standards, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.6 In applying the requirements outlined in this Code, Members shall be guided not merely by the words but also by the spirit of this Code.
- 1.7 In this Code, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## GLOSSARY

In the *Code of Ethics for Professional Accountants (including Independence Standards)* the terms below have the following meanings assigned to them.

In this Glossary, definitions are named in bold-type font with the explanations of defined terms shown in regular font; italics are used for explanations of described terms which have a specific meaning in certain parts of the Code or for additional explanations of defined terms. References are also provided to terms described in the Code.

<b>[AUST] AASB</b>	The Australian statutory body called the Australian Accounting Standards Board that was established under section 226 of the <i>Australian Securities and Investments Commission Act 1989</i> and is continued in existence by section 261 of the <i>Australian Securities and Investments Commission Act 2001</i> .
<b>Acceptable Level</b>	A level at which a Member using the reasonable and informed third party test would likely conclude that the Member complies with the fundamental principles.
<b>[AUST] Administration</b>	An insolvency arrangement arising from an appointment, other than a members' voluntary liquidation, under which an insolvent entity operates.
<b>Advertising</b>	The communication to the public of information as to the services or skills provided by Members in Public Practice with a view to procuring professional business.
<i>Appropriate reviewer</i>	<i>An appropriate reviewer is a professional with the necessary knowledge, skills, experience and authority to review, in an objective manner, the relevant work performed or service provided. Such an individual might be a Member.</i>  <i>This term is described in paragraph 300.8 A4.</i>
<b>Assurance Client</b>	The responsible party that is the person (or persons) who:  (a) In a direct reporting engagement, is responsible for the subject matter; or  (b) In an assertion-based engagement, is responsible for the subject matter information and might be responsible for the subject matter.
<b>Assurance Engagement</b>	An engagement in which a Member in Public Practice expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.  This includes an Engagement in accordance with the <i>Framework for Assurance Engagements</i> issued by the AUASB or in accordance with specific relevant standards, such as International Standards on Auditing, for Assurance Engagements.

(For guidance on Assurance Engagements, see the *Framework for Assurance Engagements* issued by the AUASB. The *Framework for Assurance Engagements* describes the elements and objectives of an Assurance Engagement and identifies engagements to which *Australian Auditing Standards (ASAs)*, *Standards on Review Engagements (ASREs)* and *Standards on Assurance Engagements (ASAEs)* apply.)

**Assurance Team**

- (a) All members of the Engagement Team for the Assurance Engagement;
- (b) All others within a Firm who can directly influence the outcome of the Assurance Engagement, including:
  - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the Assurance Engagement Partner in connection with the performance of the Assurance Engagement;
  - (ii) Those who provide consultation regarding technical or industry specific issues, transactions or events for the Assurance Engagement; and
  - (iii) Those who provide quality control for the Assurance Engagement, including those who perform the Engagement Quality Control Review for the Assurance Engagement.

**[AUST] AUASB**

The Australian statutory body called the Auditing and Assurance Standards Board established under section 227A of the *Australian Securities and Investments Commission Act 2001*.

**Audit**

*In Part 4A, the term “audit” applies equally to “review.”*

**Audit Client**

An entity in respect of which a Firm conducts an Audit Engagement. When the client is a Listed Entity, Audit Client will always include its Related Entities. When the Audit Client is not a Listed Entity, Audit Client includes those Related Entities over which the client has direct or indirect control. (See also paragraph R400.20.)

*In Part 4A, the term “Audit Client” applies equally to “Review Client.”*

**Audit Engagement**

A reasonable Assurance Engagement in which a Member in Public Practice expresses an opinion whether Financial Statements are prepared, in all material respects (or give a true and fair view or are presented fairly, in all material respects), in accordance with an applicable financial reporting framework, such as an engagement conducted in accordance with Auditing and Assurance Standards. This includes a statutory audit, which is an audit required by legislation or other regulation.

*In Part 4A, the term “Audit Engagement” applies equally to “Review Engagement.”*

<i>Audit report</i>	<i>In Part 4A, the term “audit report” applies equally to “review report.”</i>
<b>Audit Team</b>	<ul style="list-style-type: none"> <li>(a) All members of the Engagement Team for the Audit Engagement;</li> <li>(b) All others within a Firm who can directly influence the outcome of the Audit Engagement, including: <ul style="list-style-type: none"> <li>(i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the Engagement Partner in connection with the performance of the Audit Engagement, including those at all successively senior levels above the Engagement Partner through to the individual who is the Firm’s senior or managing partner (chief executive or equivalent);</li> <li>(ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and</li> <li>(iii) Those who provide quality control for the engagement, including those who perform the Engagement Quality Control Review for the engagement; and</li> </ul> </li> <li>(c) All those within a Network Firm who can directly influence the outcome of the Audit Engagement.</li> </ul> <p><i>In Part 4A, the term “Audit Team” applies equally to “Review Team.”</i></p>
<b>[AUST] Auditing and Assurance Standards</b>	The AUASB standards, as described in ASA 100 <i>Preamble to AUASB Standards</i> , ASA 101 <i>Preamble to Australian Auditing Standards</i> and the <i>Foreword to AUASB Pronouncements</i> , issued by the AUASB, and operative from the date specified in each standard.
<b>[AUST] Australian Accounting Standards</b>	The Accounting Standards (including Australian Accounting Interpretations) promulgated by the AASB.
<b>Close Family</b>	A parent, child or sibling who is not an Immediate Family member.
<i>Conceptual framework</i>	<i>This term is described in Section 120.</i>
<b>Contingent Fee</b>	A fee calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the Firm. A fee that is established by a court or other public authority is not a Contingent Fee.
<i>Cooling-off period</i>	<i>This term is described in paragraph R540.5 for the purposes of paragraphs R540.11 to R540.19.</i>



<b>Direct Financial Interest</b>	<p>A Financial Interest:</p> <p>(a) Owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others); or</p> <p>(b) Beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control, or the ability to influence investment decisions.</p>
<b>Director or Officer</b>	<p>Those charged with the governance of an entity, or acting in an equivalent capacity, regardless of their title.</p> <p>This includes a Director or Officer as defined in Section 9 of the <i>Corporations Act 2001</i>.</p>
<i>Eligible Audit Engagement</i>	<i>This term is described in paragraph 800.2 for the purposes of Section 800.</i>
<i>Eligible Assurance Engagement</i>	<i>This term is described in paragraph 990.2 for the purposes of Section 990.</i>
<b>Engagement Partner</b>	The partner or other person in the Firm who is responsible for the engagement and its performance, and for the report that is issued on behalf of the Firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body.
<b>Engagement Period (Audit and Review Engagements)</b>	The Engagement Period starts when the Audit Team begins to perform the audit. The Engagement Period ends when the audit report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has ended or the issuance of the final audit report.
<b>Engagement Period (Assurance Engagements Other than Audit and Review Engagements)</b>	The Engagement Period starts when the Assurance Team begins to perform assurance services with respect to the particular engagement. The Engagement Period ends when the assurance report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has ended or the issuance of the final assurance report.
<b>Engagement Quality Control Review</b>	A process designed to provide an objective evaluation, on or before the report is issued, of the significant judgements the Engagement Team made and the conclusions it reached in formulating the report.

<b>Engagement Team<sup>1</sup></b>	All partners and staff performing the engagement, and any individuals engaged by the Firm or a Network Firm who perform assurance procedures on the engagement. This excludes External Experts engaged by the Firm or by a Network Firm.
<b>Existing Accountant</b>	A Member in Public Practice currently holding an audit appointment or carrying out accounting, tax, consulting or similar Professional Services for a client.
<b>External Expert</b>	An individual (who is not a partner or a member of the professional staff, including temporary staff, of the Firm or a Network Firm) or organisation possessing skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the Member in obtaining sufficient appropriate evidence.
<b>Financial Interest</b>	An interest in an equity or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.
<b>Financial Statements</b>	A structured representation of Historical Financial Information, including related notes, intended to communicate an entity's economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The term can relate to a complete set of Financial Statements, but it can also refer to a single Financial Statement, for example, a balance sheet, or a statement of revenues and expenses, and related explanatory notes. The requirements of the financial reporting framework determine the form and content of the Financial Statements and what constitutes a complete set of Financial Statements. For the purposes of this Code, financial report is considered to be an equivalent term to Financial Statements.
<b>Financial Statements on which the Firm will express an Opinion</b>	In the case of a single entity, the Financial Statements of that entity. In the case of consolidated Financial Statements, also referred to as group Financial Statements, the consolidated Financial Statements.

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<sup>1</sup> The definition of Engagement Team in APES 110 has been amended from the International equivalent to remove the reference to individuals within the client's internal audit function who provide direct assistance on an Audit Engagement as the AUASB has prohibited the use of direct assistance in Auditing and Assurance Standard ASA 610 *Using the Work of Internal Auditors* (November 2013).

- Firm**
- (a) A sole practitioner, partnership or corporation or other entity of Members;
  - (b) An entity that controls such parties, through ownership, management or other means; or
  - (c) An entity controlled by such parties, through ownership, management or other means; or
  - (d) An Auditor-General's office or department.

*Paragraphs 400.4 and 900.3 explain how the word "Firm" is used to address the responsibility of Members and Firms for compliance with Parts 4A and 4B, respectively.*

*Fundamental principles This term is described in paragraph 110.1 A1. Each of the fundamental principles is, in turn, described in the following paragraphs:*

*Integrity R111.1*

*Objectivity R112.1*

*Professional competence and due care R113.1*

*Confidentiality R114.1*

*Professional behaviour R115.1*

**Historical Financial Information** Information expressed in financial terms in relation to a particular entity, derived primarily from that entity's accounting system, about economic events occurring in past time periods or about economic conditions or circumstances at points in time in the past.

**Immediate Family** A spouse (or equivalent) or dependent.

**Independence** Independence comprises:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a Firm's, or an Audit or Assurance Team member's, integrity, objectivity or professional scepticism has been compromised.

*As set out in paragraphs 400.5 and 900.4, references to an individual or Firm being "independent" mean that the individual or Firm has complied with Parts 4A and 4B, as applicable.*

<b>Indirect Financial Interest</b>	A Financial Interest beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has no control or ability to influence investment decisions.
<b>Key Audit Partner</b>	The Engagement Partner, the individual responsible for the Engagement Quality Control Review, and other audit partners, if any, on the Engagement Team who make key decisions or judgements on significant matters with respect to the audit of the Financial Statements on which the Firm will express an Opinion. Depending upon the circumstances and the role of the individuals on the audit, “other audit partners” might include, for example, audit partners responsible for significant subsidiaries or divisions.
<b>Listed Entity</b>	An entity whose shares, stock or debt are quoted or listed on a recognised stock exchange, or are marketed under the regulations of a recognised stock exchange or other equivalent body.
<i>May</i>	<i>This term is used in the Code to denote permission to take a particular action in certain circumstances, including as an exception to a requirement. It is not used to denote possibility.</i>
<b>[AUST] Member</b>	<p>A member of a Professional Body that has adopted this Code as applicable to their membership, as defined by that Professional Body.</p> <p><i>In Part 1, the term “Member” refers to individual Members in Business and to Members in Public Practice and their Firms.</i></p> <p><i>In Part 2, the term “Member” refers to Members in Business, and also to Members in Public Practice when performing Professional Activities pursuant to their relationship with the Firm, whether as a contractor, employee or owner.</i></p> <p><i>In Parts 3, 4A and 4B, the term “Member” refers to Members in Public Practice and their Firms.</i></p>
<b>Member in Business</b>	A Member working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or professional bodies, who might be an employee, contractor, partner, Director (executive or non-executive), owner-manager or volunteer.
<b>Member in Public Practice</b>	A Member, irrespective of functional classification (for example, audit, tax or consulting) in a Firm that provides Professional Services. This term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable Professional Body.

<i>Might</i>	<i>This term is used in the Code to denote the possibility of a matter arising, an event occurring or a course of action being taken. The term does not ascribe any particular level of possibility or likelihood when used in conjunction with a threat, as the evaluation of the level of a threat depends on the facts and circumstances of any particular matter, event or course of action.</i>
<b>Network</b>	<p>A larger structure:</p> <ul style="list-style-type: none"> <li>(a) That is aimed at co-operation; and</li> <li>(b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.</li> </ul>
<b>Network Firm</b>	<p>A Firm or entity that belongs to a Network.</p> <p><i>For further information, see paragraphs 400.50 A1 to 400.54 A1.</i></p>
<p><i>Non-compliance with laws and regulations</i></p> <p><i>(Members in Business)</i></p>	<p><i>Non-compliance with laws and regulations (“NOCLAR”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:</i></p> <ul style="list-style-type: none"> <li>(a) <i>The Member’s employing organisation;</i></li> <li>(b) <i>Those Charged with governance of the employing organisation;</i></li> <li>(c) <i>Management of the employing organisation; or</i></li> <li>(d) <i>Other individuals working for or under the direction of the employing organisation.</i></li> </ul> <p><i>This term is described in paragraph 260.5 A1.</i></p>
<p><i>Non-compliance with laws and regulations</i></p> <p><i>(Members in Public Practice)</i></p>	<p><i>Non-compliance with laws and regulations (“NOCLAR”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:</i></p> <ul style="list-style-type: none"> <li>(a) <i>A client;</i></li> <li>(b) <i>Those Charged with Governance of a client;</i></li> <li>(c) <i>Management of a client; or</i></li> <li>(d) <i>Other individuals working for or under the direction of a client.</i></li> </ul> <p><i>This term is described in paragraph 360.5 A1.</i></p>
<b>Office</b>	A distinct sub-group, whether organised on geographical or practice lines.
<b>Predecessor Accountant</b>	A Member in Public Practice who most recently held an audit appointment or carried out accounting, tax, consulting or similar Professional Services for a

client, where there is no Existing Accountant.

<b>Professional Activity</b>	An activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, tax, management consulting, and financial management.
<b>[AUST] Professional Bodies</b>	Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.
<b>Professional Services</b>	Professional Activities performed for clients.
<b>Proposed Accountant</b>	A Member in Public Practice who is considering accepting an audit appointment or an engagement to perform accounting, tax, consulting or similar Professional Services for a prospective client (or in some cases, an existing client).
<b>Public Interest Entity</b>	(a) A Listed Entity*; or (b) An entity: (i) Defined by regulation or legislation as a public interest entity; or (ii) For which the audit is required by regulation or legislation to be conducted in compliance with the same Independence requirements that apply to the audit of Listed Entities. Such regulation might be promulgated by any relevant regulator, including an audit regulator.

\* Includes a listed entity as defined in Section 9 of the *Corporations Act 2001*.

*Other entities might also be considered to be Public Interest Entities, as set out in paragraph 400.8.*

*Reasonable and informed third party*

*Reasonable and informed third party test*

*The reasonable and informed third party test is a consideration by the Member about whether the same conclusions would likely be reached by another party. Such consideration is made from the perspective of a reasonable and informed third party, who weighs all the relevant facts and circumstances that the Member knows, or could reasonably be expected to know, at the time that the conclusions are made. The reasonable and informed third party does not need to be a Member, but would possess the relevant knowledge and experience to understand and evaluate the appropriateness of the Member's conclusions in an impartial manner.*

*These terms are described in paragraph R120.5 A4.*

<b>Related Entity</b>	<p>An entity that has any of the following relationships with the client:</p> <ul style="list-style-type: none"> <li>(a) An entity that has direct or indirect control over the client if the client is material to such entity;</li> <li>(b) An entity with a Direct Financial Interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity;</li> <li>(c) An entity over which the client has direct or indirect control;</li> <li>(d) An entity in which the client, or an entity related to the client under (c) above, has a Direct Financial Interest that gives it significant influence over such entity and the interest is material to the client and its Related Entity in (c); and</li> <li>(e) An entity which is under common control with the client (a “sister entity”) if the sister entity and the client are both material to the entity that controls both the client and sister entity.</li> </ul>
<b>Review Client</b>	<p>An entity in respect of which a Firm conducts a Review Engagement.</p>
<b>Review Engagement</b>	<p>An Assurance Engagement, conducted in accordance with Auditing and Assurance Standards on Review Engagements or equivalent, in which a Member in Public Practice expresses a conclusion on whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the Member’s attention that causes the Member to believe that the Historical Financial Information is not prepared, in all material respects, in accordance with an applicable financial reporting framework.</p>
<b>Review Team</b>	<ul style="list-style-type: none"> <li>(a) All members of the Engagement Team for the Review Engagement; and</li> <li>(b) All others within a Firm who can directly influence the outcome of the Review Engagement, including: <ul style="list-style-type: none"> <li>(i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the Engagement Partner in connection with the performance of the Review Engagement, including those at all successively senior levels above the Engagement Partner through to the individual who is the Firm’s senior or managing partner (chief executive or equivalent);</li> <li>(ii) Those who provide consultation regarding technical or industry specific issues, transactions or events for the engagement; and</li> <li>(iii) Those who provide quality control for the engagement, including those who perform the Engagement Quality Control Review for the engagement; and</li> </ul> </li> <li>(c) All those within a Network Firm who can directly influence the</li> </ul>

outcome of the Review Engagement.

**Safeguards** *Safeguards are actions, individually or in combination, that the Member takes that effectively reduce threats to compliance with the fundamental principles to an Acceptable Level.*

*This term is described in paragraph 120.10 A2.*

**Senior Member in Business** *Senior Members in Business are Directors, Officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the employing organisation's human, financial, technological, physical and intangible resources.*

*This term is described in paragraph 260.11 A1.*

**Substantial harm** *This term is described in paragraphs 260.5 A3 and 360.5 A3.*

**Special Purpose Financial Statements** Financial Statements prepared in accordance with a financial reporting framework designed to meet the financial information needs of specified users.

**Those Charged with Governance** The person(s) or organisation(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process. For some entities in some jurisdictions, Those Charged with Governance might include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.

**Threats** *This term is described in paragraph 120.6 A3 and includes the following categories:*

*Self interest* 120.6 A3(a)

*Self-review* 120.6 A3(b)

*Advocacy* 120.6 A3(c)

*Familiarity* 120.6 A3(d)

*Intimidation* 120.6 A3(e)

**Time-on period** *This term is described in paragraph R540.5.*



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# PART 1 – COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

## SECTION 100

### COMPLYING WITH THE CODE

#### General

- 100.1 A1 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. A Member's responsibility is not exclusively to satisfy the needs of an individual client or employing organisation. Therefore, the Code contains requirements and application material to enable Members to meet their responsibility to act in the public interest.
- 100.2 A1 The requirements in the Code, designated with the letter "R" and denoted in **bold-type** impose obligations.
- 100.2 A2 Application material, designated with the letter "A," provides context, explanations, suggestions for actions or matters to consider, illustrations and other guidance relevant to a proper understanding of the Code. In particular, the application material is intended to help a Member to understand how to apply the conceptual framework to a particular set of circumstances and to understand and comply with a specific requirement. While such application material does not of itself impose a requirement, consideration of the material is necessary to the proper application of the requirements of the Code, including application of the conceptual framework.
- R100.3 A Member shall comply with the Code. There might be circumstances where laws or regulations preclude a Member from complying with certain parts of the Code. In such circumstances, those laws and regulations prevail, and the Member shall comply with all other parts of the Code.**
- 100.3 A1 The principle of professional behaviour requires a Member to comply with relevant laws and regulations. Some jurisdictions might have provisions that differ from or go beyond those set out in the Code. Members in those jurisdictions need to be aware of those differences and comply with the more stringent provisions unless prohibited by law or regulation.
- 100.3 A2 A Member might encounter unusual circumstances in which the Member believes that the result of applying a specific requirement of the Code would be disproportionate or might not be in the public interest. In those circumstances, the Member is encouraged to consult with a professional or regulatory body.

#### Breaches of the Code

- R100.4 Paragraphs R400.80 to R400.89 and R900.50 to R900.55 address a breach of *Independence Standards*. A Member who identifies a breach of any other provision of the Code shall evaluate the significance of the breach and its impact on the Member's ability to comply with the fundamental principles. The Member shall also:**

- (a) Take whatever actions might be available, as soon as possible, to address the consequences of the breach satisfactorily; and**
- (b) Determine whether to report the breach to the relevant parties.**

100.4 A1 Relevant parties to whom such a breach might be reported include those who might have been affected by it, a professional or regulatory body or an oversight authority.

## SECTION 110

### THE FUNDAMENTAL PRINCIPLES

#### General

110.1 A1 There are five fundamental principles of ethics for Members:

- (a) Integrity – to be straightforward and honest in all professional and business relationships.
- (b) Objectivity – not to compromise professional or business judgements because of bias, conflict of interest or undue influence of others.
- (c) Professional Competence and Due Care – to:
  - (i) Attain and maintain professional knowledge and skill at the level required to ensure that a client or employing organisation receives competent Professional Activities, based on current technical and professional standards and relevant legislation; and
  - (ii) Act diligently and in accordance with applicable technical and professional standards.
- (d) Confidentiality – to respect the confidentiality of information acquired as a result of professional and business relationships.
- (e) Professional Behaviour – to comply with relevant laws and regulations and avoid any conduct that the Member knows or should know might discredit the profession.

#### **R110.2 A Member shall comply with each of the fundamental principles.**

110.2 A1 The fundamental principles of ethics establish the standard of behaviour expected of a Member. The conceptual framework establishes the approach which a Member is required to apply to assist in complying with those fundamental principles. Subsections 111 to 115 set out requirements and application material related to each of the fundamental principles.

110.2 A2 A Member might face a situation in which complying with one fundamental principle conflicts with complying with one or more other fundamental principles. In such a situation, the Member might consider consulting, on an anonymous basis if necessary, with:

- Others within the Firm or employing organisation.
- Those Charged with Governance.
- A professional body.
- A regulatory body.
- Legal counsel.

However, such consultation does not relieve the Member from the responsibility to exercise professional judgement to resolve the conflict or, if necessary, and unless prohibited by law or regulation, disassociate from the matter creating the conflict.

110.2 A3 The Member is encouraged to document the substance of the issue, the details of any discussions, the decisions made and the rationale for those decisions.

## **SUBSECTION 111 – INTEGRITY**

**R111.1 A Member shall comply with the principle of integrity, which requires a Member to be straightforward and honest in all professional and business relationships.**

111.1 A1 Integrity implies fair dealing and truthfulness.

**R111.2 A Member shall not knowingly be associated with reports, returns, communications or other information where the Member believes that the information:**

- (a) Contains a materially false or misleading statement;**
- (b) Contains statements or information provided recklessly; or**
- (c) Omits or obscures required information where such omission or obscurity would be misleading.**

111.2 A1 If a Member provides a modified report in respect of such a report, return, communication or other information, the Member is not in breach of paragraph R111.2.

**R111.3 When a Member becomes aware of having been associated with information described in paragraph R111.2, the Member shall take steps to be disassociated from that information.**

## **SUBSECTION 112 – OBJECTIVITY**

**R112.1 A Member shall comply with the principle of objectivity, which requires a Member not to compromise professional or business judgement because of bias, conflict of interest or undue influence of others.**

**R112.2 A Member shall not undertake a Professional Activity if a circumstance or relationship unduly influences the Member's professional judgement regarding that activity.**

## **SUBSECTION 113 – PROFESSIONAL COMPETENCE AND DUE CARE**

**R113.1 A Member shall comply with the principle of professional competence and due care, which requires a Member to:**

- (a) Attain and maintain professional knowledge and skill at the level required to ensure that a client or employing organisation receives competent Professional Activities, based on current technical and professional standards and relevant legislation; and**
- (b) Act diligently and in accordance with applicable technical and professional standards.**

- 113.1 A1 Serving clients and employing organisations with professional competence requires the exercise of sound judgement in applying professional knowledge and skill when undertaking Professional Activities.
- 113.1 A2 Maintaining professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continuing professional development enables a Member to develop and maintain the capabilities to perform competently within the professional environment.
- 113.1 A3 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.
- R113.2 In complying with the principle of professional competence and due care, a Member shall take reasonable steps to ensure that those working in a professional capacity under the Member's authority have appropriate training and supervision.**
- R113.3 Where appropriate, a Member shall make clients, the employing organisation, or other users of the Member's Professional Services or Activities, aware of the limitations inherent in the Professional Services or Activities.**

## **SUBSECTION 114 – CONFIDENTIALITY**

- R114.1 A Member shall comply with the principle of confidentiality, which requires a Member to respect the confidentiality of information acquired as a result of professional and business relationships. A Member shall:**
- (a) Be alert to the possibility of inadvertent disclosure, including in a social environment, and particularly to a close business associate or an Immediate or a Close Family member;**
  - (b) Maintain confidentiality of information within the Firm or employing organisation;**
  - (c) Maintain confidentiality of information disclosed by a prospective client or employing organisation;**
  - (d) Not disclose confidential information acquired as a result of professional and business relationships outside the Firm or employing organisation without proper and specific authority, unless there is a legal or professional duty or right to disclose;**
  - (e) Not use confidential information acquired as a result of professional and business relationships for the personal advantage of the Member or for the advantage of a third party;**
  - (f) Not use or disclose any confidential information, either acquired or received as a result of a professional or business relationship, after that relationship has ended; and**

- (g) Take reasonable steps to ensure that personnel under the Member's control, and individuals from whom advice and assistance are obtained, respect the Member's duty of confidentiality.**

114.1 A1 Confidentiality serves the public interest because it facilitates the free flow of information from the Member's client or employing organisation to the Member in the knowledge that the information will not be disclosed to a third party. Nevertheless, the following are circumstances where Members are or might be required to disclose confidential information or when such disclosure might be appropriate:

- (a) Disclosure is required by law, for example:
  - (i) Production of documents or other provision of evidence in the course of legal proceedings; or
  - (ii) Disclosure to the appropriate public authorities of infringements of the law that come to light;
- (b) Disclosure is permitted by law and is authorised by the client or the employing organisation; and
- (c) There is a professional duty or right to disclose, when not prohibited by law:
  - (i) To comply with the quality review of a Professional Body;
  - (ii) To respond to an inquiry or investigation by a professional or regulatory body;
  - (iii) To protect the professional interests of a Member in legal proceedings; or
  - (iv) To comply with technical and professional standards, including ethics requirements.

AUST 114.1 A1.1 The circumstances described in paragraph 114.1 A1 do not take into account Australian legal and regulatory requirements, such as the *Privacy Act 1988* (Cth) and mandatory reporting of data breaches. A Member considering disclosing confidential information about a client or employer without their consent is strongly advised to first obtain legal advice.

114.1 A2 In deciding whether to disclose confidential information, factors to consider, depending on the circumstances, include:

- Whether the interests of any parties, including third parties whose interests might be affected, could be harmed if the client or employing organisation consents to the disclosure of information by the Member.
- Whether all the relevant information is known and substantiated, to the extent practicable. Factors affecting the decision to disclose include:
  - Unsubstantiated facts.
  - Incomplete information.
  - Unsubstantiated conclusions.
- The proposed type of communication, and to whom it is addressed.
- Whether the parties to whom the communication is addressed are appropriate recipients.

**R114.2** A Member shall continue to comply with the principle of confidentiality even after the end of the relationship between the Member and a client or employing organisation. When changing employment or acquiring a new client, the Member is entitled to use prior experience but shall not use or disclose any confidential information acquired or received as a result of a professional or business relationship.

## **SUBSECTION 115 – PROFESSIONAL BEHAVIOUR**

**R115.1** A Member shall comply with the principle of professional behaviour, which requires a Member to comply with relevant laws and regulations and avoid any conduct that the Member knows or should know might discredit the profession. A Member shall not knowingly engage in any business, occupation or activity that impairs or might impair the integrity, objectivity or good reputation of the profession, and as a result would be incompatible with the fundamental principles.

115.1 A1 Conduct that might discredit the profession includes conduct that a reasonable and informed third party would be likely to conclude adversely affects the good reputation of the profession.

**R115.2** When undertaking marketing or promotional activities, a Member shall not bring the profession into disrepute. A Member shall be honest and truthful and shall not make:

- (a) Exaggerated claims for the services offered by, or the qualifications or experience of, the Member; or**
- (b) Disparaging references or unsubstantiated comparisons to the work of others.**

115.2 A1 If a Member is in doubt about whether a form of Advertising or marketing is appropriate, the Member is encouraged to consult with the relevant Professional Body.



## SECTION 120

### THE CONCEPTUAL FRAMEWORK

#### Introduction

- 120.1 The circumstances in which Members operate might create threats to compliance with the fundamental principles. Section 120 sets out requirements and application material, including a conceptual framework, to assist Members in complying with the fundamental principles and meeting their responsibility to act in the public interest. Such requirements and application material accommodate the wide range of facts and circumstances, including the various Professional Activities, interests and relationships, that create threats to compliance with the fundamental principles. In addition, they deter Members from concluding that a situation is permitted solely because that situation is not specifically prohibited by the Code.
- 120.2 The conceptual framework specifies an approach for a Member to:
- (a) Identify threats to compliance with the fundamental principles;
  - (b) Evaluate the threats identified; and
  - (c) Address the threats by eliminating or reducing them to an Acceptable Level.

#### Requirements and Application Material

##### General

- R120.3 The Member shall apply the conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles set out in Section 110.**
- 120.3 A1 Additional requirements and application material that are relevant to the application of the conceptual framework are set out in:
- (a) Part 2 – *Members in Business*;
  - (b) Part 3 – *Members in Public Practice*; and
  - (c) *Independence Standards*, as follows:
    - (i) Part 4A – *Independence for Audit and Review Engagements*; and
    - (ii) Part 4B – *Independence for Assurance Engagements Other than Audit and Review Engagements*.
- R120.4 When dealing with an ethics issue, the Member shall consider the context in which the issue has arisen or might arise. Where an individual who is a Member in Public Practice is performing Professional Activities pursuant to the Member's relationship with the Firm, whether as a contractor, employee or owner, the individual shall comply with the provisions in Part 2 that apply to these circumstances.**

**R120.5 When applying the conceptual framework, the Member shall:**

- (a) Exercise professional judgement;**
- (b) Remain alert for new information and to changes in facts and circumstances; and**
- (c) Use the reasonable and informed third party test described in paragraph 120.5 A4.**

*Exercise of Professional Judgement*

- 120.5 A1 Professional judgement involves the application of relevant training, professional knowledge, skill and experience commensurate with the facts and circumstances, including the nature and scope of the particular Professional Activities, and the interests and relationships involved. In relation to undertaking Professional Activities, the exercise of professional judgement is required when the Member applies the conceptual framework in order to make informed decisions about the courses of actions available, and to determine whether such decisions are appropriate in the circumstances.
- 120.5 A2 An understanding of known facts and circumstances is a prerequisite to the proper application of the conceptual framework. Determining the actions necessary to obtain this understanding and coming to a conclusion about whether the fundamental principles have been complied with also require the exercise of professional judgement.
- 120.5 A3 In exercising professional judgement to obtain this understanding, the Member might consider, among other matters, whether:
- There is reason to be concerned that potentially relevant information might be missing from the facts and circumstances known to the Member.
  - There is an inconsistency between the known facts and circumstances and the Member's expectations.
  - The Member's expertise and experience are sufficient to reach a conclusion.
  - There is a need to consult with others with relevant expertise or experience.
  - The information provides a reasonable basis on which to reach a conclusion.
  - The Member's own preconception or bias might be affecting the Member's exercise of professional judgement.
  - There might be other reasonable conclusions that could be reached from the available information.

*Reasonable and Informed Third Party*

- 120.5 A4 The reasonable and informed third party test is a consideration by the Member about whether the same conclusions would likely be reached by another party. Such consideration is made from the perspective of a reasonable and informed third party, who weighs all the relevant facts and circumstances that the Member knows, or could reasonably be expected to know, at the time the conclusions are made. The reasonable and informed third party does not need

to be a Member, but would possess the relevant knowledge and experience to understand and evaluate the appropriateness of the Member's conclusions in an impartial manner.

## Identifying Threats

### **R120.6 The Member shall identify threats to compliance with the fundamental principles.**

120.6 A1 An understanding of the facts and circumstances, including any Professional Activities, interests and relationships that might compromise compliance with the fundamental principles, is a prerequisite to the Member's identification of threats to such compliance. The existence of certain conditions, policies and procedures established by the profession, legislation, regulation, the Firm, or the employing organisation that can enhance the Member acting ethically might also help identify threats to compliance with the fundamental principles. Paragraph 120.8 A2 includes general examples of such conditions, policies and procedures which are also factors that are relevant in evaluating the level of threats.

120.6 A2 Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. It is not possible to define every situation that creates threats. In addition, the nature of engagements and work assignments might differ and, consequently, different types of threats might be created.

120.6 A3 Threats to compliance with the fundamental principles fall into one or more of the following categories:

- (a) Self-interest threat – the threat that a financial or other interest will inappropriately influence a Member's judgement or behaviour;
- (b) Self-review threat – the threat that a Member will not appropriately evaluate the results of a previous judgement made; or an activity performed by the Member, or by another individual within the Member's Firm or employing organisation, on which the Member will rely when forming a judgement as part of performing a current activity;
- (c) Advocacy threat – the threat that a Member will promote a client's or employing organisation's position to the point that the Member's objectivity is compromised;
- (d) Familiarity threat – the threat that due to a long or close relationship with a client, or employing organisation, a Member will be too sympathetic to their interests or too accepting of their work; and
- (e) Intimidation threat – the threat that a Member will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the Member.

120.6 A4 A circumstance might create more than one threat, and a threat might affect compliance with more than one fundamental principle.

## Evaluating Threats

### **R120.7 When the Member identifies a threat to compliance with the fundamental principles, the Member shall evaluate whether such a threat is at an Acceptable Level.**

### *Acceptable Level*

120.7 A1 An Acceptable Level is a level at which a Member using the reasonable and informed third party test would likely conclude that the Member complies with the fundamental principles.

### *Factors Relevant in Evaluating the Level of Threats*

120.8 A1 The consideration of qualitative as well as quantitative factors is relevant in the Member's evaluation of threats, as is the combined effect of multiple threats, if applicable.

120.8 A2 The existence of conditions, policies and procedures described in paragraph 120.6 A1 might also be factors that are relevant in evaluating the level of threats to compliance with fundamental principles. Examples of such conditions, policies and procedures include:

- Corporate governance requirements.
- Educational, training and experience requirements for the profession.
- Effective complaint systems which enable the Member and the general public to draw attention to unethical behaviour.
- An explicitly stated duty to report breaches of ethics requirements.
- Professional or regulatory monitoring and disciplinary procedures.

### *Consideration of New Information or Changes in Facts and Circumstances*

**R120.9 If the Member becomes aware of new information or changes in facts and circumstances that might impact whether a threat has been eliminated or reduced to an Acceptable Level, the Member shall re-evaluate and address that threat accordingly.**

120.9 A1 Remaining alert throughout the Professional Activity assists the Member in determining whether new information has emerged or changes in facts and circumstances have occurred that:

- (a) Impact the level of a threat; or
- (b) Affect the Member's conclusions about whether safeguards applied continue to be appropriate to address identified threats.

120.9 A2 If new information results in the identification of a new threat, the Member is required to evaluate and, as appropriate, address this threat. (Ref: Paras. R120.7 and R120.10).

### **Addressing Threats**

**R120.10 If the Member determines that the identified threats to compliance with the fundamental principles are not at an Acceptable Level, the Member shall address the threats by eliminating them or reducing them to an Acceptable Level. The Member shall do so by:**

- (a) **Eliminating the circumstances, including interests or relationships, that are creating the threats;**

- (b) **Applying safeguards, where available and capable of being applied, to reduce the threats to an Acceptable Level; or**
- (c) **Declining or ending the specific Professional Activity.**

#### *Actions to Eliminate Threats*

120.10 A1 Depending on the facts and circumstances, a threat might be addressed by eliminating the circumstance creating the threat. However, there are some situations in which threats can only be addressed by declining or ending the specific Professional Activity. This is because the circumstances that created the threats cannot be eliminated and safeguards are not capable of being applied to reduce the threat to an Acceptable Level.

#### *Safeguards*

120.10 A2 Safeguards are actions, individually or in combination, that the Member takes that effectively reduce threats to compliance with the fundamental principles to an Acceptable Level.

#### *Consideration of Significant Judgements Made and Overall Conclusions Reached*

**R120.11 The Member shall form an overall conclusion about whether the actions that the Member takes, or intends to take, to address the threats created will eliminate those threats or reduce them to an Acceptable Level. In forming the overall conclusion, the Member shall:**

- (a) **Review any significant judgements made or conclusions reached; and**
- (b) **Use the reasonable and informed third party test.**

#### **Considerations for Audits, Reviews and Other Assurance Engagements**

##### *Independence*

120.12 A1 Members in Public Practice are required by *Independence Standards* to be independent when performing audits, reviews, or other Assurance Engagements. Independence is linked to the fundamental principles of objectivity and integrity. It comprises:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a Firm’s or an Audit or Assurance Team Member’s integrity, objectivity or professional scepticism has been compromised.

120.12 A2 *Independence Standards* set out requirements and application material on how to apply the conceptual framework to maintain Independence when performing audits, reviews or other Assurance Engagements<sup>2</sup>. Members and Firms are required to comply with these standards in order to be independent when conducting such engagements. The conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles applies in the same way to compliance with Independence requirements. The categories of threats to compliance with the fundamental principles described in paragraph 120.6 A3 are also the categories of threats to compliance with Independence requirements.

### *Professional Scepticism*

120.13 A1 Under auditing, review and other assurance standards, including those issued by the AUASB, Members in Public Practice are required to exercise professional scepticism when planning and performing audits, reviews and other Assurance Engagements. Professional scepticism and the fundamental principles that are described in Section 110 are inter-related concepts.

120.13 A2 In an audit of Financial Statements, compliance with the fundamental principles, individually and collectively, supports the exercise of professional scepticism, as shown in the following examples:

- *Integrity* requires the Member in Public Practice to be straightforward and honest. For example, the Member complies with the principle of integrity by:
  - (a) Being straightforward and honest when raising concerns about a position taken by a client; and
  - (b) Pursuing inquiries about inconsistent information and seeking further audit evidence to address concerns about statements that might be materially false or misleading in order to make informed decisions about the appropriate course of action in the circumstances.

In doing so, the Member demonstrates the critical assessment of audit evidence that contributes to the exercise of professional scepticism.

- *Objectivity* requires the Member in Public Practice not to compromise professional or business judgement because of bias, conflict of interest or the undue influence of others. For example, the Member complies with the principle of objectivity by:
  - (a) Recognising circumstances or relationships such as familiarity with the client, that might compromise the Member's professional or business judgement; and
  - (b) Considering the impact of such circumstances and relationships on the Member's judgement when evaluating the sufficiency and appropriateness of audit evidence related to a matter material to the client's Financial Statements.

In doing so, the Member behaves in a manner that contributes to the exercise of professional scepticism.

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<sup>2</sup> The *Corporations Act 2001* contains Independence obligations that Members in Public Practice must also comply with when Audit and Review Engagements are performed in accordance with the Act.

- Professional competence and due care requires the Member in Public Practice to have professional knowledge and skill at the level required to ensure the provision of competent Professional Service, and to act diligently in accordance with applicable standards, laws and regulations. For example, the Member complies with the principle of professional competence and due care by:
  - (a) Applying knowledge that is relevant to a particular client's industry and business activities in order to properly identify risks of material misstatement;
  - (b) Designing and performing appropriate audit procedures; and
  - (c) Applying relevant knowledge when critically assessing whether audit evidence is sufficient and appropriate in the circumstances.

In doing so, the Member behaves in a manner that contributes to the exercise of professional scepticism.

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## **PART 2 – MEMBERS IN BUSINESS (INCLUDING EMPLOYMENT RELATIONSHIPS OF MEMBERS IN PUBLIC PRACTICE)**

### **SECTION 200**

#### **APPLYING THE CONCEPTUAL FRAMEWORK – MEMBERS IN BUSINESS**

##### **Introduction**

- 200.1 This Part of the Code sets out requirements and application material for Members in Business when applying the conceptual framework set out in Section 120. It does not describe all of the facts and circumstances, including Professional Activities, interests and relationships, that could be encountered by Members in Business, which create or might create threats to compliance with the fundamental principles. Therefore, the conceptual framework requires Members in Business to be alert for such facts and circumstances.
- 200.2 Investors, creditors, employing organisations and other sectors of the business community, as well as governments and the general public, might rely on the work of Members in Business. Members in Business might be solely or jointly responsible for the preparation and reporting of financial and other information, on which both their employing organisations and third parties might rely. They might also be responsible for providing effective financial management and competent advice on a variety of business-related matters.
- 200.3 A Member in Business might be an employee, contractor, partner, director (executive or non-executive), owner-manager, or volunteer of an employing organisation. The legal form of the relationship of the Member with the employing organisation has no bearing on the ethical responsibilities placed on the Member.
- 200.4 In this Part, the term “Member” refers to:
- (a) A Member in Business; and
  - (b) An individual who is a Member in Public Practice when performing Professional Activities pursuant to the Member’s relationship with the Member’s Firm, whether as a contractor, employee or owner. More information on when Part 2 is applicable to Members in Public Practice is set out in paragraphs R120.4, R300.5 and 300.5 A1.

##### **Requirements and Application Material**

###### **General**

**R200.5 A Member shall comply with the fundamental principles set out in Section 110 and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to compliance with the fundamental principles.**

200.5 A1 A Member has a responsibility to further the legitimate objectives of the Member’s employing organisation. The Code does not seek to hinder Members from fulfilling that responsibility, but addresses circumstances in which compliance with the fundamental principles might be compromised.

- 200.5 A2 Members may promote the position of the employing organisation when furthering the legitimate goals and objectives of their employing organisation, provided that any statements made are neither false nor misleading. Such actions usually would not create an advocacy threat.
- 200.5 A3 The more senior the position of a Member, the greater will be the ability and opportunity to access information, and to influence policies, decisions made and actions taken by others involved with the employing organisation. To the extent that they are able to do so, taking into account their position and seniority in the organisation, Members are expected to encourage and promote an ethics-based culture in the organisation. Examples of actions that might be taken include the introduction, implementation and oversight of:
- Ethics education and training programs.
  - Ethics and whistle-blowing policies<sup>3</sup>.
  - Policies and procedures designed to prevent non-compliance with laws and regulations (“NOCLAR”).

### Identifying Threats

- 200.6 A1 Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. The categories of threats are described in paragraph 120.6 A3. The following are examples of facts and circumstances within each of those categories that might create threats for a Member when undertaking a Professional Activity:
- (a) Self-interest Threats
- A Member holding a Financial Interest in, or receiving a loan or guarantee from, the employing organisation.
  - A Member participating in incentive compensation arrangements offered by the employing organisation.
  - A Member having access to corporate assets for personal use.
  - A Member being offered a gift or special treatment from a supplier of the employing organisation.
- (b) Self-review Threats
- A Member determining the appropriate accounting treatment for a business combination after performing the feasibility study supporting the purchase decision.
- (c) Advocacy Threats
- A Member having the opportunity to manipulate information in a prospectus in order to obtain favourable financing.

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<sup>3</sup> In Australia, whistleblower protection is addressed in the *Corporations Act 2001* (for the private sector) and in other legislation in place federally and in states and territories (for the public sector). In 2017, the Australian government released draft federal legislation to strengthen protection for whistleblowers in the private sector. The new legislation is expected to be released in mid to late 2018.

(d) Familiarity Threats

- A Member being responsible for the financial reporting of the employing organisation when an Immediate or Close Family member employed by the organisation makes decisions that affect the financial reporting of the organisation.
- A Member having a long association with individuals influencing business decisions.

(e) Intimidation Threats

- A Member or Immediate or Close Family member facing the threat of dismissal or replacement over a disagreement about:
  - The application of an accounting principle.
  - The way in which financial information is to be reported.
- An individual attempting to influence the decision-making process of the Member, for example with regard to the awarding of contracts or the application of an accounting principle.

### Evaluating Threats

200.7 A1 The conditions, policies and procedures described in paragraphs 120.6 A1 and 120.8 A2 might impact the evaluation of whether a threat to compliance with the fundamental principles is at an Acceptable Level.

200.7 A2 The Member's evaluation of the level of a threat is also impacted by the nature and scope of the Professional Activity.

200.7 A3 The Member's evaluation of the level of a threat might be impacted by the work environment within the employing organisation and its operating environment. For example:

- Leadership that stresses the importance of ethical behaviour and the expectation that employees will act in an ethical manner.
- Policies and procedures to empower and encourage employees to communicate ethics issues that concern them to senior levels of management without fear of retribution.
- Policies and procedures to implement and monitor the quality of employee performance.
- Systems of corporate oversight or other oversight structures and strong internal controls.
- Recruitment procedures emphasising the importance of employing high calibre competent personnel.
- Timely communication of policies and procedures, including any changes to them, to all employees, and appropriate training and education on such policies and procedures.
- Ethics and code of conduct policies.

200.7 A4 Members might consider obtaining legal advice where they believe that unethical behaviour or actions by others have occurred, or will continue to occur, within the employing organisation.

### **Addressing Threats**

200.8 A1 Sections 210 to 270 describe certain threats that might arise during the course of performing Professional Activities and include examples of actions that might address such threats.

200.8 A2 In extreme situations, if the circumstances that created the threats cannot be eliminated and safeguards are not available or capable of being applied to reduce the threat to an Acceptable Level, it might be appropriate for a Member to resign from the employing organisation.

### **Communicating with Those Charged with Governance**

**R200.9 When communicating with Those Charged with Governance in accordance with the Code, a Member shall determine the appropriate individual(s) within the employing organisation's governance structure with whom to communicate. If the Member communicates with a subgroup of Those Charged with Governance, the Member shall determine whether communication with all of Those Charged with Governance is also necessary so that they are adequately informed.**

200.9 A1 In determining with whom to communicate, a Member might consider:

- (a) The nature and importance of the circumstances; and
- (b) The matter to be communicated.

200.9 A2 Examples of a subgroup of Those Charged with Governance include an audit committee or an individual member of Those Charged with Governance.

**R200.10 If a Member communicates with individuals who have management responsibilities as well as governance responsibilities, the Member shall be satisfied that communication with those individuals adequately informs all of those in a governance role with whom the Member would otherwise communicate.**

200.10 A1 In some circumstances, all of Those Charged with Governance are involved in managing the employing organisation, for example, a small business where a single owner manages the organisation and no one else has a governance role. In these cases, if matters are communicated with individual(s) with management responsibilities, and those individual(s) also have governance responsibilities, the Member has satisfied the requirement to communicate with Those Charged with Governance.

## SECTION 210

### CONFLICTS OF INTEREST

#### Introduction

- 210.1 Members are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 210.2 A conflict of interest creates threats to compliance with the principle of objectivity and might create threats to compliance with the other fundamental principles. Such threats might be created when:
- (a) A Member undertakes a Professional Activity related to a particular matter for two or more parties whose interests with respect to that matter are in conflict; or
  - (b) The interest of a Member with respect to a particular matter and the interests of a party for whom the Member undertakes a Professional Activity related to that matter are in conflict.
- A party might include an employing organisation, a vendor, a customer, a lender, a shareholder, or another party.
- 210.3 This section sets out specific requirements and application material relevant to applying the conceptual framework to conflicts of interest.

#### Requirements and Application Material

##### General

- R210.4 A Member shall not allow a conflict of interest to compromise professional or business judgement.**
- 210.4 A1 Examples of circumstances that might create a conflict of interest include:
- Serving in a management or governance position for two employing organisations and acquiring confidential information from one organisation that might be used by the Member to the advantage or disadvantage of the other organisation.
  - Undertaking a Professional Activity for each of two parties in a partnership, where both parties are employing the Member to assist them to dissolve their partnership.
  - Preparing financial information for certain members of management of the Member's employing organisation who are seeking to undertake a management buy-out.
  - Being responsible for selecting a vendor for the employing organisation when an Immediate Family member of the Member might benefit financially from the transaction.
  - Serving in a governance capacity in an employing organisation that is approving certain investments for the company where one of those investments will increase the value of the investment portfolio of the Member or an Immediate Family member.

## **Conflict Identification**

**R210.5 A Member shall take reasonable steps to identify circumstances that might create a conflict of interest, and therefore a threat to compliance with one or more of the fundamental principles. Such steps shall include identifying:**

- (a) The nature of the relevant interests and relationships between the parties involved; and**
- (b) The activity and its implication for relevant parties.**

**R210.6 A Member shall remain alert to changes over time in the nature of the activities, interests and relationships that might create a conflict of interest while performing a Professional Activity.**

## **Threats Created by Conflicts of Interest**

210.7 A1 In general, the more direct the connection between the Professional Activity and the matter on which the parties' interests conflict, the more likely the level of the threat is not at an Acceptable Level.

210.7 A2 An example of an action that might eliminate threats created by conflicts of interest is withdrawing from the decision-making process related to the matter giving rise to the conflict of interest.

210.7 A3 Examples of actions that might be safeguards to address threats created by conflicts of interest include:

- Restructuring or segregating certain responsibilities and duties.
- Obtaining appropriate oversight, for example, acting under the supervision of an executive or non-executive director.

## **Disclosure and Consent**

### *General*

210.8 A1 It is generally necessary to:

- (a) Disclose the nature of the conflict of interest and how any threats created were addressed to the relevant parties, including to the appropriate levels within the employing organisation affected by a conflict; and
- (b) Obtain consent from the relevant parties for the Member to undertake the Professional Activity when safeguards are applied to address the threat.

210.8 A2 Consent might be implied by a party's conduct in circumstances where the Member has sufficient evidence to conclude that the parties know the circumstances at the outset and have accepted the conflict of interest if they do not raise an objection to the existence of the conflict.

210.8 A3 If such disclosure or consent is not in writing, the Member is encouraged to document:

- (a) The nature of the circumstances giving rise to the conflict of interest;
- (b) The safeguards applied to address the threats when applicable; and
- (c) The consent obtained.

*Other Considerations*

210.9 A1 When addressing a conflict of interest, the Member is encouraged to seek guidance from within the employing organisation or from others, such as a professional body, legal counsel or another Member. When making such disclosures or sharing information within the employing organisation and seeking guidance of third parties, the principle of confidentiality applies.

## **SECTION 220**

### **PREPARATION AND PRESENTATION OF INFORMATION**

#### **Introduction**

- 220.1 Members are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 220.2 Preparing or presenting information might create a self-interest, intimidation or other threats to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### **Requirements and Application Material**

##### **General**

220.3 A1 Members at all levels in an employing organisation are involved in the preparation or presentation of information both within and outside the organisation.

220.3 A2 Stakeholders to whom, or for whom, such information is prepared or presented, include:

- Management and Those Charged with Governance.
- Investors and lenders or other creditors.
- Regulatory bodies.

This information might assist stakeholders in understanding and evaluating aspects of the employing organisation's state of affairs and in making decisions concerning the organisation. Information can include financial and non-financial information that might be made public or used for internal purposes.

Examples include:

- Operating and performance reports.
- Decision support analyses.
- Budgets and forecasts.
- Information provided to the internal and external auditors.
- Risk analyses.
- General and Special Purpose Financial Statements.
- Tax returns.
- Reports filed with regulatory bodies for legal and compliance purposes.

220.3 A3 For the purposes of this section, preparing or presenting information includes recording, maintaining and approving information.



**R220.4** When preparing or presenting information, a Member shall:

- (a)** Prepare or present the information in accordance with a relevant reporting framework, where applicable;
- (b)** Prepare or present the information in a manner that is intended neither to mislead nor to influence contractual or regulatory outcomes inappropriately;
- (c)** Exercise professional judgement to:
  - (i)** Represent the facts accurately and completely in all material respects;
  - (ii)** Describe clearly the true nature of business transactions or activities; and
  - (iii)** Classify and record information in a timely and proper manner; and
- (d)** Not omit anything with the intention of rendering the information misleading or of influencing contractual or regulatory outcomes inappropriately.

**AUST R220.4.1** Where a Member in Business referred to in paragraph R220.4 is not satisfied that the Financial Statements of an employing organisation are presented in accordance with applicable Australian Accounting Standards, the Member shall:

- (a)** in all cases, notify Those Charged with Governance and document the communication; and
- (b)** qualify any declarations given by the Member in compliance with legislative and regulatory requirements or the organisation's reporting requirements.

220.4 A1 An example of influencing a contractual or regulatory outcome inappropriately is using an unrealistic estimate with the intention of avoiding violation of a contractual requirement such as a debt covenant or of a regulatory requirement such as a capital requirement for a financial institution.

#### **Use of Discretion in Preparing or Presenting Information**

**R220.5** Preparing or presenting information might require the exercise of discretion in making professional judgements. The Member shall not exercise such discretion with the intention of misleading others or influencing contractual or regulatory outcomes inappropriately.

220.5 A1 Examples of ways in which discretion might be misused to achieve inappropriate outcomes include:

- Determining estimates, for example, determining fair value estimates in order to misrepresent profit or loss.
- Selecting or changing an accounting policy or method among two or more alternatives permitted under the applicable financial reporting framework, for example, selecting a policy for accounting for long-term contracts in order to misrepresent profit or loss.
- Determining the timing of transactions, for example, timing the sale of an asset near the end of the fiscal year in order to mislead.

- Determining the structuring of transactions, for example, structuring financing transactions in order to misrepresent assets and liabilities or classification of cash flows.
- Selecting disclosures, for example, omitting or obscuring information relating to financial or operating risk in order to mislead.

**R220.6 When performing Professional Activities, especially those that do not require compliance with a relevant reporting framework, the Member shall exercise professional judgement to identify and consider:**

- (a) The purpose for which the information is to be used;**
- (b) The context within which it is given; and**
- (c) The audience to whom it is addressed.**

220.6 A1 For example, when preparing or presenting pro forma reports, budgets or forecasts, the inclusion of relevant estimates, approximations and assumptions, where appropriate, would enable those who might rely on such information to form their own judgements.

220.6 A2 The Member might also consider clarifying the intended audience, context and purpose of the information to be presented.

### **Relying on the Work of Others**

**R220.7 A Member who intends to rely on the work of others, either internal or external to the employing organisation, shall exercise professional judgement to determine what steps to take, if any, in order to fulfill the responsibilities set out in paragraph R220.4.**

220.7 A1 Factors to consider in determining whether reliance on others is reasonable include:

- The reputation and expertise of, and resources available to, the other individual or organisation.
- Whether the other individual is subject to applicable professional and ethics standards.

Such information might be gained from prior association with, or from consulting others about, the other individual or organisation.

### **Addressing Information that Is or Might be Misleading**

**R220.8 When the Member knows or has reason to believe that the information with which the Member is associated is misleading, the Member shall take appropriate actions to seek to resolve the matter.**

220.8 A1 Actions that might be appropriate include:

- Discussing concerns that the information is misleading with the Member's superior and/or the appropriate level(s) of management within the Member's employing organisation or Those Charged with Governance, and requesting such individuals to take appropriate action to resolve the matter. Such action might include:

- Having the information corrected.
- If the information has already been disclosed to the intended users, informing them of the correct information.
- Consulting the policies and procedures of the employing organisation (for example, an ethics or whistle-blowing policy) regarding how to address such matters internally.

220.8 A2 The Member might determine that the employing organisation has not taken appropriate action. If the Member continues to have reason to believe that the information is misleading, the following further actions might be appropriate provided that the Member remains alert to the principle of confidentiality:

- Consulting with:
  - A relevant Professional Body.
  - The internal or external auditor of the employing organisation.
  - Legal counsel.
- Determining whether any requirements exist to communicate to:
  - Third parties, including users of the information.
  - Regulatory and oversight authorities.

**R220.9 If after exhausting all feasible options, the Member determines that appropriate action has not been taken and there is reason to believe that the information is still misleading, the Member shall refuse to be or to remain associated with the information.**

220.9 A1 In such circumstances, it might be appropriate for a Member to resign from the employing organisation.

### **Documentation**

220.10 A1 The Member is encouraged to document:

- The facts.
- The accounting principles or other relevant professional standards involved.
- The communications and parties with whom matters were discussed.
- The courses of action considered.
- How the Member attempted to address the matter(s).

### **Other Considerations**

220.11 A1 Where threats to compliance with the fundamental principles relating to the preparation or presentation of information arise from a Financial Interest, including compensation and incentives linked to financial reporting and decision making, the requirements and application material set out in Section 240 apply.

- 220.11 A2 Where the misleading information might involve non-compliance with laws and regulations (“NOCLAR”), the requirements and application material set out in Section 260 apply.
- 220.11 A3 Where threats to compliance with the fundamental principles relating to the preparation or presentation of information arise from pressure, the requirements and application material set out in Section 270 apply.

## SECTION 230

### ACTING WITH SUFFICIENT EXPERTISE

#### Introduction

230.1 Members are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.

230.2 Acting without sufficient expertise creates a self-interest threat to compliance with the principle of professional competence and due care. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

**R230.3 A Member shall not intentionally mislead an employing organisation as to the level of expertise or experience possessed.**

230.3 A1 The principle of professional competence and due care requires that a Member only undertake significant tasks for which the Member has, or can obtain, sufficient training or experience.

230.3 A2 A self-interest threat to compliance with the principle of professional competence and due care might be created if a Member has:

- Insufficient time for performing or completing the relevant duties.
- Incomplete, restricted or otherwise inadequate information for performing the duties.
- Insufficient experience, training and/or education.
- Inadequate resources for the performance of the duties.

230.3 A3 Factors that are relevant in evaluating the level of such a threat include:

- The extent to which the Member is working with others.
- The relative seniority of the Member in the business.
- The level of supervision and review applied to the work.

230.3 A4 Examples of actions that might be safeguards to address such a self-interest threat include:

- Obtaining assistance or training from someone with the necessary expertise.
- Ensuring that there is adequate time available for performing the relevant duties.

**R230.4 If a threat to compliance with the principle of professional competence and due care cannot be addressed, a Member shall determine whether to decline to perform the duties in question. If the Member determines that declining is appropriate, the Member shall communicate the reasons.**

## **Other Considerations**

230.5 A1 The requirements and application material in Section 270 apply when a Member is pressured to act in a manner that might lead to a breach of the principle of professional competence and due care.

## SECTION 240

### FINANCIAL INTERESTS, COMPENSATION AND INCENTIVES LINKED TO FINANCIAL REPORTING AND DECISION MAKING

#### Introduction

- 240.1 Members are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 240.2 Having a Financial Interest, or knowing of a Financial Interest held by an Immediate or Close Family member might create a self-interest threat to compliance with the principles of objectivity or confidentiality. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

**R240.3 A Member shall not manipulate information or use confidential information for personal gain or for the financial gain of others.**

240.3 A1 Members might have Financial Interests or might know of Financial Interests of Immediate or Close Family members that, in certain circumstances, might create threats to compliance with the fundamental principles. Financial Interests include those arising from compensation or incentive arrangements linked to financial reporting and decision making.

240.3 A2 Examples of circumstances that might create a self-interest threat include situations in which the Member or an Immediate or Close Family member:

- Has a motive and opportunity to manipulate price-sensitive information in order to gain financially.
- Holds a Direct or Indirect Financial Interest in the employing organisation and the value of that Financial Interest might be directly affected by decisions made by the Member.
- Is eligible for a profit-related bonus and the value of that bonus might be directly affected by decisions made by the Member.
- Holds, directly or indirectly, deferred bonus share rights or share options in the employing organisation, the value of which might be affected by decisions made by the Member.
- Participates in compensation arrangements which provide incentives to achieve targets or to support efforts to maximise the value of the employing organisation's shares. An example of such an arrangement might be through participation in incentive plans which are linked to certain performance conditions being met.

240.3 A3 Factors that are relevant in evaluating the level of such a threat include:

- The significance of the Financial Interest. What constitutes a significant Financial Interest will depend on personal circumstances and the materiality of the Financial Interest to the individual.
- Policies and procedures for a committee independent of management to determine the level or form of senior management remuneration.
- In accordance with any internal policies, disclosure to Those Charged with Governance of:
  - All relevant interests.
  - Any plans to exercise entitlements or trade in relevant shares.
- Internal and external audit procedures that are specific to address issues that give rise to the Financial Interest.

240.3 A4 Threats created by compensation or incentive arrangements might be compounded by explicit or implicit pressure from superiors or colleagues. See Section 270, *Pressure to Breach the Fundamental Principles*.



## **SECTION 250**

### **INDUCEMENTS, INCLUDING GIFTS AND HOSPITALITY**

[Reserved for Section 250 which forms part of the Inducements project.]

## **SECTION 260**

### **RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS**

#### **Introduction**

- 260.1 Members are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 260.2 A self-interest or intimidation threat to compliance with the principles of integrity and professional behaviour is created when a Member becomes aware of non-compliance or suspected non-compliance with laws and regulations (“NOCLAR”).
- 260.3 A Member might encounter or be made aware of NOCLAR or suspected NOCLAR in the course of carrying out Professional Activities. This section guides the Member in assessing the implications of the matter and the possible courses of action when responding to NOCLAR or suspected NOCLAR with:
- (a) Laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the employing organisation’s Financial Statements; and
  - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the employing organisation’s Financial Statements, but compliance with which might be fundamental to the operating aspects of the employing organisation’s business, to its ability to continue its business, or to avoid material penalties.

#### **Objectives of the Member in Relation to NOCLAR**

- 260.4 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to NOCLAR or suspected NOCLAR, the objectives of the Member are:
- (a) To comply with the principles of integrity and professional behaviour;
  - (b) By alerting management or, where appropriate, Those Charged with Governance of the employing organisation, to seek to:
    - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected NOCLAR; or
    - (ii) Deter the NOCLAR where it has not yet occurred; and
  - (c) To take such further action as appropriate in the public interest.

## Requirements and Application Material

### General

260.5 A1 Non-compliance with laws and regulations (“NOCLAR”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

- (a) The Member’s employing organisation;
- (b) Those Charged with Governance of the employing organisation;
- (c) Management of the employing organisation; or
- (d) Other individuals working for or under the direction of the employing organisation.

260.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

260.5 A3 NOCLAR might result in fines, litigation or other consequences for the employing organisation, potentially materially affecting its Financial Statements. Importantly, such NOCLAR might have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, NOCLAR that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

**R260.6 In some jurisdictions, there are legal or regulatory provisions governing how Members are required to address NOCLAR or suspected NOCLAR. These legal or regulatory provisions might differ from or go beyond the provisions in this section. When encountering such NOCLAR or suspected NOCLAR, the Member shall obtain an understanding of those legal or regulatory provisions and comply with them, including:**

- (a) Any requirement to report the matter to an appropriate authority; and**
- (b) Any prohibition on alerting the relevant party.**

260.6 A1 A prohibition on alerting the relevant party might arise, for example, pursuant to anti-money laundering legislation.

260.7 A1 This section applies regardless of the nature of the employing organisation, including whether or not it is a Public Interest Entity.

260.7 A2 A Member who encounters or is made aware of matters that are clearly inconsequential is not required to comply with this section. Whether a matter is clearly inconsequential is to be judged with respect to its nature and its impact, financial or otherwise, on the employing organisation, its stakeholders and the general public.

260.7 A3 This section does not address:

- (a) Personal misconduct unrelated to the business activities of the employing organisation; and
- (b) NOCLAR by parties other than those specified in paragraph 260.5 A1.

The Member might nevertheless find the guidance in this section helpful in considering how to respond in these situations.

### **Responsibilities of the Employing Organisation's Management and Those Charged with Governance**

260.8 A1 The employing organisation's management, with the oversight of Those Charged with Governance, is responsible for ensuring that the employing organisation's business activities are conducted in accordance with laws and regulations. Management and Those Charged with Governance are also responsible for identifying and addressing any NOCLAR by:

- (a) The employing organisation;
- (b) An individual charged with governance of the employing organisation;
- (c) A member of management; or
- (d) Other individuals working for or under the direction of the employing organisation.

### **Responsibilities of All Members**

**R260.9 If protocols and procedures exist within the Member's employing organisation to address NOCLAR or suspected NOCLAR, the Member shall consider them in determining how to respond to such NOCLAR.**

260.9 A1 Many employing organisations have established protocols and procedures regarding how to raise NOCLAR or suspected NOCLAR internally. These protocols and procedures include, for example, an ethics policy or internal whistle-blowing mechanism<sup>4</sup>. Such protocols and procedures might allow matters to be reported anonymously through designated channels.

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<sup>4</sup> In Australia, whistleblower protection is addressed in the *Corporations Act 2001* (for the private sector) and in other legislation in place federally and in states and territories (for the public sector). In 2017, the Australian government released draft federal legislation to strengthen protection for whistleblowers in the private sector. The new legislation is expected to be released in mid to late 2018.

**R260.10** Where a Member becomes aware of a matter to which this section applies, the steps that the Member takes to comply with this section shall be taken on a timely basis. For the purpose of taking timely steps, the Member shall have regard to the nature of the matter and the potential harm to the interests of the employing organisation, investors, creditors, employees or the general public.

### **Responsibilities of Senior Members in Business**

260.11 A1 Senior Members in Business are Directors, Officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the employing organisation's human, financial, technological, physical and intangible resources. There is a greater expectation for such individuals to take whatever action is appropriate in the public interest to respond to NOCLAR or suspected NOCLAR than other Members within the employing organisation. This is because of senior Members in Business' roles, positions and spheres of influence within the employing organisation.

#### *Obtaining an Understanding of the Matter*

**R260.12** If, in the course of carrying out Professional Activities, a senior Member in Business becomes aware of information concerning NOCLAR or suspected NOCLAR, the Member shall obtain an understanding of the matter. This understanding shall include:

- (a) The nature of the NOCLAR or suspected NOCLAR and the circumstances in which it has occurred or might occur;
- (b) The application of the relevant laws and regulations to the circumstances; and
- (c) An assessment of the potential consequences to the employing organisation, investors, creditors, employees or the wider public.

260.12 A1 A senior Member in Business is expected to apply knowledge and expertise, and exercise professional judgement. However, the Member is not expected to have a level of understanding of laws and regulations greater than that which is required for the Member's role within the employing organisation. Whether an act constitutes NOCLAR is ultimately a matter to be determined by a court or other appropriate adjudicative body.

260.12 A2 Depending on the nature and significance of the matter, the senior Member in Business might cause, or take appropriate steps to cause, the matter to be investigated internally. The Member might also consult on a confidential basis with others within the employing organisation or a Professional Body, or with legal counsel.

#### *Addressing the Matter*

**R260.13** If the senior Member in Business identifies or suspects that NOCLAR has occurred or might occur, the Member shall, subject to paragraph R260.9, discuss the matter with the Member's immediate superior, if any. If the Member's immediate superior appears to be involved in the matter, the Member shall discuss the matter with the next higher level of authority within the employing organisation.

260.13 A1 The purpose of the discussion is to enable a determination to be made as to how to address the matter.

**R260.14 The senior Member in Business shall also take appropriate steps to:**

- (a) **Have the matter communicated to Those Charged with Governance;**
- (b) **Comply with applicable laws and regulations, including legal or regulatory provisions governing the reporting of NOCLAR or suspected NOCLAR to an appropriate authority;**
- (c) **Have the consequences of the NOCLAR or suspected NOCLAR rectified, remediated or mitigated;**
- (d) **Reduce the risk of re-occurrence; and**
- (e) **Seek to deter the commission of the NOCLAR if it has not yet occurred.**

260.14 A1 The purpose of communicating the matter to Those Charged with Governance is to obtain their concurrence regarding appropriate actions to take to respond to the matter and to enable them to fulfill their responsibilities.

260.14 A2 Some laws and regulations might stipulate a period within which reports of NOCLAR or suspected NOCLAR are to be made to an appropriate authority.

**R260.15 In addition to responding to the matter in accordance with the provisions of this section, the senior Member in Business shall determine whether disclosure of the matter to the employing organisation's external auditor, if any, is needed.**

260.15 A1 Such disclosure would be pursuant to the senior Member in Business' duty and legal obligation to provide all information necessary to enable the auditor to perform the audit.

*Determining Whether Further Action Is Needed*

**R260.16 The senior Member in Business shall assess the appropriateness of the response of the Member's superiors, if any, and Those Charged with Governance.**

260.16 A1 Relevant factors to consider in assessing the appropriateness of the response of the senior Member in Business' superiors, if any, and Those Charged with Governance include whether:

- The response is timely.
- They have taken or authorised appropriate action to seek to rectify, remediate or mitigate the consequences of the NOCLAR, or to avert the NOCLAR if it has not yet occurred.
- The matter has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

**R260.17 In light of the response of the senior Member in Business' superiors, if any, and Those Charged with Governance, the Member shall determine if further action is needed in the public interest.**

260.17 A1 The determination of whether further action is needed, and the nature and extent of it, will depend on various factors, including:

- The legal and regulatory framework.
- The urgency of the situation.
- The pervasiveness of the matter throughout the employing organisation.
- Whether the senior Member in Business continues to have confidence in the integrity of the Member's superiors and Those Charged with Governance.
- Whether the NOCLAR or suspected NOCLAR is likely to recur.
- Whether there is credible evidence of actual or potential substantial harm to the interests of the employing organisation, investors, creditors, employees or the general public.

260.17 A2 Examples of circumstances that might cause the senior Member in Business no longer to have confidence in the integrity of the Member's superiors and Those Charged with Governance include situations where:

- The Member suspects or has evidence of their involvement or intended involvement in any NOCLAR.
- Contrary to legal or regulatory requirements, they have not reported, or authorised the reporting of, the matter to an appropriate authority within a reasonable period.

**R260.18 The senior Member in Business shall exercise professional judgement in determining the need for, and nature and extent of, further action. In making this determination, the Member shall take into account whether a reasonable and informed third party would be likely to conclude that the Member has acted appropriately in the public interest.**

260.18 A1 Further action that the senior Member in Business might take includes:

- Informing the management of the parent entity of the matter if the employing organisation is a member of a group.
- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Resigning from the employing organisation.

260.18 A2 Resigning from the employing organisation is not a substitute for taking other actions that might be needed to achieve the senior Member in Business' objectives under this section. In some jurisdictions, however, there might be limitations as to the further actions available to the Member. In such circumstances, resignation might be the only available course of action.

## Seeking Advice

260.19 A1 As assessment of the matter might involve complex analysis and judgements, the senior Member in Business might consider:

- Consulting internally.
- Obtaining legal advice to understand the Member's options and the professional or legal implications of taking any particular course of action.
- Consulting on a confidential basis with a regulatory or Professional Body.

## Determining Whether to Disclose the Matter to an Appropriate Authority

260.20 A1 Disclosure of the matter to an appropriate authority would be precluded if doing so would be contrary to law or regulation. Otherwise, the purpose of making disclosure is to enable an appropriate authority to cause the matter to be investigated and action to be taken in the public interest.

260.20 A2 The determination of whether to make such a disclosure depends in particular on the nature and extent of the actual or potential harm that is or might be caused by the matter to investors, creditors, employees or the general public. For example, the senior Member in Business might determine that disclosure of the matter to an appropriate authority is an appropriate course of action if:

- The employing organisation is engaged in bribery (for example, of local or foreign government officials for purposes of securing large contracts).
- The employing organisation is regulated and the matter is of such significance as to threaten its license to operate.
- The employing organisation is listed on a securities exchange and the matter might result in adverse consequences to the fair and orderly market in the employing organisation's securities or pose a systemic risk to the financial markets.
- It is likely that the employing organisation would sell products that are harmful to public health or safety.
- The employing organisation is promoting a scheme to its clients to assist them in evading taxes.

260.20 A3 The determination of whether to make such a disclosure will also depend on external factors such as:

- Whether there is an appropriate authority that is able to receive the information, and cause the matter to be investigated and action to be taken. The appropriate authority will depend upon the nature of the matter. For example, the appropriate authority would be a securities regulator in the case of fraudulent financial reporting or an environmental protection agency in the case of a breach of environmental laws and regulations.



- Whether there exists robust and credible protection from civil, criminal or professional liability or retaliation afforded by legislation or regulation, such as under whistle-blowing legislation or regulation.
- Whether there are actual or potential threats to the physical safety of the senior Member in Business or other individuals.

**R260.21** If the senior Member in Business determines that disclosure of the matter to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to paragraph R114.1(d) of the Code. When making such disclosure, the Member shall act in good faith and exercise caution when making statements and assertions.

*Imminent Breach*

**R260.22** In exceptional circumstances, the senior Member in Business might become aware of actual or intended conduct that the Member has reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or Those Charged with Governance of the employing organisation, the Member shall exercise professional judgement and determine whether to disclose the matter immediately to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach. If disclosure is made, that disclosure is permitted pursuant to paragraph R114.1(d) of the Code.

*Documentation*

260.23 A1 In relation to NOCLAR or suspected NOCLAR that falls within the scope of this section, the senior Member in Business is encouraged to have the following matters documented:

- The matter.
- The results of discussions with the Member's superiors, if any, and Those Charged with Governance and other parties.
- How the Member's superiors, if any, and Those Charged with Governance have responded to the matter.
- The courses of action the Member considered, the judgements made and the decisions that were taken.
- How the Member is satisfied that the Member has fulfilled the responsibility set out in paragraph R260.17.

**Responsibilities of Members Other than Senior Members**

**R260.24** If, in the course of carrying out Professional Activities, a Member becomes aware of information concerning NOCLAR or suspected NOCLAR, the Member shall seek to obtain an understanding of the matter. This understanding shall include the nature of the

**NOCLAR or suspected NOCLAR and the circumstances in which it has occurred or might occur.**

260.24 A1 The Member is expected to apply knowledge and expertise, and exercise professional judgement. However, the Member is not expected to have a level of understanding of laws and regulations greater than that which is required for the Member's role within the employing organisation. Whether an act constitutes NOCLAR is ultimately a matter to be determined by a court or other appropriate adjudicative body.

260.24 A2 Depending on the nature and significance of the matter, the Member might consult on a confidential basis with others within the employing organisation or a Professional Body, or with legal counsel.

**R260.25 If the Member identifies or suspects that NOCLAR has occurred or might occur, the Member shall, subject to paragraph R260.9, inform an immediate superior to enable the superior to take appropriate action. If the Member's immediate superior appears to be involved in the matter, the Member shall inform the next higher level of authority within the employing organisation.**

**R260.26 In exceptional circumstances, the Member may determine that disclosure of the matter to an appropriate authority is an appropriate course of action. If the Member does so pursuant to paragraphs 260.20 A2 and A3, that disclosure is permitted pursuant to paragraph R114.1(d) of the Code. When making such disclosure, the Member shall act in good faith and exercise caution when making statements and assertions.**

**Documentation**

260.27 A1 In relation to NOCLAR or suspected NOCLAR that falls within the scope of this section, the Member is encouraged to have the following matters documented:

- The matter.
- The results of discussions with the Member's superior, management and, where applicable, Those Charged with Governance and other parties.
- How the Member's superior has responded to the matter.
- The courses of action the Member considered, the judgements made and the decisions that were taken.

## SECTION 270

### PRESSURE TO BREACH THE FUNDAMENTAL PRINCIPLES

#### Introduction

270.1 Members are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.

270.2 Pressure exerted on, or by, a Member might create an intimidation or other threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

**R270.3 A Member shall not:**

- (a) Allow pressure from others to result in a breach of compliance with the fundamental principles; or**
- (b) Place pressure on others that the Member knows, or has reason to believe, would result in the other individuals breaching the fundamental principles.**

270.3 A1 A Member might face pressure that creates threats to compliance with the fundamental principles, for example an intimidation threat, when undertaking a Professional Activity. Pressure might be explicit or implicit and might come from:

- Within the employing organisation, for example, from a colleague or superior.
- An external individual or organisation such as a vendor, customer or lender.
- Internal or external targets and expectations.

270.3 A2 Examples of pressure that might result in threats to compliance with the fundamental principles include:

- Pressure related to conflicts of interest:
  - Pressure from a family member bidding to act as a vendor to the Member's employing organisation to select the family member over another prospective vendor.

See also Section 210, *Conflicts of Interest*.

- Pressure to influence preparation or presentation of information:
  - Pressure to report misleading financial results to meet investor, analyst or lender expectations.
  - Pressure from elected officials on public sector accountants to misrepresent programs or projects to voters.

- Pressure from colleagues to misstate income, expenditure or rates of return to bias decision-making on capital projects and acquisitions.
- Pressure from superiors to approve or process expenditures that are not legitimate business expenses.
- Pressure to suppress internal audit reports containing adverse findings.

See also Section 220, *Preparation and Presentation of Information*.

- Pressure to act without sufficient expertise or due care:
  - Pressure from superiors to inappropriately reduce the extent of work performed.
  - Pressure from superiors to perform a task without sufficient skills or training or within unrealistic deadlines.

See also Section 230, *Acting with Sufficient Expertise*.

- Pressure related to Financial Interests:
  - Pressure from superiors, colleagues or others, for example, those who might benefit from participation in compensation or incentive arrangements to manipulate performance indicators.

See also Section 240, *Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making*.

- Pressure related to inducements:
  - Pressure from others, either internal or external to the employing organisation, to offer inducements to influence inappropriately the judgement or decision making process of an individual or organisation.
  - Pressure from colleagues to accept a bribe or other inducement, for example to accept inappropriate gifts or entertainment from potential vendors in a bidding process.

See also Section 250, *Inducements, Including Gifts and Hospitality*.

- Pressure related to non-compliance with laws and regulations (“NOCLAR”):
  - Pressure to structure a transaction to evade tax.

See also Section 260, *Responding to Non-compliance with Laws and Regulations*.

270.3 A3 Factors that are relevant in evaluating the level of threats created by pressure include:

- The intent of the individual who is exerting the pressure and the nature and extent of the pressure.
- The application of laws, regulations, and professional standards to the circumstances.
- The culture and leadership of the employing organisation including the extent to which they reflect or emphasise the importance of ethical behaviour and the expectation that employees will act ethically. For example, a corporate culture that tolerates unethical

behaviour might increase the likelihood that the pressure would result in a threat to compliance with the fundamental principles.

- Policies and procedures, if any, that the employing organisation has established, such as ethics or human resources policies that address pressure.

270.3 A4 Discussing the circumstances creating the pressure and consulting with others about those circumstances might assist the Member to evaluate the level of the threat. Such discussion and consultation, which requires being alert to the principle of confidentiality, might include:

- Discussing the matter with the individual who is exerting the pressure to seek to resolve it.
- Discussing the matter with the Member's superior, if the superior is not the individual exerting the pressure.
- Escalating the matter within the employing organisation, including when appropriate, explaining any consequential risks to the organisation, for example with:
  - Higher levels of management.
  - Internal or external auditors.
  - Those Charged with Governance.
- Disclosing the matter in line with the employing organisation's policies, including ethics and whistle-blowing policies, using any established mechanism, such as a confidential ethics hotline.
- Consulting with:
  - A colleague, superior, human resources personnel, or another Member;
  - Relevant professional or regulatory bodies or industry associations; or
  - Legal counsel.

270.3 A5 An example of an action that might eliminate threats created by pressure is the Member's request for a restructure of, or segregation of, certain responsibilities and duties so that the Member is no longer involved with the individual or entity exerting the pressure.

## **Documentation**

270.4 A1 The Member is encouraged to document:

- The facts.
- The communications and parties with whom these matters were discussed.
- The courses of action considered.
- How the matter was addressed.

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## PART 3 – MEMBERS IN PUBLIC PRACTICE

### SECTION 300

#### APPLYING THE CONCEPTUAL FRAMEWORK – MEMBERS IN PUBLIC PRACTICE

##### Introduction

- 300.1 This Part of the Code sets out requirements and application material for Members in Public Practice when applying the conceptual framework set out in Section 120. It does not describe all of the facts and circumstances, including Professional Activities, interests and relationships, that could be encountered by Members in Public Practice, which create or might create threats to compliance with the fundamental principles. Therefore, the conceptual framework requires Members in Public Practice to be alert for such facts and circumstances.
- 300.2 The requirements and application material that apply to Members in Public Practice are set out in:
- Part 3 – *Members in Public Practice*, Sections 300 to 399, which applies to all Members in Public Practice, whether they provide assurance services or not.
  - *Independence Standards* as follows:
    - Part 4A – *Independence for Audit and Review Engagements*, Sections 400 to 899, which applies to Members in Public Practice when performing Audit and Review Engagements.
    - Part 4B – *Independence for Assurance Engagements Other than Audit and Review Engagements*, Sections 900 to 999, which applies to Members in Public Practice when performing Assurance Engagements other than Audit or Review Engagements.
- 300.3 In this Part, the term “Member” refers to individual Members in Public Practice and their Firms.

##### Requirements and Application Material

###### General

- R300.4 A Member in Public Practice shall comply with the fundamental principles set out in Section 110 and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to compliance with the fundamental principles.**
- R300.5 When dealing with an ethics issue, the Member in Public Practice shall consider the context in which the issue has arisen or might arise. Where an individual who is a Member in Public Practice is performing Professional Activities pursuant to the Member’s relationship with the Firm, whether as a contractor, employee or owner, the individual shall comply with the provisions in Part 2 that apply to these circumstances.**

300.5 A1 Examples of situations in which the provisions in Part 2 apply to a Member in Public Practice include:

- Facing a conflict of interest when being responsible for selecting a vendor for the Firm when an Immediate Family member of the Member might benefit financially from the contract. The requirements and application material set out in Section 210 apply in these circumstances.
- Preparing or presenting financial information for the Member's client or Firm. The requirements and application material set out in Section 220 apply in these circumstances.
- Being offered an inducement such as being regularly offered complimentary tickets to attend sporting events by a supplier of the Firm. The requirements and application material set out in Section 250 apply in these circumstances.
- Facing pressure from an Engagement Partner to report chargeable hours inaccurately for a client engagement. The requirements and application material set out in Section 270 apply in these circumstances.

### Identifying Threats

300.6 A1 Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. The categories of threats are described in paragraph 120.6 A3. The following are examples of facts and circumstances within each of those categories of threats that might create threats for a Member in Public Practice when undertaking a Professional Service:

(a) Self-interest Threats

- A Member having a Direct Financial Interest in a client.
- A Member quoting a low fee to obtain a new engagement and the fee is so low that it might be difficult to perform the Professional Service in accordance with applicable technical and professional standards for that price.
- A Member having a close business relationship with a client.
- A Member having access to confidential information that might be used for personal gain.
- A Member discovering a significant error when evaluating the results of a previous Professional Service performed by a member of the Member's Firm.

(b) Self-review Threats

- A Member issuing an assurance report on the effectiveness of the operation of financial systems after implementing the systems.
- A Member having prepared the original data used to generate records that are the subject matter of the Assurance Engagement.



- (c) Advocacy Threats
  - A Member promoting the interests of, or shares in, a client.
  - A Member acting as an advocate on behalf of a client in litigation or disputes with third parties.
  - A Member lobbying in favour of legislation on behalf of a client.
- (d) Familiarity Threats
  - A Member having a Close or Immediate Family member who is a Director or Officer of the client.
  - A Director or Officer of the client, or an employee in a position to exert significant influence over the subject matter of the engagement, having recently served as the Engagement Partner.
  - An Audit Team member having a long association with the Audit Client.
- (e) Intimidation Threats
  - A Member being threatened with dismissal from a client engagement or the Firm because of a disagreement about a professional matter.
  - A Member feeling pressured to agree with the judgement of a client because the client has more expertise on the matter in question.
  - A Member being informed that a planned promotion will not occur unless the Member agrees with an inappropriate accounting treatment.
  - A Member having accepted a significant gift from a client and being threatened that acceptance of this gift will be made public.

### **Evaluating Threats**

300.7 A1 The conditions, policies and procedures described in paragraph 120.6 A1 and 120.8 A2 might impact the evaluation of whether a threat to compliance with the fundamental principles is at an Acceptable Level. Such conditions, policies and procedures might relate to:

- (a) The client and its operating environment; and
- (b) The Firm and its operating environment.

300.7 A2 The Member in Public Practice's evaluation of the level of a threat is also impacted by the nature and scope of the Professional Service.

#### *The Client and its Operating Environment*

300.7 A3 The Member in Public Practice's evaluation of the level of a threat might be impacted by whether the client is:

- (a) An Audit Client and whether the Audit Client is a Public Interest Entity;
- (b) An Assurance Client that is not an Audit Client; or
- (c) A non-Assurance Client.

For example, providing a non-assurance service to an Audit Client that is a Public Interest Entity might be perceived to result in a higher level of threat to compliance with the principle of objectivity with respect to the audit.

300.7 A4 The corporate governance structure, including the leadership of a client might promote compliance with the fundamental principles. Accordingly, a Member in Public Practice's evaluation of the level of a threat might also be impacted by a client's operating environment. For example:

- The client requires appropriate individuals other than management to ratify or approve the appointment of a Firm to perform an engagement.
- The client has competent employees with experience and seniority to make managerial decisions.
- The client has implemented internal procedures that facilitate objective choices in tendering non-Assurance Engagements.
- The client has a corporate governance structure that provides appropriate oversight and communications regarding the Firm's services.

#### *The Firm and its Operating Environment*

300.7 A5 A Member in Public Practice's evaluation of the level of a threat might be impacted by the work environment within the Member's Firm and its operating environment. For example:

- Leadership of the Firm that promotes compliance with the fundamental principles and establishes the expectation that Assurance Team members will act in the public interest.
- Policies or procedures for establishing and monitoring compliance with the fundamental principles by all personnel.
- Compensation, performance appraisal and disciplinary policies and procedures that promote compliance with the fundamental principles.
- Management of the reliance on revenue received from a single client.
- The Engagement Partner having authority within the Firm for decisions concerning compliance with the fundamental principles, including decisions about accepting or providing services to a client.
- Educational, training and experience requirements.
- Processes to facilitate and address internal and external concerns or complaints.

#### *Consideration of New Information or Changes in Facts and Circumstances*

300.7 A6 New information or changes in facts and circumstances might:

- (a) Impact the level of a threat; or
- (b) Affect the Member in Public Practice's conclusions about whether safeguards applied continue to address identified threats as intended.

In these situations, actions that were already implemented as safeguards might no longer be effective in addressing threats. Accordingly, the application of the conceptual framework requires that the Member re-evaluate and address the threats accordingly. (Ref: Paras. R120.9 and R120.10).

300.7 A7 Examples of new information or changes in facts and circumstances that might impact the level of a threat include:

- When the scope of a Professional Service is expanded.
- When the client becomes a Listed Entity or acquires another business unit.
- When the Firm merges with another Firm.
- When the Member in Public Practice is jointly engaged by two clients and a dispute emerges between the two clients.
- When there is a change in the Member in Public Practice's personal or Immediate Family relationships.

### **Addressing Threats**

300.8 A1 Paragraphs R120.10 to 120.10 A2 set out requirements and application material for addressing threats that are not at an Acceptable Level.

#### *Examples of Safeguards*

300.8 A2 Safeguards vary depending on the facts and circumstances. Examples of actions that in certain circumstances might be safeguards to address threats include:

- Assigning additional time and qualified personnel to required tasks when an engagement has been accepted might address a self-interest threat.
- Having an appropriate reviewer who was not a member of the team review the work performed or advise as necessary might address a self-review threat.
- Using different partners and Engagement Teams with separate reporting lines for the provision of non-assurance services to an Assurance Client might address self-review, advocacy or familiarity threats.
- Involving another Firm to perform or re-perform part of the engagement might address self-interest, self-review, advocacy, familiarity or intimidation threats.
- Disclosing to clients any referral fees or commission arrangements received for recommending services or products might address a self-interest threat.
- Separating teams when dealing with matters of a confidential nature might address a self-interest threat.

300.8 A3 The remaining sections of Part 3 and *Independence Standards* describe certain threats that might arise during the course of performing Professional Services and include examples of actions that might address threats.

Appropriate Reviewer

300.8 A4 An appropriate reviewer is a professional with the necessary knowledge, skills, experience and authority to review, in an objective manner, the relevant work performed or service provided. Such an individual might be a Member in Public Practice.

### **Communicating with Those Charged with Governance**

**R300.9 When communicating with Those Charged with Governance in accordance with the Code, a Member in Public Practice shall determine the appropriate individual(s) within the entity's governance structure with whom to communicate. If the Member communicates with a subgroup of Those Charged with Governance, the Member shall determine whether communication with all of Those Charged with Governance is also necessary so that they are adequately informed.**

300.9 A1 In determining with whom to communicate, a Member in Public Practice might consider:

- (a) The nature and importance of the circumstances; and
- (b) The matter to be communicated.

300.9 A2 Examples of a subgroup of Those Charged with Governance include an audit committee or an individual member of Those Charged with Governance.

**R300.10 If a Member in Public Practice communicates with individuals who have management responsibilities as well as governance responsibilities, the Member shall be satisfied that communication with those individuals adequately informs all of those in a governance role with whom the Member would otherwise communicate.**

300.10 A1 In some circumstances, all of Those Charged with Governance are involved in managing the entity, for example, a small business where a single owner manages the entity and no one else has a governance role. In these cases, if matters are communicated to individual(s) with management responsibilities, and those individual(s) also have governance responsibilities, the Member in Public Practice has satisfied the requirement to communicate with Those Charged with Governance.

## SECTION 310

### CONFLICTS OF INTEREST

#### Introduction

- 310.1 Members in Public Practice are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 310.2 A conflict of interest creates threats to compliance with the principle of objectivity and might create threats to compliance with the other fundamental principles. Such threats might be created when:
- (a) A Member in Public Practice provides a Professional Service related to a particular matter for two or more clients whose interests with respect to that matter are in conflict; or
  - (b) The interests of a Member in Public Practice with respect to a particular matter and the interests of the client for whom the Member provides a Professional Service related to that matter are in conflict.
- 310.3 This section sets out specific requirements and application material relevant to applying the conceptual framework to conflicts of interest. When a Member in Public Practice provides an audit, review or other assurance service, Independence is also required in accordance with *Independence Standards*.

#### Requirements and Application Material

##### General

- R310.4 A Member in Public Practice shall not allow a conflict of interest to compromise professional or business judgement.**
- 310.4 A1 Examples of circumstances that might create a conflict of interest include:
- Providing a transaction advisory service to a client seeking to acquire an Audit Client, where the Firm has obtained confidential information during the course of the audit that might be relevant to the transaction.
  - Providing advice to two clients at the same time where the clients are competing to acquire the same company and the advice might be relevant to the parties' competitive positions.
  - Providing services to a seller and a buyer in relation to the same transaction.
  - Preparing valuations of assets for two parties who are in an adversarial position with respect to the assets.
  - Representing two clients in the same matter who are in a legal dispute with each other, such as during divorce proceedings, or the dissolution of a partnership.
  - In relation to a license agreement, providing an assurance report for a licensor on the

royalties due while advising the licensee on the amounts payable.

- Advising a client to invest in a business in which, for example, the spouse of the Member in Public Practice has a Financial Interest.
- Providing strategic advice to a client on its competitive position while having a joint venture or similar interest with a major competitor of the client.
- Advising a client on acquiring a business which the Firm is also interested in acquiring.
- Advising a client on buying a product or service while having a royalty or commission agreement with a potential seller of that product or service.

## **Conflict Identification**

### *General*

**R310.5 Before accepting a new client relationship, engagement, or business relationship, a Member in Public Practice shall take reasonable steps to identify circumstances that might create a conflict of interest, and therefore a threat to compliance with one or more of the fundamental principles. Such steps shall include identifying:**

- (a) The nature of the relevant interests and relationships between the parties involved; and**
- (b) The service and its implication for relevant parties.**

310.5 A1 An effective conflict identification process assists a Member in Public Practice when taking reasonable steps to identify interests and relationships that might create an actual or potential conflict of interest, both before determining whether to accept an engagement and throughout the engagement. Such a process includes considering matters identified by external parties, for example clients or potential clients. The earlier an actual or potential conflict of interest is identified, the greater the likelihood of the Member being able to address threats created by the conflict of interest.

310.5 A2 An effective process to identify actual or potential conflicts of interest will take into account factors such as:

- The nature of the Professional Services provided.
- The size of the Firm.
- The size and nature of the client base.
- The structure of the Firm, for example, the number and geographic location of Offices.

310.5 A3 More information on client acceptance is set out in Section 320, *Professional Appointments*.

### *Changes in Circumstances*

**R310.6 A Member in Public Practice shall remain alert to changes over time in the nature of services, interests and relationships that might create a conflict of interest while performing an engagement.**

- 310.6 A1 The nature of services, interests and relationships might change during the engagement. This is particularly true when a Member in Public Practice is asked to conduct an engagement in a situation that might become adversarial, even though the parties who engage the Member initially might not be involved in a dispute.

#### *Network Firms*

**R310.7 If the Firm is a member of a Network, a Member in Public Practice shall consider conflicts of interest that the Member has reason to believe might exist or arise due to interests and relationships of a Network Firm.**

- 310.7 A1 Factors to consider when identifying interests and relationships involving a Network Firm include:

- The nature of the Professional Services provided.
- The clients served by the Network.
- The geographic locations of all relevant parties.

#### **Threats Created by Conflicts of Interest**

- 310.8 A1 In general, the more direct the connection between the Professional Service and the matter on which the parties' interests conflict, the more likely the level of the threat is not at an Acceptable Level.

- 310.8 A2 Factors that are relevant in evaluating the level of a threat created by a conflict of interest include measures that prevent unauthorised disclosure of confidential information when performing Professional Services related to a particular matter for two or more clients whose interests with respect to that matter are in conflict. These measures include:

- The existence of separate practice areas for specialty functions within the Firm, which might act as a barrier to the passing of confidential client information between practice areas.
- Policies and procedures to limit access to client files.
- Confidentiality agreements signed by personnel and partners of the Firm.
- Separation of confidential information physically and electronically.
- Specific and dedicated training and communication.

- 310.8 A3 Examples of actions that might be safeguards to address threats created by a conflict of interest include:

- Having separate Engagement Teams who are provided with clear policies and procedures on maintaining confidentiality.
- Having an appropriate reviewer, who is not involved in providing the service or otherwise affected by the conflict, review the work performed to assess whether the key judgements and conclusions are appropriate.

## Disclosure and Consent

### *General*

**R310.9 A Member in Public Practice shall exercise professional judgement to determine whether the nature and significance of a conflict of interest are such that specific disclosure and explicit consent are necessary when addressing the threat created by the conflict of interest.**

310.9 A1 Factors to consider when determining whether specific disclosure and explicit consent are necessary include:

- The circumstances creating the conflict of interest.
- The parties that might be affected.
- The nature of the issues that might arise.
- The potential for the particular matter to develop in an unexpected manner.

310.9 A2 Disclosure and consent might take different forms, for example:

- General disclosure to clients of circumstances where, as is common commercial practice, the Member in Public Practice does not provide Professional Services exclusively to any one client (for example, in a particular Professional Service and market sector). This enables the client to provide general consent accordingly. For example, a Member might make general disclosure in the standard terms and conditions for the engagement.
- Specific disclosure to affected clients of the circumstances of the particular conflict in sufficient detail to enable the client to make an informed decision about the matter and to provide explicit consent accordingly. Such disclosure might include a detailed presentation of the circumstances and a comprehensive explanation of any planned safeguards and the risks involved.
- Consent might be implied by clients' conduct in circumstances where the Member in Public Practice has sufficient evidence to conclude that clients know the circumstances at the outset and have accepted the conflict of interest if they do not raise an objection to the existence of the conflict.

310.9 A3 It is generally necessary:

- (a) To disclose the nature of the conflict of interest and how any threats created were addressed to clients affected by a conflict of interest; and
- (b) To obtain consent of the affected clients to perform the Professional Services when safeguards are applied to address the threat.



- 310.9 A4 If such disclosure or consent is not in writing, the Member in Public Practice is encouraged to document:
- (a) The nature of the circumstances giving rise to the conflict of interest;
  - (b) The safeguards applied to address the threats when applicable; and
  - (c) The consent obtained.

*When Explicit Consent is Refused*

- R310.10 If a Member in Public Practice has determined that explicit consent is necessary in accordance with paragraph R310.9 and the client has refused to provide consent, the Member shall either:**
- (a) End or decline to perform Professional Services that would result in the conflict of interest; or**
  - (b) End relevant relationships or dispose of relevant interests to eliminate the threat or reduce it to an Acceptable Level.**

**Confidentiality**

*General*

- R310.11 A Member in Public Practice shall remain alert to the principle of confidentiality, including when making disclosures or sharing information within the Firm or Network and seeking guidance from third parties.**
- 310.11 A1 Subsection 114 sets out requirements and application material relevant to situations that might create a threat to compliance with the principle of confidentiality.

*When Disclosure to Obtain Consent would Breach Confidentiality*

- R310.12 When making specific disclosure for the purpose of obtaining explicit consent would result in a breach of confidentiality, and such consent cannot therefore be obtained, the Firm shall only accept or continue an engagement if:**
- (a) The Firm does not act in an advocacy role for one client in an adversarial position against another client in the same matter;**
  - (b) Specific measures are in place to prevent disclosure of confidential information between the Engagement Teams serving the two clients; and**
  - (c) The Firm is satisfied that a reasonable and informed third party would be likely to conclude that it is appropriate for the Firm to accept or continue the engagement because a restriction on the Firm's ability to provide the Professional Service would produce a disproportionate adverse outcome for the clients or other relevant third parties.**

310.12 A1 A breach of confidentiality might arise, for example, when seeking consent to perform:

- A transaction-related service for a client in a hostile takeover of another client of the Firm.
- A forensic investigation for a client regarding a suspected fraud, where the Firm has confidential information from its work for another client who might be involved in the fraud.

#### **Documentation**

**R310.13 In the circumstances set out in paragraph R310.12, the Member in Public Practice shall document:**

- (a) The nature of the circumstances, including the role that the accountant is to undertake;**
- (b) The specific measures in place to prevent disclosure of information between the Engagement Teams serving the two clients; and**
- (c) Why it is appropriate to accept or continue the engagement.**

## **SECTION 320**

### **PROFESSIONAL APPOINTMENTS**

#### **Introduction**

320.1 Members in Public Practice are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.

320.2 Acceptance of a new client relationship or changes in an existing engagement might create a threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

AUST 320.2.1 The requirements of Section 320 also apply where a Member in Public Practice is replacing or being replaced by an accountant who is not a Member.

#### **Requirements and Application Material**

##### **Client and Engagement Acceptance**

###### *General*

320.3 A1 Threats to compliance with the principles of integrity or professional behaviour might be created, for example, from questionable issues associated with the client (its owners, management or activities). Issues that, if known, might create such a threat include client involvement in illegal activities, dishonesty, questionable financial reporting practices or other unethical behaviour.

320.3 A2 Factors that are relevant in evaluating the level of such a threat include:

- Knowledge and understanding of the client, its owners, management and Those Charged with Governance and business activities.
- The client's commitment to address the questionable issues, for example, through improving corporate governance practices or internal controls.

320.3 A3 A self-interest threat to compliance with the principle of professional competence and due care is created if the Engagement Team does not possess, or cannot acquire, the competencies to perform the Professional Services.

320.3 A4 Factors that are relevant in evaluating the level of such a threat include:

- An appropriate understanding of:
  - The nature of the client's business;
  - The complexity of its operations;
  - The requirements of the engagement; and
  - The purpose, nature and scope of the work to be performed.

- Knowledge of relevant industries or subject matter.
- Experience with relevant regulatory or reporting requirements.
- The existence of quality control policies and procedures designed to provide reasonable assurance that engagements are accepted only when they can be performed competently.

320.3 A5 Examples of actions that might be safeguards to address a self-interest threat include:

- Assigning sufficient engagement personnel with the necessary competencies.
- Agreeing on a realistic time frame for the performance of the engagement.
- Using experts where necessary.

### **Changes in a Professional Appointment**

#### *General*

**R320.4 A Member in Public Practice shall determine whether there are any reasons for not accepting an engagement when the Member:**

- (a) Is asked by a potential client to replace another accountant;**
- (b) Considers tendering for an engagement held by another accountant; or**
- (c) Considers undertaking work that is complementary or additional to that of another accountant.**

320.4 A1 There might be reasons for not accepting an engagement. One such reason might be if a threat created by the facts and circumstances cannot be addressed by applying safeguards. For example, there might be a self-interest threat to compliance with the principle of professional competence and due care if a Member in Public Practice accepts the engagement before knowing all the relevant facts.

320.4 A2 If a Member in Public Practice is asked to undertake work that is complementary or additional to the work of an Existing or Predecessor Accountant, a self-interest threat to compliance with the principle of professional competence and due care might be created, for example, as a result of incomplete information.

320.4 A3 A factor that is relevant in evaluating the level of such a threat is whether tenders state that, before accepting the engagement, contact with the Existing or Predecessor Accountant will be requested. This contact gives the Member in Public Practice the opportunity to inquire whether there are any reasons why the engagement should not be accepted.

320.4 A4 Examples of actions that might be safeguards to address such a self-interest threat include:

- Asking the Existing or Predecessor Accountant to provide any known information of which, in the Existing or Predecessor Accountant's opinion, the Member in Public Practice needs to be aware before deciding whether to accept the engagement. For example, inquiry might reveal previously undisclosed pertinent facts and might indicate

disagreements with the Existing or Predecessor Accountant that might influence the decision to accept the appointment.

- Obtaining information from other sources such as through inquiries of third parties or background investigations regarding senior management or Those Charged with Governance of the client.

#### *Communicating with the Existing or Predecessor Accountant*

320.5 A1 A Member in Public Practice will usually need the client's permission, preferably in writing, to initiate discussions with the Existing or Predecessor Accountant.

**R320.6 If unable to communicate with the Existing or Predecessor Accountant, the Member in Public Practice shall take other reasonable steps to obtain information about any possible threats.**

#### *Communicating with the Proposed Accountant*

**R320.7 When a Member in Public Practice is asked to respond to a communication from a Proposed Accountant, the Member shall:**

- (a) Comply with relevant laws and regulations governing the request; and**
- (b) Provide any information honestly and unambiguously.**

320.7 A1 A Member in Public Practice is bound by confidentiality. Whether the Member is permitted or required to discuss the affairs of a client with a Proposed Accountant will depend on the nature of the engagement and:

- (a) Whether the Member has permission from the client for the discussion; and
- (b) The legal and ethics requirements relating to such communications and disclosure.

320.7 A2 Circumstances where a Member in Public Practice is or might be required to disclose confidential information, or when disclosure might be appropriate, are set out in paragraph 114.1 A1 of the Code.

#### *Changes in Audit or Review Appointments*

**R320.8 In the case of an audit or review of Financial Statements, a Member in Public Practice shall request the Existing or Predecessor Accountant to provide known information regarding any facts or other information of which, in the Existing or Predecessor Accountant's opinion, the Member needs to be aware before deciding whether to accept the engagement. Except for the circumstances involving non-compliance or suspected non-compliance with laws and regulations set out in paragraphs R360.21 and R360.22:**

- (a) If the client consents to the Existing or Predecessor Accountant disclosing any such facts or other information, the Existing or Predecessor Accountant shall provide the information honestly and unambiguously; and**

- (b) **If the client fails or refuses to grant the Existing or Predecessor Accountant permission to discuss the client's affairs with the Member in Public Practice, the Existing or Predecessor Accountant shall disclose this fact to the Member, who shall carefully consider such failure or refusal when determining whether to accept the appointment.**

#### **Client and Engagement Continuance**

**R320.9 For a recurring client engagement, a Member in Public Practice shall periodically review whether to continue with the engagement.**

320.9 A1 Potential threats to compliance with the fundamental principles might be created after acceptance which, had they been known earlier, would have caused the Member in Public Practice to decline the engagement. For example, a self-interest threat to compliance with the principle of integrity might be created by improper earnings management or balance sheet valuations.

#### **Using the Work of an Expert**

**R320.10 When a Member in Public Practice intends to use the work of an expert, the Member shall determine whether the use is warranted.**

320.10 A1 Factors to consider when a Member in Public Practice intends to use the work of an expert include the reputation and expertise of the expert, the resources available to the expert, and the professional and ethics standards applicable to the expert. This information might be gained from prior association with the expert or from consulting others.

## SECTION 321

### SECOND OPINIONS

#### Introduction

- 321.1 Members in Public Practice are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 321.2 Providing a second opinion to an entity that is not an existing client might create a self-interest or other threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- 321.3 A1 A Member in Public Practice might be asked to provide a second opinion on the application of Australian Accounting Standards, Auditing and Assurance Standards, reporting or other standards or principles to (a) specific circumstances, or (b) transactions by or on behalf of a company or an entity that is not an existing client. A threat, for example, a self-interest threat to compliance with the principle of professional competence and due care, might be created if the second opinion is not based on the same facts that the Existing or Predecessor Accountant had, or is based on inadequate evidence.
- 321.3 A2 A factor that is relevant in evaluating the level of such a self-interest threat is the circumstances of the request and all the other available facts and assumptions relevant to the expression of a professional judgement.
- 321.3 A3 Examples of actions that might be safeguards to address such a self-interest threat include:
- With the client's permission, obtaining information from the Existing or Predecessor Accountant.
  - Describing the limitations surrounding any opinion in communications with the client.
  - Providing the Existing or Predecessor Accountant with a copy of the opinion.

##### *When Permission to Communicate is Not Provided*

- R321.4 If an entity seeking a second opinion from a Member in Public Practice will not permit the Member to communicate with the Existing or Predecessor Accountant, the Member shall determine whether the Member may provide the second opinion sought.**

## **SECTION 330**

### **FEES AND OTHER TYPES OF REMUNERATION**

#### **Introduction**

- 330.1 Members in Public Practice are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 330.2 The level and nature of fee and other remuneration arrangements might create a self-interest threat to compliance with one or more of the fundamental principles. This section sets out specific application material relevant to applying the conceptual framework in such circumstances.

#### **Application Material**

##### **Level of Fees**

- 330.3 A1 The level of fees quoted might impact a Member in Public Practice's ability to perform Professional Services in accordance with professional standards.
- 330.3 A2 A Member in Public Practice might quote whatever fee is considered appropriate. Quoting a fee lower than another accountant is not in itself unethical. However, the level of fees quoted creates a self-interest threat to compliance with the principle of professional competence and due care if the fee quoted is so low that it might be difficult to perform the engagement in accordance with applicable technical and professional standards.
- 330.3 A3 Factors that are relevant in evaluating the level of such a threat include:
- Whether the client is aware of the terms of the engagement and, in particular, the basis on which fees are charged and which Professional Services the quoted fee covers.
  - Whether the level of the fee is set by an independent third party such as a regulatory body.
- 330.3 A4 Examples of actions that might be safeguards to address such a self-interest threat include:
- Adjusting the level of fees or the scope of the engagement.
  - Having an appropriate reviewer review the work performed.

##### **Contingent Fees**

- 330.4 A1 Contingent Fees are used for certain types of non-assurance services. However, Contingent Fees might create threats to compliance with the fundamental principles, particularly a self-interest threat to compliance with the principle of objectivity, in certain circumstances.
- 330.4 A2 Factors that are relevant in evaluating the level of such threats include:
- The nature of the engagement.
  - The range of possible fee amounts.



- The basis for determining the fee.
- Disclosure to intended users of the work performed by the Member in Public Practice and the basis of remuneration.
- Quality control policies and procedures.
- Whether an independent third party is to review the outcome or result of the transaction.
- Whether the level of the fee is set by an independent third party such as a regulatory body.

330.4 A3 Examples of actions that might be safeguards to address such a self-interest threat include:

- Having an appropriate reviewer who was not involved in performing the non-assurance service review the work performed by the Member in Public Practice.
- Obtaining an advance written agreement with the client on the basis of remuneration.

**AUST R330.4.1 A Member in Public Practice shall not use Contingent Fees in the specific engagement circumstances set out in:**

- ***APES 215 Forensic Accounting Services;***
- ***APES 225 Valuation Services;***
- ***APES 330 Insolvency Services;***
- ***APES 345 Reporting on Prospective Financial Information Prepared in Connection with a Disclosure Document; and***
- ***APES 350 Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document.***

330.4 A4 Requirements and application material related to Contingent Fees for services provided to Audit or Review Clients and other Assurance Clients are set out in *Independence Standards*.

### **Referral Fees or Commissions**

330.5 A1 A self-interest threat to compliance with the principles of objectivity and professional competence and due care is created if a Member in Public Practice pays or receives a referral fee or receives a commission relating to a client. Such referral fees or commissions include, for example:

- A fee paid to another Member in Public Practice for the purposes of obtaining new client work when the client continues as a client of the Existing Accountant but requires specialist services not offered by that accountant.
- A fee received for referring a continuing client to another Member in Public Practice or other expert where the Existing Accountant does not provide the specific Professional Service required by the client.
- A commission received from a third party (for example, a software vendor) in connection with the sale of goods or services to a client.

330.5 A2 Examples of actions that might be safeguards to address such a self-interest threat include:

- Obtaining an advance agreement from the client for commission arrangements in connection with the sale by another party of goods or services to the client might address a self-interest threat.
- Disclosing to clients any referral fees or commission arrangements paid to, or received from, another Member in Public Practice or third party for recommending services or products might address a self-interest threat.

**AUST R330.5.1 A Member in Public Practice who is undertaking an engagement in Australia and receives a referral fee or commission shall inform the client in writing of:**

- **the existence of such arrangement;**
- **the identity of the other party or parties; and**
- **the method of calculation of the referral fee, commission or other benefit accruing directly or indirectly to the Member.**

**AUST R330.5.2 A Member in Public Practice shall not receive commissions or other similar benefits in connection with an Assurance Engagement.**

AUST 330.5.2 A1 The receipt of commissions or other similar benefits in connection with an Assurance Engagement creates a threat to Independence that no safeguards could reduce to an Acceptable Level.

#### **Purchase or Sale of a Firm**

330.6 A1 A Member in Public Practice may purchase all or part of another Firm on the basis that payments will be made to individuals formerly owning the Firm or to their heirs or estates. Such payments are not referral fees or commissions for the purposes of this section.

## **SECTION 340**

### **INDUCEMENTS, INCLUDING GIFTS AND HOSPITALITY**

[Reserved for Section 340 which forms part of the Inducements project.]

## SECTION 350

### CUSTODY OF CLIENT ASSETS

#### Introduction

- 350.1 Members in Public Practice are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 350.2 Holding client assets creates a self-interest or other threat to compliance with the principles of professional behaviour and objectivity. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.<sup>6</sup>

#### Requirements and Application Material

##### Before Taking Custody

- R350.3 A Member in Public Practice shall not assume custody of client money or other assets unless permitted to do so by law and in accordance with any conditions under which such custody may be taken.**
- R350.4 As part of client and engagement acceptance procedures related to assuming custody of client money or assets, a Member in Public Practice shall:**
- (a) Make inquiries about the source of the assets; and**
  - (b) Consider related legal and regulatory obligations.**
- 350.4 A1 Inquiries about the source of client assets might reveal, for example, that the assets were derived from illegal activities, such as money laundering. In such circumstances, a threat would be created and the provisions of Section 360 would apply.

##### After Taking Custody

- R350.5 A Member in Public Practice entrusted with money or other assets belonging to others shall:**
- (a) Comply with the laws and regulations relevant to holding and accounting for the assets;**
  - (b) Keep the assets separately from personal or Firm assets;**
  - (c) Use the assets only for the purpose for which they are intended; and**
  - (d) Be ready at all times to account for the assets and any income, dividends, or gains generated, to any individuals entitled to that accounting.**

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<sup>6</sup> APESB has issued APES 310 *Client Monies* which mandates requirements and provides guidance for Members in Public Practice when they deal with client monies.

## **SECTION 360**

### **RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS**

#### **Introduction**

- 360.1 Members in Public Practice are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 360.2 A self-interest or intimidation threat to compliance with the principles of integrity and professional behaviour is created when a Member in Public Practice becomes aware of non-compliance or suspected non-compliance with laws and regulations (“NOCLAR”).
- 360.3 A Member in Public Practice might encounter or be made aware of NOCLAR or suspected NOCLAR in the course of providing a Professional Service to a client. This section guides the Member in assessing the implications of the matter and the possible courses of action when responding to NOCLAR or suspected NOCLAR with:
- (a) Laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the client’s Financial Statements; and
  - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the client’s Financial Statements, but compliance with which might be fundamental to the operating aspects of the client’s business, to its ability to continue its business, or to avoid material penalties.

#### **Objectives of the Members in Public Practice in Relation to NOCLAR**

- 360.4 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to NOCLAR or suspected NOCLAR, the objectives of the Member in Public Practice are:
- (a) To comply with the principles of integrity and professional behaviour;
  - (b) By alerting management or, where appropriate, Those Charged with Governance of the client, to seek to:
    - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected NOCLAR; or
    - (ii) Deter the commission of the NOCLAR where it has not yet occurred; and
  - (c) To take such further action as appropriate in the public interest.

## Requirements and Application Material

### General

360.5 A1 NOCLAR comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

- (a) A client;
- (b) Those Charged with Governance of a client;
- (c) Management of a client; or
- (d) Other individuals working for or under the direction of a client.

360.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

360.5 A3 NOCLAR might result in fines, litigation or other consequences for the client, potentially materially affecting its Financial Statements. Importantly, such NOCLAR might have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

**R360.6 In some jurisdictions, there are legal or regulatory provisions governing how Members in Public Practice should address NOCLAR or suspected NOCLAR<sup>7</sup>. These legal or regulatory provisions might differ from or go beyond the provisions in this section. When encountering such NOCLAR or suspected NOCLAR, the Member shall obtain an understanding of those legal or regulatory provisions and comply with them, including:**

- (a) Any requirement to report the matter to an appropriate authority; and**
- (b) Any prohibition on alerting the client.**

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<sup>7</sup> For example, there are auditor reporting obligations in the *Corporations Act 2001* which a Member in Public Practice must comply with. Further information on these requirements is set out in ASIC Regulatory Guide 34 *Auditors Obligations: Reporting to ASIC*.

- 360.6 A1 A prohibition on alerting the client might arise, for example, pursuant to anti-money laundering legislation.
- 360.7 A1 This section applies regardless of the nature of the client, including whether or not it is a Public Interest Entity.
- 360.7 A2 A Member in Public Practice who encounters or is made aware of matters that are clearly inconsequential is not required to comply with this section. Whether a matter is clearly inconsequential is to be judged with respect to its nature and its impact, financial or otherwise, on the client, its stakeholders and the general public.
- 360.7 A3 This section does not address:
- (a) Personal misconduct unrelated to the business activities of the client; and
  - (b) NOCLAR by parties other than those specified in paragraph 360.5 A1. This includes, for example, circumstances where a Member in Public Practice has been engaged by a client to perform a due diligence assignment on a third party entity and the identified or suspected NOCLAR has been committed by that third-party.

The Member in Public Practice might nevertheless find the guidance in this section helpful in considering how to respond in these situations.

### **Responsibilities of Management and Those Charged with Governance**

- 360.8 A1 Management, with the oversight of Those Charged with Governance, is responsible for ensuring that the client's business activities are conducted in accordance with laws and regulations. Management and Those Charged with Governance are also responsible for identifying and addressing any NOCLAR by:
- (a) The client;
  - (b) An individual charged with governance of the entity;
  - (c) A member of management; or
  - (d) Other individuals working for or under the direction of the client.

### **Responsibilities of All Members in Public Practice**

- R360.9 Where a Member in Public Practice becomes aware of a matter to which this section applies, the steps that the Member takes to comply with this section shall be taken on a timely basis. In taking timely steps, the Member shall have regard to the nature of the matter and the potential harm to the interests of the entity, investors, creditors, employees or the general public.**

## Audits of Financial Statements

### *Obtaining an Understanding of the Matter*

**R360.10 If a Member in Public Practice engaged to perform an audit of Financial Statements becomes aware of information concerning NOCLAR or suspected NOCLAR, the Member shall obtain an understanding of the matter. This understanding shall include the nature of the NOCLAR or suspected NOCLAR and the circumstances in which it has occurred or might occur.**

360.10 A1 The Member in Public Practice might become aware of the NOCLAR or suspected NOCLAR in the course of performing the engagement or through information provided by other parties.

360.10 A2 The Member in Public Practice is expected to apply knowledge and expertise, and exercise professional judgement. However, the Member is not expected to have a level of knowledge of laws and regulations greater than that which is required to undertake the engagement. Whether an act constitutes NOCLAR is ultimately a matter to be determined by a court or other appropriate adjudicative body.

360.10 A3 Depending on the nature and significance of the matter, the Member in Public Practice might consult on a confidential basis with others within the Firm, a Network Firm or a Professional Body, or with legal counsel.

**R360.11 If the Member in Public Practice identifies or suspects that NOCLAR has occurred or might occur, the Member shall discuss the matter with the appropriate level of management and, where appropriate, Those Charged with Governance.**

360.11 A1 The purpose of the discussion is to clarify the Member in Public Practice's understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also might prompt management or Those Charged with Governance to investigate the matter.

360.11 A2 The appropriate level of management with whom to discuss the matter is a question of professional judgement. Relevant factors to consider include:

- The nature and circumstances of the matter.
- The individuals actually or potentially involved.
- The likelihood of collusion.
- The potential consequences of the matter.
- Whether that level of management is able to investigate the matter and take appropriate action.

360.11 A3 The appropriate level of management is usually at least one level above the individual or individuals involved or potentially involved in the matter. In the context of a group, the appropriate level might be management at an entity that controls the client.



360.11 A4 The Member in Public Practice might also consider discussing the matter with internal auditors, where applicable.

**R360.12 If the Member in Public Practice believes that management is involved in the NOCLAR or suspected NOCLAR, the Member shall discuss the matter with Those Charged with Governance.**

*Addressing the Matter*

**R360.13 In discussing the NOCLAR or suspected NOCLAR with management and, where appropriate, Those Charged with Governance, the Member in Public Practice shall advise them to take appropriate and timely actions, if they have not already done so, to:**

- (a) Rectify, remediate or mitigate the consequences of the NOCLAR;**
- (b) Deter the commission of the NOCLAR where it has not yet occurred; or**
- (c) Disclose the matter to an appropriate authority where required by law or regulation or where considered necessary in the public interest.**

**R360.14 The Member in Public Practice shall consider whether management and Those Charged with Governance understand their legal or regulatory responsibilities with respect to the NOCLAR or suspected NOCLAR.**

360.14 A1 If management and Those Charged with Governance do not understand their legal or regulatory responsibilities with respect to the matter, the Member in Public Practice might suggest appropriate sources of information or recommend that they obtain legal advice.

**R360.15 The Member in Public Practice shall comply with applicable:**

- (a) Laws and regulations, including legal or regulatory provisions governing the reporting of NOCLAR or suspected NOCLAR to an appropriate authority; and**
- (b) Requirements under Auditing and Assurance Standards, including those relating to:**
  - Identifying and responding to NOCLAR, including fraud.**
  - Communicating with Those Charged with Governance.**
  - Considering the implications of the NOCLAR or suspected NOCLAR for the auditor's report.**

360.15 A1 Some laws and regulations might stipulate a period within which reports of NOCLAR or suspected NOCLAR are to be made to an appropriate authority.

*Communication with Respect to Groups*

**R360.16 Where a Member in Public Practice becomes aware of NOCLAR or suspected NOCLAR in relation to a component of a group in either of the following two situations, the Member shall communicate the matter to the group Engagement Partner unless prohibited from doing so by law or regulation:**

- (a) **The Member in Public Practice is, for purposes of an audit of the group Financial Statements, requested by the group Engagement Team to perform work on financial information related to the component; or**
- (b) **The Member in Public Practice is engaged to perform an audit of the component's Financial Statements for purposes other than the group audit, for example, a statutory audit.**

**The communication to the group Engagement Partner shall be in addition to responding to the matter in accordance with the provisions of this section.**

360.16 A1 The purpose of the communication is to enable the group Engagement Partner to be informed about the matter and to determine, in the context of the group audit, whether and, if so, how to address it in accordance with the provisions in this section. The communication requirement in paragraph R360.16 applies regardless of whether the group Engagement Partner's Firm or Network is the same as or different from the Member in Public Practice's Firm or Network.

**R360.17 Where the group Engagement Partner becomes aware of NOCLAR or suspected NOCLAR in the course of an audit of group Financial Statements, the group Engagement Partner shall consider whether the matter might be relevant to one or more components:**

- (a) **Whose financial information is subject to work for purposes of the audit of the group Financial Statements; or**
- (b) **Whose Financial Statements are subject to audit for purposes other than the group audit, for example, a statutory audit.**

**This consideration shall be in addition to responding to the matter in the context of the group audit in accordance with the provisions of this section.**

**R360.18 If the NOCLAR or suspected NOCLAR might be relevant to one or more of the components specified in paragraph R360.17(a) and (b), the group Engagement Partner shall take steps to have the matter communicated to those performing work at the components, unless prohibited from doing so by law or regulation. If necessary, the group Engagement Partner shall arrange for appropriate inquiries to be made (either of management or from publicly available information) as to whether the relevant component(s) specified in paragraph R360.17(b) is subject to audit and, if so, to ascertain to the extent practicable the identity of the auditor.**

360.18 A1 The purpose of the communication is to enable those responsible for work at the components to be informed about the matter and to determine whether and, if so, how to address it in accordance with the provisions in this section. The communication requirement applies regardless of whether the group Engagement Partner's Firm or Network is the same as or different from the Firms or Networks of those performing work at the components.

*Determining Whether Further Action Is Needed*

**R360.19 The Member in Public Practice shall assess the appropriateness of the response of management and, where applicable, Those Charged with Governance.**

360.19 A1 Relevant factors to consider in assessing the appropriateness of the response of management and, where applicable, Those Charged with Governance include whether:

- The response is timely.
- The NOCLAR or suspected NOCLAR has been adequately investigated.
- Action has been, or is being, taken to rectify, remediate or mitigate the consequences of any NOCLAR.
- Action has been, or is being, taken to deter the commission of any NOCLAR where it has not yet occurred.
- Appropriate steps have been, or are being, taken to reduce the risk of re-occurrence, for example, additional controls or training.
- The NOCLAR or suspected NOCLAR has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

**R360.20 In light of the response of management and, where applicable, Those Charged with Governance, the Member in Public Practice shall determine if further action is needed in the public interest.**

360.20 A1 The determination of whether further action is needed, and the nature and extent of it, will depend on various factors, including:

- The legal and regulatory framework.
- The urgency of the situation.
- The pervasiveness of the matter throughout the client.
- Whether the Member in Public Practice continues to have confidence in the integrity of management and, where applicable, Those Charged with Governance.
- Whether the NOCLAR or suspected NOCLAR is likely to recur.
- Whether there is credible evidence of actual or potential substantial harm to the interests of the entity, investors, creditors, employees or the general public.

360.20 A2 Examples of circumstances that might cause the Member in Public Practice no longer to have confidence in the integrity of management and, where applicable, Those Charged with Governance include situations where:

- The Member suspects or has evidence of their involvement or intended involvement in any NOCLAR.
- The Member is aware that they have knowledge of such NOCLAR and, contrary to legal or regulatory requirements, have not reported, or authorised the reporting of, the matter to an appropriate authority within a reasonable period.

**R360.21 The Member in Public Practice shall exercise professional judgement in determining the need for, and nature and extent of, further action. In making this determination, the Member shall take into account whether a reasonable and informed third party would be likely to conclude that the Member has acted appropriately in the public interest.**

360.21 A1 Further action that the Member in Public Practice might take includes:

- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so<sup>8</sup>.
- Withdrawing from the engagement and the professional relationship where permitted by law or regulation.

360.21 A2 Withdrawing from the engagement and the professional relationship is not a substitute for taking other actions that might be needed to achieve the Member in Public Practice's objectives under this section. In some jurisdictions, however, there might be limitations as to the further actions available to the Member. In such circumstances, withdrawal might be the only available course of action.

**R360.22 Where the Member in Public Practice has withdrawn from the professional relationship pursuant to paragraphs R360.20 and 360.21 A1, the Member shall, on request by the Proposed Accountant pursuant to paragraph R320.8, provide all relevant facts and other information concerning the identified or suspected NOCLAR to the Proposed Accountant. The Member shall do so, even in the circumstances addressed in paragraph R320.8(b) where the client fails or refuses to grant the Member permission to discuss the client's affairs with the Proposed Accountant, unless prohibited by law or regulation.**

360.22 A1 The facts and other information to be provided are those that, in the Member in Public Practice's opinion, the Proposed Accountant needs to be aware of before deciding whether to accept the audit appointment. Section 320 addresses communications from Proposed Accountants.

**R360.23 If the Proposed Accountant is unable to communicate with the Predecessor Accountant, the Proposed Accountant shall take reasonable steps to obtain information about the circumstances of the change of appointment by other means.**

360.23 A1 Other means to obtain information about the circumstances of the change of appointment include inquiries of third parties or background investigations of management or Those Charged with Governance.

360.24 A1 As assessment of the matter might involve complex analysis and judgements, the Member in Public Practice might consider:

- Consulting internally.
- Obtaining legal advice to understand the Member's options and the professional or legal implications of taking any particular course of action.
- Consulting on a confidential basis with a regulatory or Professional Body.

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<sup>8</sup> In Australia, whistleblower protection is addressed in the *Corporations Act 2001* (for the private sector) and in other legislation in place federally and in states and territories (for the public sector). In 2017, the Australian government released draft federal legislation to strengthen protection for whistleblowers in the private sector. The new legislation is expected to be released in mid to late 2018.

## Determining Whether to Disclose the Matter to an Appropriate Authority

360.25 A1 Disclosure of the matter to an appropriate authority would be precluded if doing so would be contrary to law or regulation. Otherwise, the purpose of making disclosure is to enable an appropriate authority to cause the matter to be investigated and action to be taken in the public interest.

360.25 A2 The determination of whether to make such a disclosure depends in particular on the nature and extent of the actual or potential harm that is or might be caused by the matter to investors, creditors, employees or the general public. For example, the Member in Public Practice might determine that disclosure of the matter to an appropriate authority is an appropriate course of action if:

- The entity is engaged in bribery (for example, of local or foreign government officials for purposes of securing large contracts).
- The entity is regulated and the matter is of such significance as to threaten its license to operate.
- The entity is listed on a securities exchange and the matter might result in adverse consequences to the fair and orderly market in the entity's securities or pose a systemic risk to the financial markets.
- It is likely that the entity would sell products that are harmful to public health or safety.
- The entity is promoting a scheme to its clients to assist them in evading taxes.

360.25 A3 The determination of whether to make such a disclosure will also depend on external factors such as:

- Whether there is an appropriate authority that is able to receive the information, and cause the matter to be investigated and action to be taken. The appropriate authority will depend on the nature of the matter. For example, the appropriate authority would be a securities regulator in the case of fraudulent financial reporting or an environmental protection agency in the case of a breach of environmental laws and regulations.
- Whether there exists robust and credible protection from civil, criminal or professional liability or retaliation afforded by legislation or regulation, such as under whistle-blowing legislation or regulation.<sup>9</sup>
- Whether there are actual or potential threats to the physical safety of the Member in Public Practice or other individuals.

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<sup>9</sup> In Australia, whistleblower protection is addressed in the *Corporations Act 2001* (for the private sector) and in other legislation in place federally and in states and territories (for the public sector). In 2017, the Australian government released draft federal legislation to strengthen protection for whistleblowers in the private sector. The new legislation is expected to be released in mid to late 2018.

**R360.26** If the Member in Public Practice determines that disclosure of the NOCLAR or suspected NOCLAR to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to paragraph R114.1(d) of the Code. When making such disclosure, the Member shall act in good faith and exercise caution when making statements and assertions. The Member shall also consider whether it is appropriate to inform the client of the Member's intentions before disclosing the matter.

*Imminent Breach*

**R360.27** In exceptional circumstances, the Member in Public Practice might become aware of actual or intended conduct that the Member has reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or Those Charged with Governance of the entity, the Member shall exercise professional judgement and determine whether to disclose the matter immediately to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach. If disclosure is made, that disclosure is permitted pursuant to paragraph R114.1(d) of the Code.

*Documentation*

**R360.28** In relation to NOCLAR or suspected NOCLAR that falls within the scope of this section, the Member in Public Practice shall document:

- How management and, where applicable, Those Charged with Governance have responded to the matter.
- The courses of action the Member considered, the judgements made and the decisions that were taken, having regard to the reasonable and informed third party test.
- How the Member is satisfied that the Member has fulfilled the responsibility set out in paragraph R360.20.

**360.28 A1** This documentation is in addition to complying with the documentation requirements under applicable auditing standards. Auditing and Assurance Standards, for example, require a Member in Public Practice performing an audit of Financial Statements to:

- Prepare documentation sufficient to enable an understanding of significant matters arising during the audit, the conclusions reached, and significant professional judgements made in reaching those conclusions;
- Document discussions of significant matters with management, Those Charged with Governance, and others, including the nature of the significant matters discussed and when and with whom the discussions took place; and
- Document identified or suspected NOCLAR, and the results of discussion with management and, where applicable, Those Charged with Governance and other parties outside the entity.

## Professional Services Other than Audits of Financial Statements

### *Obtaining an Understanding of the Matter and Addressing It with Management and Those Charged with Governance*

**R360.29 If a Member in Public Practice engaged to provide a Professional Service other than an audit of Financial Statements becomes aware of information concerning NOCLAR or suspected NOCLAR, the Member shall seek to obtain an understanding of the matter. This understanding shall include the nature of the NOCLAR or suspected NOCLAR and the circumstances in which it has occurred or might be about to occur.**

360.29 A1 The Member in Public Practice is expected to apply knowledge and expertise, and exercise professional judgement. However, the Member is not expected to have a level of understanding of laws and regulations beyond that which is required for the Professional Service for which the Member was engaged. Whether an act constitutes actual NOCLAR is ultimately a matter to be determined by a court or other appropriate adjudicative body.

360.29 A2 Depending on the nature and significance of the matter, the Member in Public Practice might consult on a confidential basis with others within the Firm, a Network Firm or a Professional Body, or with legal counsel.

**R360.30 If the Member in Public Practice identifies or suspects that NOCLAR has occurred or might occur, the Member shall discuss the matter with the appropriate level of management. If the Member has access to Those Charged with Governance, the Member shall also discuss the matter with them where appropriate.**

360.30 A1 The purpose of the discussion is to clarify the Member in Public Practice's understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also might prompt management or Those Charged with Governance to investigate the matter.

360.30 A2 The appropriate level of management with whom to discuss the matter is a question of professional judgement. Relevant factors to consider include:

- The nature and circumstances of the matter.
- The individuals actually or potentially involved.
- The likelihood of collusion.
- The potential consequences of the matter.
- Whether that level of management is able to investigate the matter and take appropriate action.

### *Communicating the Matter to the Entity's External Auditor*

**R360.31 If the Member in Public Practice is performing a non-audit service for:**

- (a) An Audit Client of the Firm; or**
- (b) A component of an Audit Client of the Firm,**

**the Member shall communicate the NOCLAR or suspected NOCLAR within the Firm, unless prohibited from doing so by law or regulation. The communication shall be made in accordance with the Firm's protocols or procedures. In the absence of such protocols and procedures, it shall be made directly to the Audit Engagement Partner.**

**R360.32 If the Member in Public Practice is performing a non-audit service for:**

- (a) An Audit Client of a Network Firm; or**
- (b) A component of an Audit Client of a Network Firm,**

**the Member shall consider whether to communicate the NOCLAR or suspected NOCLAR to the Network Firm. Where the communication is made, it shall be made in accordance with the Network's protocols or procedures. In the absence of such protocols and procedures, it shall be made directly to the Audit Engagement Partner.**

**R360.33 If the Member in Public Practice is performing a non-audit service for a client that is not:**

- (a) An Audit Client of the Firm or a Network Firm; or**
- (b) A component of an Audit Client of the Firm or a Network Firm,**

**the Member shall consider whether to communicate the NOCLAR or suspected NOCLAR to the Firm that is the client's external auditor, if any.**

#### Relevant Factors to Consider

**360.34 A1** Factors relevant to considering the communication in accordance with paragraphs R360.31 to R360.33 include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the NOCLAR or suspected NOCLAR.
- Whether the purpose of the engagement is to investigate potential NOCLAR within the entity to enable it to take appropriate action.
- Whether management or Those Charged with Governance have already informed the entity's external auditor about the matter.
- 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.

#### Purpose of Communication

**360.35 A1** In the circumstances addressed in paragraphs R360.31 to R360.33, the purpose of the communication is to enable the Audit Engagement Partner to be informed about the NOCLAR or suspected NOCLAR and to determine whether and, if so, how to address it in accordance with the provisions of this section.



*Considering Whether Further Action Is Needed*

**R360.36 The Member in Public Practice shall also consider whether further action is needed in the public interest.**

360.36 A1 Whether further action is needed, and the nature and extent of it, will depend on factors such as:

- The legal and regulatory framework.
- The appropriateness and timeliness of the response of management and, where applicable, Those Charged with Governance.
- The urgency of the situation.
- The involvement of management or Those Charged with Governance in the matter.
- The likelihood of substantial harm to the interests of the client, investors, creditors, employees or the general public.

360.36 A2 Further action by the Member in Public Practice might include:

- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Withdrawing from the engagement and the professional relationship where permitted by law or regulation.

360.36 A3 In considering whether to disclose to an appropriate authority, relevant factors to take into account include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the NOCLAR or suspected NOCLAR.
- Whether the purpose of the engagement is to investigate potential NOCLAR within the entity to enable it to take appropriate action.

**R360.37 If the Member in Public Practice determines that disclosure of the NOCLAR or suspected NOCLAR to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to paragraph R114.1(d) of the Code. When making such disclosure, the Member shall act in good faith and exercise caution when making statements and assertions. The Member shall also consider whether it is appropriate to inform the client of the Member's intentions before disclosing the matter.**

### *Imminent Breach*

**R360.38** In exceptional circumstances, the Member in Public Practice might become aware of actual or intended conduct that the Member has reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or Those Charged with Governance of the entity, the Member shall exercise professional judgement and determine whether to disclose the matter immediately to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach of law or regulation. If disclosure is made, that disclosure is permitted pursuant to paragraph R114.1(d) of the Code.

### *Seeking Advice*

360.39 A1 The Member in Public Practice might consider:

- Consulting internally.
- Obtaining legal advice to understand the professional or legal implications of taking any particular course of action.
- Consulting on a confidential basis with a regulatory or professional body.

### *Documentation*

360.40 A1 In relation to NOCLAR or suspected NOCLAR that falls within the scope of this section, the Member in Public Practice is encouraged to document:

- The matter.
- The results of discussion with management and, where applicable, Those Charged with Governance and other parties.
- How management and, where applicable, Those Charged with Governance have responded to the matter.
- The courses of action the Member considered, the judgements made and the decisions that were taken.
- How the Member is satisfied that the Member has fulfilled the responsibility set out in paragraph R360.36.

## **[AUST] PREFACE: PART 4A AND PART 4B**

### **PART 4A INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS AND PART 4B INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENTS**

Part 4A of this Code addresses Independence requirements for Audit and Review Engagements, which are Assurance Engagements where a Member in Public Practice expresses a conclusion on Historical Financial Information.

Part 4B of this Code addresses Independence requirements for Assurance Engagements that are not Audit or Review Engagements of Historical Financial Information.

The concept of Independence is fundamental to compliance with the principles of integrity and objectivity. This Code adopts a conceptual framework that requires the identification and evaluation of threats to Independence so that any threats created are eliminated or reduced to an Acceptable Level by the application of safeguards. However, there are some situations in which threats can only be addressed by declining or ending the specific Professional Activity. This is because the circumstances that created the threats cannot be eliminated and safeguards are not capable of being applied to reduce the threat to an Acceptable Level.

This approach contrasts with the rules adopted in legislation, which are often prescriptive in nature. Accordingly, Members and other readers of this Code should be aware that adherence to this Code does not ensure adherence to legislation and they must refer to such legislation to determine their legal obligations.

While this difference in approach makes precise comparisons to specific legislation difficult, such as the *Corporations Act 2001*, the underlying principles of integrity and objectivity are consistent with objective and impartial judgement, when both approaches are tested in the context of all relevant facts by a reasonable person. Where APESB is aware that there is a more stringent requirement in the *Corporations Act 2001* an appropriate footnote reference has been included for Members' and other readers' information. However, please note that not all applicable *Corporations Act 2001* requirements have been addressed and thus Members are referred to the *Corporations Act 2001* to determine their independence obligations when performing Audit and Review Engagements in accordance with the Act.

The statutory Independence of Auditors-General is provided for in legislation by the Parliament of each Australian jurisdiction in a number of ways. This includes defining the scope of an Auditor-General's mandate, the appointment and removal of an Auditor-General and the performance of his or her responsibilities. The requirements within this Code apply to Auditors-General and their senior officers who are delegated or authorised to sign assurance reports and are Members, to the extent that they do not conflict with applicable legislation.

With regard to the use of the words “material” and “materiality” in Parts 4A and 4B, it is not possible to provide a definition that covers all circumstances where either word is used. In assessing materiality, a Member in Public Practice or a Firm shall consider both the qualitative and quantitative aspects of the matter under consideration which might have, or be seen to have, an adverse effect on the objectivity of the Member or Firm.

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# INDEPENDENCE STANDARDS (PARTS 4A AND 4B)

## PART 4A – INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS

### SECTION 400

#### APPLYING THE CONCEPTUAL FRAMEWORK TO INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS

##### Introduction

###### General

- 400.1 It is in the public interest and required by the Code that Members in Public Practice be independent when performing Audit or Review Engagements.
- 400.2 This Part applies to both Audit and Review Engagements. The terms “audit,” “Audit Team,” “Audit Engagement,” “Audit Client,” and “audit report” apply equally to review, Review Team, Review Engagement, Review Client, and Review Engagement report.
- 400.3 In this Part, the term “Member” refers to individual Members in Public Practice and their Firms.
- 400.4 APES 320 *Quality Control for Firms* (APES 320) requires a Firm to establish policies and procedures designed to provide it with reasonable assurance that the Firm, its personnel and, where applicable, others subject to Independence requirements (including Network Firm personnel), maintain Independence where required by relevant ethics requirements. Auditing and Assurance Standards establish responsibilities for Engagement Partners and Engagement Teams at the level of the engagement for audits and reviews, respectively. The allocation of responsibilities within a Firm will depend on its size, structure and organisation. Many of the provisions of this Part do not prescribe the specific responsibility of individuals within the Firm for actions related to Independence, instead referring to “Firm” for ease of reference. Firms assign responsibility for a particular action to an individual or a group of individuals (such as an Audit Team), in accordance with APES 320. In addition, an individual Member in Public Practice remains responsible for compliance with any provisions that apply to that Member’s activities, interests or relationships.
- 400.5 Independence is linked to the principles of objectivity and integrity. It comprises:
- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism.
  - (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a Firm’s, or an Audit Team member’s, integrity, objectivity or professional scepticism has been compromised.

In this Part, references to an individual or Firm being “independent” mean that the individual or Firm has complied with the provisions of this Part.

400.6 When performing Audit Engagements, the Code requires Firms to comply with the fundamental principles and be independent. This Part sets out specific requirements and application material on how to apply the conceptual framework to maintain Independence when performing such engagements. The conceptual framework set out in Section 120 applies to Independence as it does to the fundamental principles set out in Section 110.

400.7 This Part describes:

- (a) Facts and circumstances, including Professional Activities, interests and relationships, that create or might create threats to Independence;
- (b) Potential actions, including safeguards, that might be appropriate to address any such threats; and
- (c) Some situations where the threats cannot be eliminated or there can be no safeguards to reduce them to an Acceptable Level.

### **Public Interest Entities**

400.8 Some of the requirements and application material set out in this Part reflect the extent of public interest in certain entities which are defined to be Public Interest Entities.

**AUST R400.8.1 Firms shall determine whether to treat additional entities, or certain categories of entities, as Public Interest Entities because they have a large number and wide range of stakeholders. Factors to be considered include:**

- **The nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders. Examples might include financial institutions, such as banks and insurance companies, and pension funds.**
- **Size.**
- **Number of employees.**

AUST 400.8.1 A.1 The following entities in Australia will generally satisfy the conditions in paragraph AUST 400.8.1 as having a large number and wide range of stakeholders and thus are likely to be classified as Public Interest Entities. In each instance Firms shall consider the nature of the business, its size and the number of its employees:

- Authorised deposit-taking institutions (ADIs) and authorised non-operating holding companies (NOHCs) regulated by the Australian Prudential Regulatory Authority (APRA)<sup>10</sup> under the *Banking Act 1959*;
- Authorised insurers and authorised NOHCs regulated by APRA<sup>11</sup> under Section 122 of the *Insurance Act 1973*;

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<sup>10</sup> Refer to the APRA *Prudential Standard CPS 510 Governance* for applicable regulatory requirements for audits of APRA-regulated entities.

<sup>11</sup> Refer to the APRA *Prudential Standard CPS 510 Governance* for applicable regulatory requirements for audits of APRA-regulated entities.

- Life insurance companies and registered NOHCs regulated by APRA<sup>12</sup> under the *Life Insurance Act 1995*;
- Private health insurers regulated by APRA<sup>13</sup> under the *Private Health Insurance (Prudential Supervision) Act 2015*;
- Disclosing entities as defined in Section 111AC of the *Corporations Act 2001*;
- Registrable superannuation entity (RSE) licensees, and RSEs under their trusteeship that have five or more members, regulated by APRA<sup>14</sup> under the *Superannuation Industry (Supervision) Act 1993*; and
- Other issuers of debt and equity instruments to the public.

### **Reports that Include a Restriction on Use and Distribution**

400.9 An audit report might include a restriction on use and distribution. If it does and the conditions set out in Section 800 are met, then the Independence requirements in this Part may be modified as provided in Section 800.

### **Assurance Engagements Other than Audit and Review Engagements**

400.10 Independence standards for Assurance Engagements that are not Audit or Review Engagements are set out in Part 4B – *Independence for Assurance Engagements Other than Audit and Review Engagements*.

## **Requirements and Application Material**

### **General**

**R400.11 A Firm performing an Audit Engagement shall be independent.**

**R400.12 A Firm shall apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence in relation to an Audit Engagement.**

**AUST R400.12.1 Where a Member in Public Practice identified multiple threats to Independence, which individually might not be significant, the Member shall evaluate the significance of those threats in aggregate and the safeguards applied or in place to eliminate some or all of the threats or reduce them to an Acceptable Level in aggregate.**

**[Paragraphs 400.13 to 400.19 are intentionally left blank]**

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<sup>12</sup> Refer to the APRA *Prudential Standard CPS 510 Governance* for applicable regulatory requirements for audits of APRA-regulated entities.

<sup>13</sup> Refer to the APRA *Prudential Standard HPS 510 Governance* for applicable regulatory requirements for audits of APRA-regulated entities.

<sup>14</sup> Refer to the APRA *Prudential Standard SPS 510 Governance* for applicable regulatory requirements for audits of APRA-regulated entities.



## Related Entities

**R400.20** As defined, an Audit Client that is a Listed Entity includes all of its Related Entities. For all other entities, references to an Audit Client in this Part include Related Entities over which the client has direct or indirect control. When the Audit Team knows, or has reason to believe, that a relationship or circumstance involving any other Related Entity of the client is relevant to the evaluation of the Firm's Independence from the client, the Audit Team shall include that Related Entity when identifying, evaluating and addressing threats to Independence.

[Paragraphs 400.21 to 400.29 are intentionally left blank]

## Period During which Independence is Required

**R400.30** Independence, as required by this Part, shall be maintained during both:

- (a) The Engagement Period; and
- (b) The period covered by the Financial Statements.

400.30 A1 The Engagement Period starts when the Audit Team begins to perform the audit. The Engagement Period ends when the audit report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has ended or the issuance of the final audit report.

**R400.31** If an entity becomes an Audit Client during or after the period covered by the Financial Statements on which the Firm will express an Opinion, the Firm shall determine whether any threats to Independence are created by:

- (a) Financial or business relationships with the Audit Client during or after the period covered by the Financial Statements but before accepting the Audit Engagement; or
- (b) Previous services provided to the Audit Client by the Firm or a Network Firm.

400.31 A1 Threats to Independence are created if a non-assurance service was provided to an Audit Client during, or after the period covered by the Financial Statements, but before the Audit Team begins to perform the audit, and the service would not be permitted during the Engagement Period.

400.31 A2 Examples of actions that might be safeguards to address such threats include:

- Using professionals who are not Audit Team members to perform the service.
- Having an appropriate reviewer review the audit and non-assurance work as appropriate.
- Engaging another Firm outside of the Network to evaluate the results of the non-assurance service or having another Firm outside of the Network re-perform the non-assurance service to the extent necessary to enable the other Firm to take responsibility for the service.

**[Paragraphs 400.32 to 400.39 are intentionally left blank]**

### **Communication with Those Charged with Governance**

400.40 A1 Paragraphs R300.9 and R300.10 set out requirements with respect to communicating with Those Charged with Governance.

400.40 A2 Even when not required by the Code, applicable professional standards, laws or regulations, regular communication is encouraged between a Firm and Those Charged with Governance of the client regarding relationships and other matters that might, in the Firm's opinion, reasonably bear on Independence. Such communication enables Those Charged with Governance to:

- (a) Consider the Firm's judgements in identifying and evaluating threats;
- (b) Consider how threats have been addressed including the appropriateness of safeguards when they are available and capable of being applied; and
- (c) Take appropriate action.

Such an approach can be particularly helpful with respect to intimidation and familiarity threats.

**[Paragraphs 400.41 to 400.49 are intentionally left blank]**

### **Network Firms**

400.50 A1 Firms frequently form larger structures with other Firms and entities to enhance their ability to provide Professional Services. Whether these larger structures create a Network depends on the particular facts and circumstances. It does not depend on whether the Firms and entities are legally separate and distinct.

**R400.51 A Network Firm shall be independent of the Audit Clients of the other Firms within the Network as required by this Part.**

400.51 A1 The Independence requirements in this Part that apply to a Network Firm apply to any entity that meets the definition of a Network Firm. It is not necessary for the entity also to meet the definition of a Firm. For example, a consulting practice or professional law practice might be a Network Firm but not a Firm.

**R400.52 When associated with a larger structure of other Firms and entities, a Firm shall:**

- (a) Exercise professional judgement to determine whether a Network is created by such a larger structure;**
- (b) Consider whether a reasonable and informed third party would be likely to conclude that the other Firms and entities in the larger structure are associated in such a way that a Network exists; and**
- (c) Apply such judgement consistently throughout such a larger structure.**

**R400.53** When determining whether a Network is created by a larger structure of Firms and other entities, a Firm shall conclude that a Network exists when such a larger structure is aimed at co-operation and:

- (a) It is clearly aimed at profit or cost sharing among the entities within the structure. (Ref: Para. 400.53 A2);
- (b) The entities within the structure share common ownership, control or management. (Ref: Para. 400.53 A3);
- (c) The entities within the structure share common quality control policies and procedures. (Ref: Para. 400.53 A4);
- (d) The entities within the structure share a common business strategy. (Ref: Para. 400.53 A5);
- (e) The entities within the structure share the use of a common brand name. (Ref: Para. 400.53 A6, 400.53 A7); or
- (f) The entities within the structure share a significant part of professional resources. (Ref: Para 400.53 A8, 400.53 A9).

400.53 A1 There might be other arrangements between Firms and entities within a larger structure that constitute a Network, in addition to those arrangements described in paragraph R400.53. However, a larger structure might be aimed only at facilitating the referral of work, which in itself does not meet the criteria necessary to constitute a Network.

400.53 A2 The sharing of immaterial costs does not in itself create a Network. In addition, if the sharing of costs is limited only to those costs related to the development of audit methodologies, manuals or training courses, this would not in itself create a Network. Further, an association between a Firm and an otherwise unrelated entity jointly to provide a service or develop a product does not in itself create a Network. (Ref: Para. R400.53(a)).

400.53 A3 Common ownership, control or management might be achieved by contract or other means. (Ref: Para. R400.53(b)).

400.53 A4 Common quality control policies and procedures are those designed, implemented and monitored across the larger structure. (Ref: Para. R400.53(c)).

400.53 A5 Sharing a common business strategy involves an agreement by the entities to achieve common strategic objectives. An entity is not a Network Firm merely because it co-operates with another entity solely to respond jointly to a request for a proposal for the provision of a Professional Service. (Ref: Para. R400.53(d)).

400.53 A6 A common brand name includes common initials or a common name. A Firm is using a common brand name if it includes, for example, the common brand name as part of, or along with, its Firm name when a partner of the Firm signs an audit report. (Ref: Para. R400.53(e)).

400.53 A7 Even if a Firm does not belong to a Network and does not use a common brand name as part of its Firm name, it might appear to belong to a Network if its stationery or promotional materials refer to the Firm being a member of an association of Firms. Accordingly, if care is not taken in how a Firm describes such membership, a perception might be created that the Firm belongs to a Network. (Ref: Para. R400.53(e)).

400.53 A8 Professional resources include:

- Common systems that enable Firms to exchange information such as client data, billing and time records.
- Partners and other personnel.
- Technical departments that consult on technical or industry specific issues, transactions or events for Assurance Engagements.
- Audit methodology or audit manuals.
- Training courses and facilities. (Ref: Para. R400.53(f)).

400.53 A9 Whether the shared professional resources are significant depends on the circumstances. For example:

- The shared resources might be limited to common audit methodology or audit manuals, with no exchange of personnel or client or market information. In such circumstances, it is unlikely that the shared resources would be significant. The same applies to a common training endeavour.
- The shared resources might involve the exchange of personnel or information, such as where personnel are drawn from a shared pool, or where a common technical department is created within the larger structure to provide participating Firms with technical advice that the Firms are required to follow. In such circumstances, a reasonable and informed third party is more likely to conclude that the shared resources are significant. (Ref: Para. R400.53(f)).

**R400.54 If a Firm or a Network sells a component of its practice, and the component continues to use all or part of the Firm's or Network's name for a limited time, the relevant entities shall determine how to disclose that they are not Network Firms when presenting themselves to outside parties.**

400.54 A1 The agreement for the sale of a component of a practice might provide that, for a limited period of time, the sold component can continue to use all or part of the name of the Firm or the Network, even though it is no longer connected to the Firm or the Network. In such circumstances, while the two entities might be practicing under a common name, the facts are such that they do not belong to a larger structure aimed at cooperation. The two entities are therefore not Network Firms.

**[Paragraphs 400.55 to 400.59 are intentionally left blank]**

## General Documentation of Independence for Audit and Review Engagements

**R400.60** A Firm shall document conclusions regarding compliance with this Part, and the substance of any relevant discussions that support those conclusions. In particular:

- (a) When safeguards are applied to address a threat, the Firm shall document the nature of the threat and the safeguards in place or applied; and
- (b) When a threat required significant analysis and the Firm concluded that the threat was already at an Acceptable Level, the Firm shall document the nature of the threat and the rationale for the conclusion.

400.60 A1 Documentation provides evidence of the Firm's judgements in forming conclusions regarding compliance with this Part. However, a lack of documentation does not determine whether a Firm considered a particular matter or whether the Firm is independent.

**[Paragraphs 400.61 to 400.69 are intentionally left blank]**

## Mergers and Acquisitions

### *When a Client Merger Creates a Threat*

400.70 A1 An entity might become a Related Entity of an Audit Client because of a merger or acquisition. A threat to Independence and, therefore, to the ability of a Firm to continue an Audit Engagement might be created by previous or current interests or relationships between a Firm or Network Firm and such a Related Entity.

**R400.71** In the circumstances set out in paragraph 400.70 A1,

- (a) The Firm shall identify and evaluate previous and current interests and relationships with the Related Entity that, taking into account any actions taken to address the threat, might affect its Independence and therefore its ability to continue the Audit Engagement after the effective date of the merger or acquisition; and
- (b) Subject to paragraph R400.72, the Firm shall take steps to end any interests or relationships that are not permitted by the Code by the effective date of the merger or acquisition.

**R400.72** As an exception to paragraph R400.71(b), if the interest or relationship cannot reasonably be ended by the effective date of the merger or acquisition, the Firm shall:

- (a) Evaluate the threat that is created by the interest or relationship; and
- (b) Discuss with Those Charged with Governance the reasons why the interest or relationship cannot reasonably be ended by the effective date and the evaluation of the level of the threat.

400.72 A1 In some circumstances, it might not be reasonably possible to end an interest or relationship creating a threat by the effective date of the merger or acquisition. This might be because the Firm provides a non-assurance service to the Related Entity, which the entity is not able to transition in an orderly manner to another provider by that date.

400.72 A2 Factors that are relevant in evaluating the level of a threat created by mergers and acquisitions when there are interests and relationships that cannot reasonably be ended include:

- The nature and significance of the interest or relationship.
- The nature and significance of the Related Entity relationship (for example, whether the Related Entity is a subsidiary or parent).
- The length of time until the interest or relationship can reasonably be ended.

**R400.73** If, following the discussion set out in paragraph R400.72(b), Those Charged with Governance request the Firm to continue as the auditor, the Firm shall do so only if:

- (a) The interest or relationship will be ended as soon as reasonably possible but no later than six months after the effective date of the merger or acquisition;
- (b) Any individual who has such an interest or relationship, including one that has arisen through performing a non-assurance service that would not be permitted by Section 600 and its subsections, will not be a member of the Engagement Team for the audit or the individual responsible for the Engagement Quality Control Review; and
- (c) Transitional measures will be applied, as necessary, and discussed with Those Charged with Governance.

400.73 A1 Examples of such transitional measures include:

- Having a Member in Public Practice review the audit or non-assurance work as appropriate.
- Having a Member in Public Practice, who is not a member of the Firm expressing the opinion on the Financial Statements, perform a review that is equivalent to an Engagement Quality Control Review.
- Engaging another Firm to evaluate the results of the non-assurance service or having another Firm re-perform the non-assurance service to the extent necessary to enable the other Firm to take responsibility for the service.

**R400.74** The Firm might have completed a significant amount of work on the audit prior to the effective date of the merger or acquisition and might be able to complete the remaining audit procedures within a short period of time. In such circumstances, if Those Charged with Governance request the Firm to complete the audit while continuing with an interest or relationship identified in paragraph 400.70 A1, the Firm shall only do so if it:

- (a) Has evaluated the level of the threat and discussed the results with Those Charged with Governance;
- (b) Complies with the requirements of paragraph R400.73(a) to (c); and
- (c) Ceases to be the auditor no later than the date that the audit report is issued.

*If Objectivity Remains Compromised*

**R400.75** Even if all the requirements of paragraphs R400.71 to R400.74 could be met, the Firm shall determine whether the circumstances identified in paragraph 400.70 A1 create a threat that cannot be addressed such that objectivity would be compromised. If so, the Firm shall cease to be the auditor.

*Documentation*

**R400.76** The Firm shall document:

- (a) Any interests or relationships identified in paragraph 400.70 A1 that will not be ended by the effective date of the merger or acquisition and the reasons why they will not be ended;
- (b) The transitional measures applied;
- (c) The results of the discussion with Those Charged with Governance; and
- (d) The reasons why the previous and current interests and relationships do not create a threat such that objectivity would be compromised.

[Paragraphs 400.77 to 400.79 are intentionally left blank.]

**Breach of an Independence Provision for Audit and Review Engagements**

*When a Firm Identifies a Breach*

**R400.80** If a Firm concludes that a breach of a requirement in this Part has occurred, the Firm shall:

- (a) End, suspend or eliminate the interest or relationship that created the breach and address the consequences of the breach;
- (b) Consider whether any legal or regulatory requirements apply to the breach and, if so:
  - (i) Comply with those requirements; and
  - (ii) Consider reporting the breach to a professional or regulatory body or oversight authority if such reporting is common practice or expected in the relevant jurisdiction<sup>15</sup>;
- (c) Promptly communicate the breach in accordance with its policies and procedures to:
  - (i) The Engagement Partner;

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<sup>15</sup> For example, there are auditor reporting obligations in the *Corporations Act 2001* which a Member in Public Practice must comply with. Further information on these requirements is set out in ASIC Regulatory Guide 34 *Auditors Obligations: Reporting to ASIC*.

- (ii) Those with responsibility for the policies and procedures relating to Independence;
  - (iii) Other relevant personnel in the Firm and, where appropriate, the Network; and
  - (iv) Those subject to the Independence requirements in Part 4A who need to take appropriate action;
- (d) Evaluate the significance of the breach and its impact on the Firm's objectivity and ability to issue an audit report; and
- (e) Depending on the significance of the breach, determine:
- (i) Whether to end the Audit Engagement; or
  - (ii) Whether it is possible to take action that satisfactorily addresses the consequences of the breach and whether such action can be taken and is appropriate in the circumstances.

**In making this determination, the Firm shall exercise professional judgement and take into account whether a reasonable and informed third party would be likely to conclude that the Firm's objectivity would be compromised, and therefore, the Firm would be unable to issue an audit report.**

400.80 A1 A breach of a provision of this Part might occur despite the Firm having policies and procedures designed to provide it with reasonable assurance that Independence is maintained. It might be necessary to end the Audit Engagement because of the breach.

400.80 A2 The significance and impact of a breach on the Firm's objectivity and ability to issue an audit report will depend on factors such as:

- The nature and duration of the breach.
- The number and nature of any previous breaches with respect to the current Audit Engagement.
- Whether an Audit Team member had knowledge of the interest or relationship that created the breach.
- Whether the individual who created the breach is an Audit Team member or another individual for whom there are Independence requirements.
- If the breach relates to an Audit Team member, the role of that individual.
- If the breach was created by providing a Professional Service, the impact of that service, if any, on the accounting records or the amounts recorded in the Financial Statements on which the Firm will express an Opinion.
- The extent of the self-interest, advocacy, intimidation or other threats created by the breach.

400.80 A3 Depending upon the significance of the breach, examples of actions that the Firm might consider to address the breach satisfactorily include:

- Removing the relevant individual from the Audit Team.



- Using different individuals to conduct an additional review of the affected audit work or to re-perform that work to the extent necessary.
- Recommending that the Audit Client engage another Firm to review or re-perform the affected audit work to the extent necessary.
- If the breach relates to a non-assurance service that affects the accounting records or an amount recorded in the Financial Statements, engaging another Firm to evaluate the results of the non-assurance service or having another Firm re-perform the non-assurance service to the extent necessary to enable the other Firm to take responsibility for the service.

**R400.81** If the Firm determines that action cannot be taken to address the consequences of the breach satisfactorily, the Firm shall inform Those Charged with Governance as soon as possible and take the steps necessary to end the Audit Engagement in compliance with any applicable legal or regulatory requirements. Where ending the engagement is not permitted by laws or regulations, the Firm shall comply with any reporting or disclosure requirements.

**R400.82** If the Firm determines that action can be taken to address the consequences of the breach satisfactorily, the Firm shall discuss with Those Charged with Governance:

- (a) The significance of the breach, including its nature and duration;
- (b) How the breach occurred and how it was identified;
- (c) The action proposed or taken and why the action will satisfactorily address the consequences of the breach and enable the Firm to issue an audit report;
- (d) The conclusion that, in the Firm's professional judgement, objectivity has not been compromised and the rationale for that conclusion; and
- (e) Any steps proposed or taken by the Firm to reduce or avoid the risk of further breaches occurring.

Such discussion shall take place as soon as possible unless an alternative timing is specified by Those Charged with Governance for reporting less significant breaches.

*Communication of Breaches to Those Charged with Governance*

400.83 A1 Paragraphs R300.9 and R300.10 set out requirements with respect to communicating with Those Charged with Governance.

**R400.84** With respect to breaches, the Firm shall communicate in writing to Those Charged with Governance:

- (a) All matters discussed in accordance with paragraph R400.82 and obtain the concurrence of Those Charged with Governance that action can be, or has been, taken to satisfactorily address the consequences of the breach; and
- (b) A description of:
  - (i) The Firm's policies and procedures relevant to the breach designed to provide it with reasonable assurance that Independence is maintained; and

- (ii) Any steps that the Firm has taken, or proposes to take, to reduce or avoid the risk of further breaches occurring.

**R400.85** If Those Charged with Governance do not concur that the action proposed by the Firm in accordance with paragraph R400.80(e)(ii) satisfactorily addresses the consequences of the breach, the Firm shall take the steps necessary to end the Audit Engagement in accordance with paragraph R400.81.

*Breaches Before the Previous Audit Report Was Issued*

**R400.86** If the breach occurred prior to the issuance of the previous audit report, the Firm shall comply with the provisions of Part 4A in evaluating the significance of the breach and its impact on the Firm's objectivity and its ability to issue an audit report in the current period.

**R400.87** The Firm shall also:

- (a) Consider the impact of the breach, if any, on the Firm's objectivity in relation to any previously issued audit reports, and the possibility of withdrawing such audit reports; and
- (b) Discuss the matter with Those Charged with Governance.

*Documentation*

**R400.88** In complying with the requirements in paragraphs R400.80 to R400.87, the Firm shall document:

- (a) The breach;
- (b) The actions taken;
- (c) The key decisions made;
- (d) All the matters discussed with Those Charged with Governance; and
- (e) Any discussions with a professional or regulatory body or oversight authority.

**R400.89** If the Firm continues with the Audit Engagement, it shall document:

- (a) The conclusion that, in the Firm's professional judgement, objectivity has not been compromised; and
- (b) The rationale for why the action taken satisfactorily addressed the consequences of the breach so that the Firm could issue an audit report.

## **SECTION 410**

### **FEES**

#### **Introduction**

- 410.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 410.2 The nature and level of fees or other types of remuneration might create a self-interest or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### **Requirements and Application Material**

##### **Fees – Relative Size**

###### *All Audit Clients*

- 410.3 A1 When the total fees generated from an Audit Client by the Firm expressing the audit opinion represent a large proportion of the total fees of that Firm, the dependence on that client and concern about losing the client create a self-interest or intimidation threat.
- 410.3 A2 Factors that are relevant in evaluating the level of such threats include:
- The operating structure of the Firm.
  - Whether the Firm is well established or new.
  - The significance of the client qualitatively and/or quantitatively to the Firm.
- 410.3 A3 An example of an action that might be a safeguard to address such a self-interest or intimidation threat is increasing the client base in the Firm to reduce dependence on the Audit Client.
- 410.3 A4 A self-interest or intimidation threat is also created when the fees generated by a Firm from an Audit Client represent a large proportion of the revenue of one partner or one Office of the Firm.
- 410.3 A5 Factors that are relevant in evaluating the level of such threats include:
- The significance of the client qualitatively and/or quantitatively to the partner or Office.
  - The extent to which the compensation of the partner, or the partners in the Office, is dependent upon the fees generated from the client.

410.3 A6 Examples of actions that might be safeguards to address such self-interest or intimidation threats include:

- Increasing the client base of the partner or the Office to reduce dependence on the Audit Client.
- Having an appropriate reviewer who did not take part in the Audit Engagement review the work.

**AUST R410.3.1** When the total fees in respect of multiple Audit Clients referred from one source represent a large proportion of the total fees of the Firm expressing the audit opinions, the Firm shall evaluate the significance of the threat and apply safeguards when necessary to eliminate the threat or reduce it to an Acceptable Level.

AUST 410.3.1 A1 Another party or Firm may refer multiple Audit Clients to a Firm. The dependence on that source and concern about losing those clients creates a self-interest or intimidation threat. Paragraph 410.3 A2 provides examples of factors that may affect the significance of the threat and paragraph 410.3 A6 lists potential safeguards that may be applied.

*Audit Clients that are Public Interest Entities*

**R410.4** Where an Audit Client is a Public Interest Entity and, for two consecutive years, the total fees from the client and its Related Entities represent more than 15% of the total fees received by the Firm expressing the opinion on the Financial Statements of the client, the Firm shall:

- (a) Disclose to Those Charged with Governance of the Audit Client the fact that the total of such fees represents more than 15% of the total fees received by the Firm; and
- (b) Discuss whether either of the following actions might be a safeguard to address the threat created by the total fees received by the Firm from the client, and if so, apply it:
  - (i) Prior to the audit opinion being issued on the second year's Financial Statements, a Member in Public Practice, who is not a member of the Firm expressing the opinion on the Financial Statements, performs an Engagement Quality Control Review of that engagement; or a Professional Body performs a review of that engagement that is equivalent to an Engagement Quality Control Review ("a pre-issuance review"); or
  - (ii) After the audit opinion on the second year's Financial Statements has been issued, and before the audit opinion being issued on the third year's Financial Statements, a Member in Public Practice, who is not a member of the Firm expressing the opinion on the Financial Statements, or a Professional Body performs a review of the second year's audit that is equivalent to an Engagement Quality Control Review ("a post-issuance review").

**R410.5** When the total fees described in paragraph R410.4 significantly exceed 15%, the Firm shall determine whether the level of the threat is such that a post-issuance review would not reduce the threat to an Acceptable Level. If so, the Firm shall have a pre-issuance review performed.

**R410.6** If the fees described in paragraph R410.4 continue to exceed 15%, the Firm shall each year:

- (a) Disclose to and discuss with Those Charged with Governance the matters set out in paragraph R410.4; and
- (b) Comply with paragraphs R410.4(b) and R410.5.

#### **Fees – Overdue**

410.7 A1 A self-interest threat might be created if a significant part of fees is not paid before the audit report for the following year is issued. It is generally expected that the Firm will require payment of such fees before such audit report is issued. The requirements and application material set out in Section 511 with respect to loans and guarantees might also apply to situations where such unpaid fees exist.

410.7 A2 Examples of actions that might be safeguards to address such a self-interest threat include:

- Obtaining partial payment of overdue fees.
- Having an appropriate reviewer who did not take part in the Audit Engagement review the work performed.

**R410.8** When a significant part of fees due from an Audit Client remains unpaid for a long time, the Firm shall determine:

- (a) Whether the overdue fees might be equivalent to a loan to the client; and
- (b) Whether it is appropriate for the Firm to be re-appointed or continue the Audit Engagement.

#### **Contingent Fees**

410.9 A1 Contingent Fees are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed. A Contingent Fee charged through an intermediary is an example of an indirect Contingent Fee. In this section, a fee is not regarded as being contingent if established by a court or other public authority.

**R410.10** A Firm shall not charge directly or indirectly a Contingent Fee for an Audit Engagement.

**R410.11 A Firm or Network Firm shall not charge directly or indirectly a Contingent Fee for a non-assurance service provided to an Audit Client, if:**

- (a) The fee is charged by the Firm expressing the opinion on the Financial Statements and the fee is material or expected to be material to that Firm;**
- (b) The fee is charged by a Network Firm that participates in a significant part of the audit and the fee is material or expected to be material to that Firm; or**
- (c) The outcome of the non-assurance service, and therefore the amount of the fee, is dependent on a future or contemporary judgement related to the audit of a material amount in the Financial Statements.**

410.12 A1 Paragraphs R410.10 and R410.11 preclude a Firm or a Network Firm from entering into certain Contingent Fee arrangements with an Audit Client. Even if a Contingent Fee arrangement is not precluded when providing a non-assurance service to an Audit Client, a self-interest threat might still be created.

410.12 A2 Factors that are relevant in evaluating the level of such a threat include:

- The range of possible fee amounts.
- Whether an appropriate authority determines the outcome on which the Contingent Fee depends.
- Disclosure to intended users of the work performed by the Firm and the basis of remuneration.
- The nature of the service.
- The effect of the event or transaction on the Financial Statements.

410.12 A3 Examples of actions that might be safeguards to address such a self-interest threat include:

- Having an appropriate reviewer who was not involved in performing the non-assurance service review the work performed by the Firm.
- Obtaining an advance written agreement with the client on the basis of remuneration.

## SECTION 411

### COMPENSATION AND EVALUATION POLICIES

#### Introduction

- 411.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 411.2 A Firm's evaluation or compensation policies might create a self-interest threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- 411.3 A1 When an Audit Team member for a particular Audit Client is evaluated on or compensated for selling non-assurance services to that Audit Client, the level of the self-interest threat will depend on:
- What proportion of the compensation or evaluation is based on the sale of such services;
  - The role of the individual on the Audit Team; and
  - Whether the sale of such non-assurance services influences promotion decisions.
- 411.3 A2 Examples of actions that might eliminate such a self-interest threat include:
- Revising the compensation plan or evaluation process for that individual.
  - Removing that individual from the Audit Team.
- 411.3 A3 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review the work of the Audit Team member.
- R411.4 A Firm shall not evaluate or compensate a Key Audit Partner based on that partner's success in selling non-assurance services to the partner's Audit Client. This requirement does not preclude normal profit-sharing arrangements between partners of a Firm.**

## **SECTION 420**

### **GIFTS AND HOSPITALITY**

[Reserved for Section 420 which forms part of the Inducements project.]



## **SECTION 430**

### **ACTUAL OR THREATENED LITIGATION**

#### **Introduction**

- 430.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 430.2 When litigation with an Audit Client occurs, or appears likely, self-interest and intimidation threats are created. This section sets out specific application material relevant to applying the conceptual framework in such circumstances.

#### **Application Material**

##### **General**

- 430.3 A1 The relationship between client management and Audit Team members must be characterised by complete candour and full disclosure regarding all aspects of a client's operations. Adversarial positions might result from actual or threatened litigation between an Audit Client and the Firm, a Network Firm or an Audit Team member. Such adversarial positions might affect management's willingness to make complete disclosures and create self-interest and intimidation threats.
- 430.3 A2 Factors that are relevant in evaluating the level of such threats include:
- The materiality of the litigation.
  - Whether the litigation relates to a prior Audit Engagement.
- 430.3 A3 If the litigation involves an Audit Team member, an example of an action that might eliminate such self-interest and intimidation threats is removing that individual from the Audit Team.
- 430.3 A4 An example of an action that might be a safeguard to address such self-interest and intimidation threats is to have an appropriate reviewer review the work performed.

## SECTION 510

### FINANCIAL INTERESTS

#### Introduction

- 510.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 510.2 Holding a Financial Interest in an Audit Client might create a self-interest threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- 510.3 A1 A Financial Interest might be held directly or indirectly through an intermediary such as a collective investment vehicle, an estate or a trust. When a beneficial owner has control over the intermediary or ability to influence its investment decisions, the Code defines that Financial Interest to be direct. Conversely, when a beneficial owner has no control over the intermediary or ability to influence its investment decisions, the Code defines that Financial Interest to be indirect.
- 510.3 A2 This section contains references to the “materiality” of a Financial Interest. In determining whether such an interest is material to an individual, the combined net worth of the individual and the individual’s Immediate Family members may be taken into account.
- 510.3 A3 Factors that are relevant in evaluating the level of a self-interest threat created by holding a Financial Interest in an Audit Client include:
- The role of the individual holding the Financial Interest.
  - Whether the Financial Interest is direct or indirect.
  - The materiality of the Financial Interest.

##### Financial Interests Held by the Firm, a Network Firm, Audit Team Members and Others

- R510.4 Subject to paragraph R510.5, a Direct Financial Interest or a material Indirect Financial Interest in the Audit Client shall not be held by:**
- (a) The Firm or a Network Firm;**
  - (b) An Audit Team member, or any of that individual’s Immediate Family;**
  - (c) Any other partner in the Office in which an Engagement Partner practices in connection with the Audit Engagement, or any of that other partner’s Immediate Family; or**

- (d) **Any other partner or managerial employee who provides non-audit services to the Audit Client, except for any whose involvement is minimal, or any of that individual's Immediate Family.**

510.4 A1 The Office in which the Engagement Partner practices in connection with an Audit Engagement is not necessarily the Office to which that partner is assigned. When the Engagement Partner is located in a different Office from that of the other Audit Team members, professional judgement is needed to determine the Office in which the partner practices in connection with the engagement.

**R510.5 As an exception to paragraph R510.4, an Immediate Family member identified in subparagraphs R510.4(c) or (d) may hold a Direct or material Indirect Financial Interest in an Audit Client, provided that:**

- (a) **The family member received the Financial Interest because of employment rights, for example through pension or share option plans, and, when necessary, the Firm addresses the threat created by the Financial Interest; and**
- (b) **The family member disposes of, or forfeits, the Financial Interest as soon as practicable when the family member has or obtains the right to do so, or in the case of a stock option, when the family member obtains the right to exercise the option.**

#### **Financial Interests in an Entity Controlling an Audit Client**

**R510.6 When an entity has a controlling interest in an Audit Client and the client is material to the entity, neither the Firm, nor a Network Firm, nor an Audit Team member, nor any of that individual's Immediate Family shall hold a Direct or material Indirect Financial Interest in that entity.**

#### **Financial Interests Held as Trustee**

**R510.7 Paragraph R510.4 shall also apply to a Financial Interest in an Audit Client held in a trust for which the Firm, Network Firm or individual acts as trustee, unless:**

- (a) **None of the following is a beneficiary of the trust: the trustee, the Audit Team member or any of that individual's Immediate Family, the Firm or a Network Firm;**
- (b) **The interest in the Audit Client held by the trust is not material to the trust;**
- (c) **The trust is not able to exercise significant influence over the Audit Client; and**
- (d) **None of the following can significantly influence any investment decision involving a Financial Interest in the Audit Client: the trustee, the Audit Team member or any of that individual's Immediate Family, the Firm or a Network Firm.**

## Financial Interests in Common with the Audit Client

- R510.8**
- (a)** A Firm, or a Network Firm, or an Audit Team member, or any of that individual's Immediate Family shall not hold a Financial Interest in an entity when an Audit Client also has a Financial Interest in that entity, unless:
    - (i)** The Financial Interests are immaterial to the Firm, the Network Firm, the Audit Team member and that individual's Immediate Family member and the Audit Client, as applicable; or
    - (ii)** The Audit Client cannot exercise significant influence over the entity.
  - (b)** Before an individual who has a Financial Interest described in paragraph R510.8(a) can become an Audit Team member, the individual or that individual's Immediate Family member shall either:
    - (i)** Dispose of the interest; or
    - (ii)** Dispose of enough of the interest so that the remaining interest is no longer material.

## Financial Interests Received Unintentionally

- R510.9** If a Firm, a Network Firm or a partner or employee of the Firm or a Network Firm, or any of that individual's Immediate Family, receives a Direct Financial Interest or a material Indirect Financial Interest in an Audit Client by way of an inheritance, gift, as a result of a merger or in similar circumstances and the interest would not otherwise be permitted to be held under this section, then:
- (a)** If the interest is received by the Firm or a Network Firm, or an Audit Team member or any of that individual's Immediate Family, the Financial Interest shall be disposed of immediately, or enough of an Indirect Financial Interest shall be disposed of so that the remaining interest is no longer material; or
  - (b)**
    - (i)** If the interest is received by an individual who is not an Audit Team member, or by any of that individual's Immediate Family, the Financial Interest shall be disposed of as soon as possible, or enough of an Indirect Financial Interest shall be disposed of so that the remaining interest is no longer material; and
    - (ii)** Pending the disposal of the Financial Interest, when necessary the Firm shall address the threat created.

## Financial Interests – Other Circumstances

### *Immediate Family*

- 510.10 A1** A self-interest, familiarity, or intimidation threat might be created if an Audit Team member, or any of that individual's Immediate Family, or the Firm or a Network Firm has a Financial Interest in an entity when a Director or Officer or controlling owner of the Audit Client is also known to have a Financial Interest in that entity.

510.10 A2 Factors that are relevant in evaluating the level of such threats include:

- The role of the individual on the Audit Team.
- Whether ownership of the entity is closely or widely held.
- Whether the interest allows the investor to control or significantly influence the entity.
- The materiality of the Financial Interest.

510.10 A3 An example of an action that might eliminate such a self-interest, familiarity, or intimidation threat is removing the Audit Team member with the Financial Interest from the Audit Team.

510.10 A4 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review the work of the Audit Team member.

#### *Close Family*

510.10 A5 A self-interest threat might be created if an Audit Team member knows that a Close Family member has a Direct Financial Interest or a material Indirect Financial Interest in the Audit Client.

510.10 A6 Factors that are relevant in evaluating the level of such a threat include:

- The nature of the relationship between the Audit Team member and the Close Family member.
- Whether the Financial Interest is direct or indirect.
- The materiality of the Financial Interest to the Close Family member.

510.10 A7 Examples of actions that might eliminate such a self-interest threat include:

- Having the Close Family member dispose, as soon as practicable, of all of the Financial Interest or dispose of enough of an Indirect Financial Interest so that the remaining interest is no longer material.
- Removing the individual from the Audit Team.

510.10 A8 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review the work of the Audit Team member.

#### *Other Individuals*

510.10 A9 A self-interest threat might be created if an Audit Team member knows that a Financial Interest in the Audit Client is held by individuals such as:

- Partners and professional employees of the Firm or Network Firm, apart from those who are specifically not permitted to hold such Financial Interests by paragraph R510.4, or their Immediate Family members.
- Individuals with a close personal relationship with an Audit Team member.

510.10 A10 Factors that are relevant in evaluating the level of such a threat include:

- The Firm's organisational, operating and reporting structure.
- The nature of the relationship between the individual and the Audit Team member.

510.10 A11 An example of an action that might eliminate such a self-interest threat is removing the Audit Team member with the personal relationship from the Audit Team.

510.10 A12 Examples of actions that might be safeguards to address such a self-interest threat include:

- Excluding the Audit Team member from any significant decision-making concerning the Audit Engagement.
- Having an appropriate reviewer review the work of the Audit Team member.

*Retirement Benefit Plan of a Firm or Network Firm*

510.10 A13 A self-interest threat might be created if a retirement benefit plan of a Firm or a Network Firm holds a Direct or material Indirect Financial Interest in an Audit Client.<sup>16</sup>

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<sup>16</sup> Refer to s324CH(1) Items 10-12 of the *Corporations Act 2001* which prohibits this arrangement in respects of audits performed in accordance with the Act.

## SECTION 511

### LOANS AND GUARANTEES

#### Introduction

- 511.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 511.2 A loan or a guarantee of a loan with an Audit Client might create a self-interest threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- 511.3 A1 This section contains references to the “materiality” of a loan or guarantee. In determining whether such a loan or guarantee is material to an individual, the combined net worth of the individual and the individual’s Immediate Family members may be taken into account.

##### Loans and Guarantees with an Audit Client

- R511.4 A Firm, a Network Firm, an Audit Team member, or any of that individual’s Immediate Family shall not make or guarantee a loan to an Audit Client unless the loan or guarantee is immaterial to:**
- (a) The Firm, the Network Firm or the individual making the loan or guarantee, as applicable; and
  - (b) The client.<sup>17</sup>

##### Loans and Guarantees with an Audit Client that is a Bank or Similar Institution

- R511.5 A Firm, a Network Firm, an Audit Team member, or any of that individual’s Immediate Family shall not accept a loan, or a guarantee of a loan, from an Audit Client that is a bank or a similar institution unless the loan or guarantee is made under normal lending procedures, terms and conditions.**
- 511.5 A1 Examples of loans include mortgages, bank overdrafts, car loans, and credit card balances.
- 511.5 A2 Even if a Firm or Network Firm receives a loan from an Audit Client that is a bank or similar institution under normal lending procedures, terms and conditions, the loan might create a self-interest threat if it is material to the Audit Client or Firm receiving the loan.

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<sup>17</sup> Refer to s324CH(1) Items 15,16, 17 & 19 of the *Corporations Act 2001* which prohibits making or guaranteeing loans irrespective of materiality for audits performed in accordance with the Act.

511.5 A3 An example of an action that might be a safeguard to address such a self-interest threat is having the work reviewed by an appropriate reviewer, who is not an Audit Team member, from a Network Firm that is not a beneficiary of the loan.

*Deposits or Brokerage Accounts*

**R511.6 A Firm, a Network Firm, an Audit Team member, or any of that individual's Immediate Family shall not have deposits or a brokerage account with an Audit Client that is a bank, broker or similar institution, unless the deposit or account is held under normal commercial terms.**

**Loans and Guarantees with an Audit Client that is Not a Bank or Similar Institution**

**R511.7 A Firm, a Network Firm, an Audit Team member, or any of that individual's Immediate Family shall not accept a loan from, or have a borrowing guaranteed by, an Audit Client that is not a bank or similar institution, unless the loan or guarantee is immaterial to:**

- (a) The Firm, the Network Firm, or the individual receiving the loan or guarantee, as applicable; and**
- (b) The client.**



## SECTION 520

### BUSINESS RELATIONSHIPS

#### Introduction

- 520.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 520.2 A close business relationship with an Audit Client or its management might create a self-interest or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- 520.3 A1 This section contains references to the “materiality” of a Financial Interest and the “significance” of a business relationship. In determining whether such a Financial Interest is material to an individual, the combined net worth of the individual and the individual’s Immediate Family members may be taken into account.
- 520.3 A2 Examples of a close business relationship arising from a commercial relationship or common Financial Interest include:
- Having a Financial Interest in a joint venture with either the client or a controlling owner, Director or Officer or other individual who performs senior managerial activities for that client.
  - Arrangements to combine one or more services or products of the Firm or a Network Firm with one or more services or products of the client and to market the package with reference to both parties.
  - Distribution or marketing arrangements under which the Firm or a Network Firm distributes or markets the client’s products or services, or the client distributes or markets the Firm or a Network Firm’s products or services.

##### Firm, Network Firm, Audit Team Member or Immediate Family Business Relationships

- R520.4 A Firm, a Network Firm or an Audit Team member shall not have a close business relationship<sup>18</sup> with an Audit Client or its management unless any Financial Interest is immaterial and the business relationship is insignificant to the client or its management and the Firm, the Network Firm or the Audit Team member, as applicable.**

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<sup>18</sup> Refer to s324CH(1) of the *Corporations Act 2001* which prohibits certain relationships between a person or the Firm and the corporate Audit Client irrespective of materiality or the significance of the relationship or Financial Interest.

520.4 A1 A self-interest or intimidation threat might be created if there is a close business relationship between the Audit Client or its management and the Immediate Family of an Audit Team member.

#### **Common Interests in Closely-Held Entities**

**R520.5 A Firm, a Network Firm, an Audit Team member, or any of that individual's Immediate Family shall not have a business relationship<sup>19</sup> involving the holding of an interest in a closely-held entity when an Audit Client or a Director or Officer of the client, or any group thereof, also holds an interest in that entity, unless:**

- (a) The business relationship is insignificant to the Firm, the Network Firm, or the individual as applicable, and the client;**
- (b) The Financial Interest is immaterial to the investor or group of investors; and**
- (c) The Financial Interest does not give the investor, or group of investors, the ability to control the closely-held entity.**

#### **Buying Goods or Services**

520.6 A1 The purchase of goods and services from an Audit Client by a Firm, a Network Firm, an Audit Team member, or any of that individual's Immediate Family does not usually create a threat to Independence if the transaction is in the normal course of business and at arm's length. However, such transactions might be of such a nature and magnitude that they create a self-interest threat.

520.6 A2 Examples of actions that might eliminate such a self-interest threat include:

- Eliminating or reducing the magnitude of the transaction.
- Removing the individual from the Audit Team.

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<sup>19</sup> Refer to s 324CH(1) of the *Corporations Act 2001* which prohibits certain relationships between a person or the Firm and the corporate Audit Client irrespective of materiality or the significance of the relationships or Financial Interest.

## **SECTION 521**

### **FAMILY AND PERSONAL RELATIONSHIPS**

#### **Introduction**

521.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.

521.2 Family or personal relationships with client personnel might create a self-interest, familiarity or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### **Requirements and Application Material**

##### **General**

521.3 A1 A self-interest, familiarity or intimidation threat might be created by family and personal relationships between an Audit Team member and a Director or Officer or, depending on their role, certain employees of the Audit Client.

521.3 A2 Factors that are relevant in evaluating the level of such threats include:

- The individual's responsibilities on the Audit Team.
- The role of the family member or other individual within the client, and the closeness of the relationship.

##### **Immediate Family of an Audit Team Member**

521.4 A1 A self-interest, familiarity or intimidation threat is created when an Immediate Family member of an Audit Team member is an employee in a position to exert significant influence over the client's financial position, financial performance or cash flows.

521.4 A2 Factors that are relevant in evaluating the level of such threats include:

- The position held by the Immediate Family member.
- The role of the Audit Team member.

521.4 A3 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the Audit Team.

521.4 A4 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the Audit Team so that the Audit Team member does not deal with matters that are within the responsibility of the Immediate Family member.

**R521.5 An individual shall not participate as an Audit Team member when any of that individual's Immediate Family:**

- (a) Is a Director or Officer of the Audit Client;**
- (b) Is an employee in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion; or**
- (c) Was in such position during any period covered by the engagement or the Financial Statements.**

#### **Close Family of an Audit Team Member**

521.6 A1 A self-interest, familiarity or intimidation threat is created when a Close Family member of an Audit Team member is:

- (a) A Director or Officer of the Audit Client; or
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion.

521.6 A2 Factors that are relevant in evaluating the level of such threats include:

- The nature of the relationship between the Audit Team member and the Close Family member.
- The position held by the Close Family member.
- The role of the Audit Team member.

521.6 A3 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the Audit Team.

521.6 A4 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the Audit Team so that the Audit Team member does not deal with matters that are within the responsibility of the Close Family member.

#### **Other Close Relationships of an Audit Team Member**

**R521.7 An Audit Team member shall consult in accordance with Firm policies and procedures if the Audit Team member has a close relationship with an individual who is not an Immediate or Close Family member, but who is:**

- (a) A Director or Officer of the Audit Client; or**
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion.**

- 521.7 A1 Factors that are relevant in evaluating the level of a self-interest, familiarity or intimidation threat created by such a relationship include:
- The nature of the relationship between the individual and the Audit Team member.
  - The position the individual holds with the client.
  - The role of the Audit Team member.
- 521.7 A2 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the Audit Team.
- 521.7 A3 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the Audit Team so that the Audit Team member does not deal with matters that are within the responsibility of the individual with whom the Audit Team member has a close relationship.

### **Relationships of Partners and Employees of the Firm**

- R521.8 Partners and employees of the Firm shall consult in accordance with Firm policies and procedures if they are aware of a personal or family relationship between:**
- (a) A partner or employee of the Firm or Network Firm who is not an Audit Team member; and**
  - (b) A Director or Officer of the Audit Client or an employee of the Audit Client in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion.**
- 521.8 A1 Factors that are relevant in evaluating the level of a self-interest, familiarity or intimidation threat created by such a relationship include:
- The nature of the relationship between the partner or employee of the Firm and the Director or Officer or employee of the client.
  - The degree of interaction of the partner or employee of the Firm with the Audit Team.
  - The position of the partner or employee within the Firm.
  - The position the individual holds with the client.
- 521.8 A2 Examples of actions that might be safeguards to address such self-interest, familiarity or intimidation threats include:
- Structuring the partner's or employee's responsibilities to reduce any potential influence over the Audit Engagement.
  - Having an appropriate reviewer review the relevant audit work performed.

## SECTION 522

### RECENT SERVICE WITH AN AUDIT CLIENT

#### Introduction

- 522.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 522.2 If an Audit Team member has recently served as a Director or Officer, or employee of the Audit Client, a self-interest, self-review or familiarity threat might be created. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### Service During Period Covered by the Audit Report

- R522.3 The Audit Team shall not include an individual who, during the period covered by the audit report:**
- (a) Had served as a Director or Officer of the Audit Client; or**
  - (b) Was an employee in a position to exert significant influence<sup>20</sup> over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion.**

##### Service Prior to Period Covered by the Audit Report

- 522.4 A1 A self-interest, self-review or familiarity threat might be created if, before the period covered by the audit report, an Audit Team member:
- (a) Had served as a Director or Officer of the Audit Client; or
  - (b) Was an employee in a position to exert significant influence over the preparation of the client's accounting records or Financial Statements on which the Firm will express an Opinion.<sup>21</sup>

For example, a threat would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current Audit Engagement.

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<sup>20</sup> Refer to s9 of the *Corporations Act 2001* for the definition for 'Audit-critical employee'.

<sup>21</sup> Refer to s324CH(1) Items 8 & 9 and s324CF(5) Items 3,4,5 & 9 of the *Corporations Act 2001* regarding cooling-off period of 12 months immediately preceding the beginning of the audited period for a corporate Audit Client.

522.4 A2 Factors that are relevant in evaluating the level of such threats include:

- The position the individual held with the client.
- The length of time since the individual left the client.
- The role of the Audit Team member.

522.4 A3 An example of an action that might be a safeguard to address such a self-interest, self-review or familiarity threat is having an appropriate reviewer review the work performed by the Audit Team member.

## SECTION 523

### SERVING AS A DIRECTOR OR OFFICER OF AN AUDIT CLIENT

#### Introduction

- 523.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 523.2 Serving as a Director or Officer of an Audit Client creates self-review and self-interest threats. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### Service as Director or Officer

- R523.3 A partner or employee of the Firm or a Network Firm shall not serve as a Director or Officer of an Audit Client of the Firm.<sup>22</sup>**
- AUST R523.3.1 A Firm shall refuse to perform, or shall withdraw from, the Audit Engagement if a partner or employee of the Firm were to serve as an Officer (including management of an Administration) or as a Director of an Audit Client, or as an employee in a position to exert direct and significant influence over the subject matter of the Audit Engagement.**

##### Service as Company Secretary

- R523.4 A partner or employee of the Firm or a Network Firm shall not serve as company secretary for an Audit Client of the Firm, unless:**
- (a) This practice is specifically permitted under local law, professional rules or practice;**
  - (b) Management makes all relevant decisions; and**
  - (c) The duties and activities performed are limited to those of a routine and administrative nature, such as preparing minutes and maintaining statutory returns.**
- 523.4 A1 The position of company secretary has different implications in different jurisdictions. Duties might range from: administrative duties (such as personnel management and the maintenance of company records and registers) to duties as diverse as ensuring that the company complies with regulations or providing advice on corporate governance matters. Usually this position is seen to imply a close association with the entity. Therefore, a threat is created if a partner or employee of the Firm or a Network Firm serves as company secretary

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<sup>22</sup> Refer to s324CI of the *Corporations Act 2001* regarding prohibitions on partners or employees serving as a Director or Officer of a corporate Audit Client.



for an Audit Client. (More information on providing non-assurance services to an Audit Client is set out in Section 600, *Provision of Non-assurance Services to an Audit Client*.)

**AUST R523.5**      **As the company secretary of a company incorporated in Australia is an Officer under the *Corporations Act 2001*, no partner or employee of a Firm shall act in the position of company secretary of an Audit Client. If an individual were to accept such a position the Firm shall comply with the requirements of AUST R523.3.1.**

## SECTION 524

### EMPLOYMENT WITH AN AUDIT CLIENT

#### Introduction

- 524.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 524.2 Employment relationships with an Audit Client might create a self-interest, familiarity or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### All Audit Clients

- 524.3 A1 A familiarity or intimidation threat might be created if any of the following individuals have been an Audit Team member or partner of the Firm or a Network Firm:
- A Director or Officer of the Audit Client<sup>23</sup>.
  - An employee in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion.

##### *Former Partner or Audit Team Member Restrictions*

- R524.4 The Firm shall ensure that no significant connection remains between the Firm or a Network Firm and:**
- (a) A former partner<sup>24</sup> who has joined an Audit Client of the Firm; or**
- (b) A former Audit Team member who has joined the Audit Client,**
- if either has joined the Audit Client as:**
- (i) A Director or Officer; or**
- (ii) An employee in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion.**

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<sup>23</sup> Refer to s324CI of the *Corporations Act 2001* regarding prohibitions on partners or employees serving as a Director or Officer of a corporate Audit Client.

<sup>24</sup> Refer to s324CK of the *Corporations Act 2001* regarding the 5 year cooling-off period before a former audit Engagement Partner can be appointed as an Officer or Director of a corporate Audit Client in circumstances where another former partner of the Firm is already an Officer or Director of the corporate Audit Client.

**A significant connection remains between the Firm or a Network Firm and the individual, unless:**

- (a) The individual is not entitled to any benefits or payments from the Firm or Network Firm that are not made in accordance with fixed pre-determined arrangements;**
- (b) Any amount owed to the individual is not material to the Firm or the Network Firm; and**
- (c) The individual does not continue to participate or appear to participate in the Firm's or the Network Firm's business or Professional Activities.**

524.4 A1 Even if the requirements of paragraph R524.4 are met, a familiarity or intimidation threat might still be created.

524.4 A2 A familiarity or intimidation threat might also be created if a former partner of the Firm or Network Firm has joined an entity in one of the positions described in paragraph 524.3 A1 and the entity subsequently becomes an Audit Client of the Firm.

524.4 A3 Factors that are relevant in evaluating the level of such threats include:

- The position the individual has taken at the client.
- Any involvement the individual will have with the Audit Team.
- The length of time since the individual was an Audit Team member or partner of the Firm or Network Firm.
- The former position of the individual within the Audit Team, Firm or Network Firm. An example is whether the individual was responsible for maintaining regular contact with the client's management or Those Charged with Governance.

524.4 A4 Examples of actions that might be safeguards to address such familiarity or intimidation threats include:

- Modifying the audit plan.
- Assigning to the Audit Team individuals who have sufficient experience relative to the individual who has joined the client.
- Having an appropriate reviewer review the work of the former Audit Team member.

*Audit Team Members Entering Employment with a Client*

**R524.5 A Firm or Network Firm shall have policies and procedures that require Audit Team members to notify the Firm or Network Firm when entering employment negotiations with an Audit Client.**

524.5 A1 A self-interest threat is created when an Audit Team member participates in the Audit Engagement while knowing that the Audit Team member will, or might, join the client at some time in the future.

524.5 A2 An example of an action that might eliminate such a self-interest threat is removing the individual from the Audit Team.

524.5 A3 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review any significant judgements made by that individual while on the team.

*Audit Clients that are Public Interest Entities*

Key Audit Partners

**R524.6 Subject to paragraph R524.8, if an individual who was a Key Audit Partner with respect to an Audit Client that is a Public Interest Entity joins the client as:**

- (a) A Director or Officer; or**
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion,**

**Independence is compromised unless, subsequent to the individual ceasing to be a Key Audit Partner:**

- (i) The Audit Client has issued audited Financial Statements covering a period of not less than twelve months; and**
- (ii) The individual was not an Audit Team member with respect to the audit of those Financial Statements.<sup>25</sup>**

Senior or Managing Partner (Chief Executive or Equivalent) of the Firm

**R524.7 Subject to paragraph R524.8, if an individual who was the senior or managing partner (chief executive or equivalent) of the Firm joins an Audit Client that is a Public Interest Entity as:**

- (a) A Director or Officer; or**
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion,**

**Independence is compromised, unless twelve months have passed since the individual was the senior or managing partner (chief executive or equivalent) of the Firm.<sup>26</sup>**

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<sup>25</sup> Refer to s324CI of the *Corporations Act 2001* for additional prohibitions on former audit partners joining corporate Audit Clients.

<sup>26</sup> Refer to s324CI of the *Corporations Act 2001* for additional prohibitions on former audit partners joining corporate Audit Clients.

Business Combinations

**R524.8** As an exception to paragraphs R524.6 and R524.7, Independence is not compromised if the circumstances set out in those paragraphs arise as a result of a business combination and:

- (a) The position was not taken in contemplation of the business combination;
- (b) Any benefits or payments due to the former partner from the Firm or a Network Firm have been settled in full, unless made in accordance with fixed pre-determined arrangements and any amount owed to the partner is not material to the Firm or Network Firm as applicable;
- (c) The former partner does not continue to participate or appear to participate in the Firm's or Network Firm's business or Professional Activities; and
- (d) The Firm discusses the former partner's position held with the Audit Client with Those Charged with Governance.

## SECTION 525

### TEMPORARY PERSONNEL ASSIGNMENTS

#### Introduction

525.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.

525.2 The loan of personnel to an Audit Client might create a self-review, advocacy or familiarity threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

525.3 A1 Examples of actions that might be safeguards to address threats created by the loan of personnel by a Firm or a Network Firm to an Audit Client include:

- Conducting an additional review of the work performed by the loaned personnel might address a self-review threat.
- Not including the loaned personnel as an Audit Team member might address a familiarity or advocacy threat.
- Not giving the loaned personnel audit responsibility for any function or activity that the personnel performed during the loaned personnel assignment might address a self-review threat.

525.3 A2 When familiarity and advocacy threats are created by the loan of personnel by a Firm or a Network Firm to an Audit Client, such that the Firm or the Network Firm becomes too closely aligned with the views and interests of management, safeguards are often not available.

**R525.4 A Firm or Network Firm shall not loan personnel to an Audit Client unless:**

- (a) Such assistance is provided only for a short period of time;**
- (b) The personnel are not involved in providing non-assurance services that would not be permitted under Section 600 and its subsections; and**
- (c) The personnel do not assume management responsibilities and the Audit Client is responsible for directing and supervising the activities of the personnel.**

## SECTION 540

### LONG ASSOCIATION OF PERSONNEL (INCLUDING PARTNER ROTATION) WITH AN AUDIT CLIENT

#### Introduction

- 540.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 540.2 When an individual is involved in an Audit Engagement over a long period of time, familiarity and self-interest threats might be created. This section sets out requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### All Audit Clients

- 540.3 A1 Although an understanding of an Audit Client and its environment is fundamental to audit quality, a familiarity threat might be created as a result of an individual's long association as an Audit Team member with:
- (a) The Audit Client and its operations;
  - (b) The Audit Client's senior management; or
  - (c) The Financial Statements on which the Firm will express an Opinion or the financial information which forms the basis of the Financial Statements.
- 540.3 A2 A self-interest threat might be created as a result of an individual's concern about losing a long standing client or an interest in maintaining a close personal relationship with a member of senior management or Those Charged with Governance. Such a threat might influence the individual's judgement inappropriately.
- 540.3 A3 Factors that are relevant to evaluating the level of such familiarity or self-interest threats include:
- (a) In relation to the individual:
    - The overall length of the individual's relationship with the client, including if such relationship existed while the individual was at a prior Firm.
    - How long the individual has been an Engagement Team member, and the nature of the roles performed.
    - The extent to which the work of the individual is directed, reviewed and supervised by more senior personnel.
    - The extent to which the individual, due to the individual's seniority, has the ability to influence the outcome of the audit, for example, by making key decisions or directing the work of other Engagement Team members.

- The closeness of the individual's personal relationship with senior management or Those Charged with Governance.
- The nature, frequency and extent of the interaction between the individual and senior management or Those Charged with Governance.

(b) In relation to the Audit Client:

- The nature or complexity of the client's accounting and financial reporting issues and whether they have changed.
- Whether there have been any recent changes in senior management or Those Charged with Governance.
- Whether there have been any structural changes in the client's organisation which impact the nature, frequency and extent of interactions the individual might have with senior management or Those Charged with Governance.

540.3 A4 The combination of two or more factors might increase or reduce the level of the threats. For example, familiarity threats created over time by the increasingly close relationship between an individual and a member of the client's senior management would be reduced by the departure of that member of the client's senior management.

540.3 A5 An example of an action that might eliminate the familiarity and self-interest threats created by an individual being involved in an Audit Engagement over a long period of time would be rotating the individual off the Audit Team.

540.3 A6 Examples of actions that might be safeguards to address such familiarity or self-interest threats include:

- Changing the role of the individual on the Audit Team or the nature and extent of the tasks the individual performs.
- Having an appropriate reviewer who was not an Audit Team member review the work of the individual.
- Performing regular independent internal or external quality reviews of the engagement.

**R540.4 If a Firm decides that the level of the threats created can only be addressed by rotating the individual off the Audit Team, the Firm shall determine an appropriate period during which the individual shall not:**

- (a) Be a member of the Engagement Team for the Audit Engagement;**
- (b) Provide quality control for the Audit Engagement; or**
- (c) Exert direct influence on the outcome of the Audit Engagement.**

**The period shall be of sufficient duration to allow the familiarity and self-interest threats to be addressed. In the case of a Public Interest Entity, paragraphs R540.5 to R540.20 also apply.**



*Audit Clients that are Public Interest Entities*

**R540.5** Subject to paragraphs R540.7 to R540.9, in respect of an audit of a Public Interest Entity, an individual shall not act in any of the following roles, or a combination of such roles, for a period of more than seven cumulative years<sup>27</sup> (the “time-on” period):

- (a) The Engagement Partner;
- (b) The individual appointed as responsible for the Engagement Quality Control Review; or
- (c) Any other Key Audit Partner role.

After the time-on period, the individual shall serve a “cooling-off” period in accordance with the provisions in paragraphs R540.11 to R540.19.

**R540.6** In calculating the time-on period, the count of years shall not be restarted unless the individual ceases to act in any one of the roles in paragraph R540.5(a) to (c) for a minimum period. This minimum period is a consecutive period equal to at least the cooling-off period determined in accordance with paragraphs R540.11 to R540.13 as applicable to the role in which the individual served in the year immediately before ceasing such involvement.

540.6 A1 For example, an individual who served as Engagement Partner for four years followed by three years off can only act thereafter as a Key Audit Partner on the same Audit Engagement for three further years (making a total of seven cumulative years<sup>28</sup>). Thereafter, that individual is required to cool off in accordance with paragraph R540.14.

**R540.7** As an exception to paragraph R540.5, Key Audit Partners whose continuity is especially important to audit quality may, in rare cases due to unforeseen circumstances outside the Firm’s control, and with the concurrence of Those Charged with Governance, be permitted to serve an additional year as a Key Audit Partner as long as the threat to Independence can be eliminated or reduced to an Acceptable Level.

540.7 A1 For example, a Key Audit Partner may remain in that role on the Audit Team for up to one additional year in circumstances where, due to unforeseen events, a required rotation was not possible, as might be the case due to serious illness of the intended Engagement Partner. In such circumstances, this will involve the Firm discussing with Those Charged with Governance the reasons why the planned rotation cannot take place and the need for any safeguards to reduce any threat created.

**R540.8** If an Audit Client becomes a Public Interest Entity, a Firm shall take into account the length of time<sup>29</sup> an individual has served the Audit Client as a Key Audit Partner before

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<sup>27</sup> Refer to s324DA of the *Corporations Act 2001* which has more restrictive time-on requirements for audit partners of Listed Entities in Australia.

<sup>28</sup> Refer to s324DA of the *Corporations Act 2001* which has more restrictive time-on requirements for audit partners of Listed Entities in Australia.

<sup>29</sup> Refer to s324DA of the *Corporations Act 2001* which has more restrictive time-on requirements for audit partners of Listed Entities in Australia. The *Corporations Act 2001* restricts the number of years that an Engagement

the client becomes a Public Interest Entity in determining the timing of the rotation. If the individual has served the Audit Client as a Key Audit Partner for a period of five cumulative years or less when the client becomes a Public Interest Entity, the number of years the individual may continue to serve the client in that capacity before rotating off the engagement is seven years less the number of years already served. As an exception to paragraph R540.5, if the individual has served the Audit Client as a Key Audit Partner for a period of six or more cumulative years when the client becomes a Public Interest Entity, the individual may continue to serve in that capacity with the concurrence of Those Charged with Governance for a maximum of two additional years before rotating off the engagement.

**R540.9** When a Firm has only a few people with the necessary knowledge and experience to serve as a Key Audit Partner on the audit of a Public Interest Entity, rotation of Key Audit Partners might not be possible. As an exception to paragraph R540.5, if an independent regulatory body<sup>30</sup> in the relevant jurisdiction has provided an exemption from partner rotation in such circumstances, an individual may remain a Key Audit Partner for more than seven years, in accordance with such exemption. This is provided that the independent regulatory body has specified other requirements which are to be applied, such as the length of time that the Key Audit Partner may be exempted from rotation or a regular independent external review.

Other Considerations Relating to the Time-on Period

**R540.10** In evaluating the threats created by an individual's long association with an Audit Engagement, a Firm shall give particular consideration to the roles undertaken and the length of an individual's association with the Audit Engagement prior to the individual becoming a Key Audit Partner.

540.10 A1 There might be situations where the Firm, in applying the conceptual framework, concludes that it is not appropriate for an individual who is a Key Audit Partner to continue in that role even though the length of time served as a Key Audit Partner is less than seven years.

Cooling-off Period

**R540.11** If the individual acted as the Engagement Partner for seven cumulative years<sup>31</sup>, the cooling-off period shall be five consecutive years.

**R540.12** Where the individual has been appointed as responsible for the Engagement Quality Control Review and has acted in that capacity for seven cumulative years<sup>32</sup>, the cooling-off period shall be three consecutive years.

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Partner can serve a Listed Audit Client (which includes all the years served by the Engagement Partner on that entity).

<sup>30</sup> Refer to s342A of the *Corporations Act 2001* which specifies that the Australian Securities and Investment Commission may grant extensions.

<sup>31</sup> Refer to s324DA of the *Corporations Act 2001* which has more restrictive time-on requirements for audit partners of Listed Entities in Australia.

<sup>32</sup> Refer to s324DA of the *Corporations Act 2001* which has more restrictive time-on requirements for audit partners of Listed Entities in Australia.

**R540.13** If the individual has acted as a Key Audit Partner other than in the capacities set out in paragraphs R540.11 and R540.12 for seven cumulative years, the cooling-off period shall be two consecutive years.

Service in a combination of Key Audit Partner roles

**R540.14** If the individual acted in a combination of Key Audit Partner roles and served as the Engagement Partner for four or more cumulative years, the cooling-off period shall be five consecutive years.

**R540.15** Subject to paragraph R540.16(a), if the individual acted in a combination of Key Audit Partner roles and served as the Key Audit Partner responsible for the Engagement Quality Control Review for four or more cumulative years, the cooling-off period shall be three consecutive years.

**R540.16** If an individual has acted in a combination of Engagement Partner and Engagement Quality Control Review roles for four or more cumulative years during the time-on period, the cooling-off period shall:

- (a) As an exception to paragraph R540.15, be five consecutive years where the individual has been the Engagement Partner for three or more years; or
- (b) Be three consecutive years in the case of any other combination.

**R540.17** If the individual acted in any combination of Key Audit Partner roles other than those addressed in paragraphs R540.14 to R540.16, the cooling-off period shall be two consecutive years.

Service at a Prior Firm

**R540.18** In determining the number of years that an individual has been a Key Audit Partner as set out in paragraph R540.5, the length of the relationship shall, where relevant, include time while the individual was a Key Audit Partner on that engagement at a prior Firm.

Shorter Cooling-off Period Established by Law or Regulation

**R540.19** Where a legislative or regulatory body (or organisation authorised or recognised by such legislative or regulatory body) has established a cooling-off period for an Engagement Partner of less than five consecutive years, the higher of that period or three years may be substituted for the cooling-off period of five consecutive years specified in paragraphs R540.11, R540.14 and R540.16(a) provided that the applicable time-on period does not exceed seven years<sup>33</sup>.

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<sup>33</sup> Refer to s324DA of the *Corporations Act 2001* which has more restrictive time-on requirements for Audit Partners of Listed Entities in Australia.

**AUST 540.19.1** In Australia, where laws or regulations require a two year cooling-off period for Engagement Partners for audits of Public Interest Entities<sup>34</sup>, the cooling-off period shall be three years for periods beginning prior to 31 December 2023 provided that the applicable time-on period does not exceed seven years<sup>35</sup>.

#### Restrictions on Activities During the Cooling-off Period

**R540.20** For the duration of the relevant cooling-off period, the individual shall not:

- (a) Be an Engagement Team member or provide quality control for the Audit Engagement;
- (b) Consult with the Engagement Team or the client regarding technical or industry-specific issues, transactions or events affecting the Audit Engagement (other than discussions with the Engagement Team limited to work undertaken or conclusions reached in the last year of the individual's time-on period where this remains relevant to the audit);
- (c) Be responsible for leading or coordinating the Professional Services provided by the Firm or a Network Firm to the Audit Client, or overseeing the relationship of the Firm or a Network Firm with the Audit Client; or
- (d) Undertake any other role or activity not referred to above with respect to the Audit Client, including the provision of non-assurance services that would result in the individual:
  - (i) Having significant or frequent interaction with senior management or Those Charged with Governance; or
  - (ii) Exerting direct influence on the outcome of the Audit Engagement.

540.20 A1 The provisions of paragraph R540.20 are not intended to prevent the individual from assuming a leadership role in the Firm or a Network Firm, such as that of the Senior or Managing Partner (Chief Executive or equivalent).

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<sup>34</sup> For example, s324DA of the *Corporations Act 2001* requires a minimum two year cooling-off period for rotation of Audit Partner of Listed Entities in Australia.

<sup>35</sup> Refer to s324DA of the *Corporations Act 2001* which has more restrictive time-on requirements for Audit Partners of Listed Entities in Australia.

## SECTION 600

### PROVISION OF NON-ASSURANCE SERVICES TO AN AUDIT CLIENT

#### Introduction

- 600.1 Firms are required to comply with the fundamental principles, be independent, and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 600.2 Firms and Network Firms might provide a range of non-assurance services to their Audit Clients, consistent with their skills and expertise. Providing non-assurance services to Audit Clients might create threats to compliance with the fundamental principles and threats to Independence.
- 600.3 This section sets out requirements and application material relevant to applying the conceptual framework to identify, evaluate and address threats to Independence when providing non-assurance services to Audit Clients. The subsections that follow set out specific requirements and application material relevant when a Firm or Network Firm provides certain non-assurance services to Audit Clients and indicate the types of threats that might be created as a result. Some of the subsections include requirements that expressly prohibit a Firm or Network Firm from providing certain services to an Audit Client in certain circumstances because the threats created cannot be addressed by applying safeguards.

#### Requirements and Application Material

##### General

- R600.4 Before a Firm or a Network Firm accepts an engagement to provide a non-assurance service to an Audit Client, the Firm shall determine whether providing such a service might create a threat to Independence.**
- 600.4 A1 The requirements and application material in this section assist the Firm in analysing certain types of non-assurance services and the related threats that might be created if a Firm or Network Firm provides non-assurance services to an Audit Client.
- 600.4 A2 New business practices, the evolution of financial markets and changes in information technology, are among the developments that make it impossible to draw up an all-inclusive list of non-assurance services that might be provided to an Audit Client. As a result, the Code does not include an exhaustive list of all non-assurance services that might be provided to an Audit Client.

## Evaluating Threats

600.5 A1 Factors that are relevant in evaluating the level of threats created by providing a non-assurance service to an Audit Client include:

- The nature, scope and purpose of the service.
- The degree of reliance that will be placed on the outcome of the service as part of the audit.
- The legal and regulatory environment in which the service is provided.
- Whether the outcome of the service will affect matters reflected in the Financial Statements on which the Firm will express an Opinion, and, if so:
  - The extent to which the outcome of the service will have a material effect on the Financial Statements.
  - The degree of subjectivity involved in determining the appropriate amounts or treatment for those matters reflected in the Financial Statements.
- The level of expertise of the client's management and employees with respect to the type of service provided.
- The extent of the client's involvement in determining significant matters of judgement.
- The nature and extent of the impact of the service, if any, on the systems that generate information that forms a significant part of the client's:
  - Accounting records or Financial Statements on which the Firm will express an Opinion.
  - Internal controls over financial reporting.
- Whether the client is a Public Interest Entity. For example, providing a non-assurance service to an Audit Client that is a Public Interest Entity might be perceived to result in a higher level of a threat.

600.5 A2 Subsections 601 to 610 include examples of additional factors that are relevant in evaluating the level of threats created by providing the non-assurance services set out in those subsections.

## Materiality in Relation to Financial Statements

600.5 A3 Subsections 601 to 610 refer to materiality in relation to an Audit Client's Financial Statements. The concept of materiality in relation to an audit is addressed in Auditing and Assurance Standard ASA 320, *Materiality in Planning and Performing an Audit (Compiled)*, and in relation to a review in ASRE 2400, *Review of a Financial Report Performed by an Assurance Practitioner Who is Not the Auditor of the Entity*. The determination of materiality involves the exercise of professional judgement and is impacted by both quantitative and qualitative factors. It is also affected by perceptions of the financial information needs of users.

## Multiple Non-assurance Services Provided to the Same Audit Client

600.5 A4 A Firm or Network Firm might provide multiple non-assurance services to an Audit Client. In these circumstances the consideration of the combined effect of threats created by providing those services is relevant to the Firm's evaluation of threats.

### *Addressing Threats*

600.6 A1 Subsections 601 to 610 include examples of actions, including safeguards, that might address threats to Independence created by providing those non-assurance services when threats are not at an Acceptable Level. Those examples are not exhaustive.

600.6 A2 Some of the subsections include requirements that expressly prohibit a Firm or Network Firm from providing certain services to an Audit Client in certain circumstances because the threats created cannot be addressed by applying safeguards.

600.6 A3 Paragraph 120.10 A2 includes a description of safeguards. In relation to providing non-assurance services to Audit Clients, safeguards are actions, individually or in combination, that the Firm takes that effectively reduce threats to Independence to an Acceptable Level. In some situations, when a threat is created by providing a non-assurance service to an Audit Client, safeguards might not be available. In such situations, the application of the conceptual framework set out in Section 120 requires the Firm to decline or end the non-assurance service or the Audit Engagement.

### *Prohibition on Assuming Management Responsibilities*

**R600.7 A Firm or a Network Firm shall not assume a management responsibility for an Audit Client.**

600.7 A1 Management responsibilities involve controlling, leading and directing an entity, including making decisions regarding the acquisition, deployment and control of human, financial, technological, physical and intangible resources.

600.7 A2 Providing a non-assurance service to an Audit Client creates self-review and self-interest threats if the Firm or Network Firm assumes a management responsibility when performing the service. Assuming a management responsibility also creates a familiarity threat and might create an advocacy threat because the Firm or Network Firm becomes too closely aligned with the views and interests of management.

600.7 A3 Determining whether an activity is a management responsibility depends on the circumstances and requires the exercise of professional judgement. Examples of activities that would be considered a management responsibility include:

- Setting policies and strategic direction.
- Hiring or dismissing employees.
- Directing and taking responsibility for the actions of employees in relation to the employees' work for the entity.
- Authorising transactions.

- Controlling or managing bank accounts or investments.
- Deciding which recommendations of the Firm or Network Firm or other third parties to implement.
- Reporting to Those Charged with Governance on behalf of management.
- Taking responsibility for:
  - The preparation and fair presentation of the Financial Statements in accordance with the applicable financial reporting framework.
  - Designing, implementing, monitoring or maintaining internal control.

600.7 A4 Providing advice and recommendations to assist the management of an Audit Client in discharging its responsibilities is not assuming a management responsibility. (Ref: Para. R600.7 to 600.7 A3).

**R600.8 To avoid assuming a management responsibility when providing any non-assurance service to an Audit Client, the Firm shall be satisfied that client management makes all judgements and decisions that are the proper responsibility of management. This includes ensuring that the client's management:**

- (a) **Designates an individual who possesses suitable skill, knowledge and experience to be responsible at all times for the client's decisions and to oversee the services. Such an individual, preferably within senior management, would understand:**
  - (i) **The objectives, nature and results of the services; and**
  - (ii) **The respective client and Firm or Network Firm responsibilities.**

**However, the individual is not required to possess the expertise to perform or re-perform the services.**

- (b) **Provides oversight of the services and evaluates the adequacy of the results of the service performed for the client's purpose.**
- (c) **Accepts responsibility for the actions, if any, to be taken arising from the results of the services.**

*Providing Non-Assurance Services to an Audit Client that Later Becomes a Public Interest Entity*

**R600.9 A non-assurance service provided, either currently or previously, by a Firm or a Network Firm to an Audit Client compromises the Firm's Independence when the client becomes a Public Interest Entity unless:**

- (a) **The previous non-assurance service complies with the provisions of this section that relate to Audit Clients that are not Public Interest Entities;**
- (b) **Non-assurance services currently in progress that are not permitted under this section for Audit Clients that are Public Interest Entities are ended before, or as soon as practicable after, the client becomes a Public Interest Entity; and**
- (c) **The Firm addresses threats that are created that are not at an Acceptable Level.**



**R600.10** This section includes requirements that prohibit Firms and Network Firms from assuming management responsibilities or providing certain non-assurance services to Audit Clients. As an exception to those requirements, a Firm or Network Firm may assume management responsibilities or provide certain non-assurance services that would otherwise be prohibited to the following Related Entities of the client on whose Financial Statements the Firm will express an Opinion:

- (a) An entity that has direct or indirect control over the client;
- (b) An entity with a Direct Financial Interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity; or
- (c) An entity which is under common control with the client,

provided that all of the following conditions are met:

- (i) The Firm or a Network Firm does not express an Opinion on the Financial Statements of the Related Entity;
- (ii) The Firm or a Network Firm does not assume a management responsibility, directly or indirectly, for the entity on whose Financial Statements the Firm will express an Opinion;
- (iii) The services do not create a self-review threat because the results of the services will not be subject to audit procedures; and
- (iv) The Firm addresses other threats created by providing such services that are not at an Acceptable Level.

## **SUBSECTION 601 – ACCOUNTING AND BOOKKEEPING SERVICES**

### **Introduction**

- 601.1 Providing accounting and bookkeeping services to an Audit Client might create a self-review threat.
- 601.2 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing an Audit Client with accounting and bookkeeping services. This subsection includes requirements that prohibit Firms and Network Firms from providing certain accounting and bookkeeping services to Audit Clients in some circumstances because the threats created cannot be addressed by applying safeguards.

## Requirements and Application Material

### All Audit Clients

601.3 A1 Accounting and bookkeeping services comprise a broad range of services including:

- Preparing accounting records and Financial Statements.
- Recording transactions.
- Payroll services.

601.3 A2 Management is responsible for the preparation and fair presentation of the Financial Statements in accordance with the applicable financial reporting framework. These responsibilities include:

- Determining accounting policies and the accounting treatment in accordance with those policies.
- Preparing or changing source documents or originating data, in electronic or other form, evidencing the occurrence of a transaction. Examples include:
  - Purchase orders.
  - Payroll time records.
  - Customer orders.
- Originating or changing journal entries.
- Determining or approving the account classifications of transactions.

601.3 A3 The audit process necessitates dialogue between the Firm and the management of the Audit Client, which might involve:

- Applying accounting standards or policies and Financial Statement disclosure requirements.
- Assessing the appropriateness of financial and accounting control and the methods used in determining the stated amounts of assets and liabilities.
- Proposing adjusting journal entries.

These activities are considered to be a normal part of the audit process and do not usually create threats as long as the client is responsible for making decisions in the preparation of accounting records and Financial Statements.

601.3 A4 Similarly, the client might request technical assistance on matters such as resolving account reconciliation problems or analysing and accumulating information for regulatory reporting. In addition, the client might request technical advice on accounting issues such as the conversion of existing Financial Statements from one financial reporting framework to another. Examples include:

- Complying with group accounting policies.
- Transitioning to a different financial reporting framework such as International Financial Reporting Standards.

Such services do not usually create threats provided neither the Firm nor Network Firm assumes a management responsibility for the client.

*Accounting and Bookkeeping Services that are Routine or Mechanical*

601.4 A1 Accounting and bookkeeping services that are routine or mechanical in nature require little or no professional judgement. Some examples of these services are:

- Preparing payroll calculations or reports based on client-originated data for approval and payment by the client.
- Recording recurring transactions for which amounts are easily determinable from source documents or originating data, such as a utility bill where the client has determined or approved the appropriate account classification.
- Calculating depreciation on fixed assets when the client determines the accounting policy and estimates of useful life and residual values.
- Posting transactions coded by the client to the general ledger.
- Posting client-approved entries to the trial balance.
- Preparing Financial Statements based on information in the client-approved trial balance and preparing related notes based on client-approved records.

*Audit Clients that are Not Public Interest Entities*

**R601.5 A Firm or a Network Firm shall not provide to an Audit Client that is not a Public Interest Entity accounting and bookkeeping services including preparing Financial Statements on which the Firm will express an Opinion or financial information which forms the basis of such Financial Statements, unless:**

- (a) The services are of a routine or mechanical nature; and**
- (b) The Firm addresses any threats that are created by providing such services that are not at an Acceptable Level.**

601.5 A1 Examples of actions that might be safeguards to address a self-review threat created when providing accounting and bookkeeping services of a routine and mechanical nature to an Audit Client include:

- Using professionals who are not Audit Team members to perform the service.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed.

*Audit Clients that are Public Interest Entities*

**R601.6 Subject to paragraph R601.7, a Firm or a Network Firm shall not provide to an Audit Client that is a Public Interest Entity accounting and bookkeeping services including preparing Financial Statements on which the Firm will express an Opinion or financial information which forms the basis of such Financial Statements.**

**R601.7** As an exception to paragraph R601.6, a Firm or Network Firm may provide accounting and bookkeeping services of a routine or mechanical nature for divisions or Related Entities of an Audit Client that is a Public Interest Entity if the personnel providing the services are not Audit Team members and:

- (a) The divisions or Related Entities for which the service is provided are collectively immaterial to the Financial Statements on which the Firm will express an Opinion; or
- (b) The service relates to matters that are collectively immaterial to the Financial Statements of the division or Related Entity.

## **SUBSECTION 602 – ADMINISTRATIVE SERVICES**

### **Introduction**

602.1 Providing administrative services to an Audit Client does not usually create a threat.

602.2 In addition to the specific application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing administrative services.

### **Application Material**

#### **All Audit Clients**

602.3 A1 Administrative services involve assisting clients with their routine or mechanical tasks within the normal course of operations. Such services require little to no professional judgement and are clerical in nature.

602.3 A2 Examples of administrative services include:

- Word processing services.
- Preparing administrative or statutory forms for client approval.
- Submitting such forms as instructed by the client.
- Monitoring statutory filing dates, and advising an Audit Client of those dates.

## **SUBSECTION 603 – VALUATION SERVICES**

### **Introduction**

603.1 Providing valuation services to an Audit Client might create a self-review or advocacy threat.

603.2 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing valuation services to an Audit Client. This subsection includes requirements that prohibit Firms and Network Firms from providing certain valuation services to Audit Clients in some circumstances because the threats

created cannot be addressed by applying safeguards.

## Requirements and Application Material

### All Audit Clients

603.3 A1 A valuation comprises the making of assumptions with regard to future developments, the application of appropriate methodologies and techniques, and the combination of both to compute a certain value, or range of values, for an asset, a liability or for a business as a whole.

603.3 A2 If a Firm or Network Firm is requested to perform a valuation to assist an Audit Client with its tax reporting obligations or for tax planning purposes and the results of the valuation will not have a direct effect on the Financial Statements, the application material set out in paragraphs 604.9 A1 to 604.9 A5, relating to such services, applies.

603.3 A3 Factors that are relevant in evaluating the level of self-review or advocacy threats created by providing valuation services to an Audit Client include:

- The use and purpose of the valuation report.
- Whether the valuation report will be made public.
- The extent of the client's involvement in determining and approving the valuation methodology and other significant matters of judgement.
- The degree of subjectivity inherent in the item for valuations involving standard or established methodologies.
- Whether the valuation will have a material effect on the Financial Statements.
- The extent and clarity of the disclosures related to the valuation in the Financial Statements.
- The degree of dependence on future events of a nature that might create significant volatility inherent in the amounts involved.

603.3 A4 Examples of actions that might be safeguards to address threats include:

- Using professionals who are not Audit Team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed might address a self-review threat.

### *Audit Clients that are Not Public Interest Entities*

**R603.4 A Firm or a Network Firm shall not provide a valuation service to an Audit Client that is not a Public Interest Entity if:**

- (a) The valuation involves a significant degree of subjectivity; and**
- (b) The valuation will have a material effect on the Financial Statements on which the Firm will express an Opinion.**

603.4 A1 Certain valuations do not involve a significant degree of subjectivity. This is likely to be the case when the underlying assumptions are either established by law or regulation, or are widely accepted and when the techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation. In such circumstances, the results of a valuation performed by two or more parties are not likely to be materially different.

*Audit Clients that are Public Interest Entities*

**R603.5 A Firm or a Network Firm shall not provide a valuation service to an Audit Client that is a Public Interest Entity if the valuation service would have a material effect, individually or in the aggregate, on the Financial Statements on which the Firm will express an Opinion.**

## **SUBSECTION 604 – TAX SERVICES**

### **Introduction**

604.1 Providing tax services to an Audit Client might create a self-review or advocacy threat.

604.2 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing a tax service to an Audit Client. This subsection includes requirements that prohibit Firms and Network Firms from providing certain tax services to Audit Clients in some circumstances because the threats created cannot be addressed by applying safeguards.

### **Requirements and Application Material**

#### **All Audit Clients**

604.3 A1 Tax services comprise a broad range of services, including activities such as:

- Tax return preparation.
- Tax calculations for the purpose of preparing the accounting entries.
- Tax planning and other tax advisory services.
- Tax services involving valuations.
- Assistance in the resolution of tax disputes.

While this subsection deals with each type of tax service listed above under separate headings, in practice, the activities involved in providing tax services are often inter-related.

604.3 A2 Factors that are relevant in evaluating the level of threats created by providing any tax service to an Audit Client include:

- The particular characteristics of the engagement.
- The level of tax expertise of the client's employees.
- The system by which the tax authorities assess and administer the tax in question and the role of the Firm or Network Firm in that process.
- The complexity of the relevant tax regime and the degree of judgement necessary in applying it.

### **Tax Return Preparation**

#### *All Audit Clients*

604.4 A1 Providing tax return preparation services does not usually create a threat.

604.4 A2 Tax return preparation services involve:

- Assisting clients with their tax reporting obligations by drafting and compiling information, including the amount of tax due (usually on standardised forms) required to be submitted to the applicable tax authorities.
- Advising on the tax return treatment of past transactions and responding on behalf of the Audit Client to the tax authorities' requests for additional information and analysis (for example, providing explanations of and technical support for the approach being taken).

604.4 A3 Tax return preparation services are usually based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice. Further, the tax returns are subject to whatever review or approval process the tax authority considers appropriate.

### **Tax Calculations for the Purpose of Preparing Accounting Entries**

#### *All Audit Clients*

604.5 A1 Preparing calculations of current and deferred tax liabilities (or assets) for an Audit Client for the purpose of preparing accounting entries that will be subsequently audited by the Firm creates a self-review threat.

604.5 A2 In addition to the factors in paragraph 604.3 A2, a factor that is relevant in evaluating the level of the threat created when preparing such calculations for an Audit Client is whether the calculation might have a material effect on the Financial Statements on which the Firm will express an Opinion.

## Audit Clients that are Not Public Interest Entities

604.5 A3 Examples of actions that might be safeguards to address such a self-review threat when the Audit Client is not a Public Interest Entity include:

- Using professionals who are not Audit Team members to perform the service.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed.

## Audit Clients that are Public Interest Entities

**R604.6 A Firm or a Network Firm shall not prepare tax calculations of current and deferred tax liabilities (or assets) for an Audit Client that is a Public Interest Entity for the purpose of preparing accounting entries that are material to the Financial Statements on which the Firm will express an Opinion.**

604.6 A1 The examples of actions that might be safeguards in paragraph 604.5 A3 to address self-review threats are also applicable when preparing tax calculations of current and deferred tax liabilities (or assets) to an Audit Client that is a Public Interest Entity that are immaterial to the Financial Statements on which the Firm will express an Opinion.

## Tax Planning and Other Tax Advisory Services

### *All Audit Clients*

604.7 A1 Providing tax planning and other tax advisory services might create a self-review or advocacy threat.

604.7 A2 Tax planning or other tax advisory services comprise a broad range of services, such as advising the client how to structure its affairs in a tax efficient manner or advising on the application of a new tax law or regulation.

604.7 A3 In addition to paragraph 604.3 A2, factors that are relevant in evaluating the level of self-review or advocacy threats created by providing tax planning and other tax advisory services to Audit Clients include:

- The degree of subjectivity involved in determining the appropriate treatment for the tax advice in the Financial Statements.
- Whether the tax treatment is supported by a private ruling or has otherwise been cleared by the tax authority before the preparation of the Financial Statements.

For example, whether the advice provided as a result of the tax planning and other tax advisory services:

- Is clearly supported by a tax authority or other precedent.
- Is an established practice.
- Has a basis in tax law that is likely to prevail.
- The extent to which the outcome of the tax advice will have a material effect on the Financial Statements.



- Whether the effectiveness of the tax advice depends on the accounting treatment or presentation in the Financial Statements and there is doubt as to the appropriateness of the accounting treatment or presentation under the relevant financial reporting framework.

604.7 A4 Examples of actions that might be safeguards to address such threats include:

- Using professionals who are not Audit Team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer, who was not involved in providing the service review the audit work or service performed might address a self-review threat.
- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

When Effectiveness of Tax Advice Is Dependent on a Particular Accounting Treatment or Presentation

**R604.8 A Firm or a Network Firm shall not provide tax planning and other tax advisory services to an Audit Client when the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the Financial Statements and:**

- The Audit Team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and**
- The outcome or consequences of the tax advice will have a material effect on the Financial Statements on which the Firm will express an Opinion.**

### **Tax Services Involving Valuations**

*All Audit Clients*

604.9 A1 Providing tax valuation services to an Audit Client might create a self-review or advocacy threat.

604.9 A2 A Firm or a Network Firm might perform a valuation for tax purposes only, where the result of the valuation will not have a direct effect on the Financial Statements (that is, the Financial Statements are only affected through accounting entries related to tax). This would not usually create threats if the effect on the Financial Statements is immaterial or the valuation is subject to external review by a tax authority or similar regulatory authority.

604.9 A3 If the valuation that is performed for tax purposes is not subject to an external review and the effect is material to the Financial Statements, in addition to paragraph 604.3 A2, the following factors are relevant in evaluating the level of self-review or advocacy threats created by providing those services to an Audit Client:

- The extent to which the valuation methodology is supported by tax law or regulation, other precedent or established practice.
- The degree of subjectivity inherent in the valuation.
- The reliability and extent of the underlying data.

- 604.9 A4 Examples of actions that might be safeguards to address threats include:
- Using professionals who are not Audit Team members to perform the service might address self-review or advocacy threats.
  - Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed might address a self-review threat.
  - Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.
- 604.9 A5 A Firm or Network Firm might also perform a tax valuation to assist an Audit Client with its tax reporting obligations or for tax planning purposes where the result of the valuation will have a direct effect on the Financial Statements. In such situations, the requirements and application material set out in Subsection 603 relating to valuation services apply.

### **Assistance in the Resolution of Tax Disputes**

#### *All Audit Clients*

- 604.10 A1 Providing assistance in the resolution of tax disputes to an Audit Client might create a self-review or advocacy threat.
- 604.10 A2 A tax dispute might reach a point when the tax authorities have notified an Audit Client that arguments on a particular issue have been rejected and either the tax authority or the client refers the matter for determination in a formal proceeding, for example, before a public tribunal or court.
- 604.10 A3 In addition to paragraph 604.3 A2, factors that are relevant in evaluating the level of self-review or advocacy threats created by assisting an Audit Client in the resolution of tax disputes include:
- The role management plays in the resolution of the dispute.
  - The extent to which the outcome of the dispute will have a material effect on the Financial Statements on which the Firm will express an Opinion.
  - Whether the advice that was provided is the subject of the tax dispute.
  - The extent to which the matter is supported by tax law or regulation, other precedent, or established practice.
  - Whether the proceedings are conducted in public.
- 604.10 A4 Examples of actions that might be safeguards to address threats include:
- Using professionals who are not Audit Team members to perform the service might address self-review or advocacy threats.
  - Having an appropriate reviewer who was not involved in providing the service review the audit work or the service performed might address a self-review threat.

## Resolution of Tax Matters Involving Acting as An Advocate

**R604.11 A Firm or a Network Firm shall not provide tax services that involve assisting in the resolution of tax disputes to an Audit Client if:**

- (a) The services involve acting as an advocate for the Audit Client before a public tribunal or court in the resolution of a tax matter; and**
- (b) The amounts involved are material to the Financial Statements on which the Firm will express an Opinion.**

604.11 A1 Paragraph R604.11 does not preclude a Firm or Network Firm from having a continuing advisory role in relation to the matter that is being heard before a public tribunal or court, for example:

- Responding to specific requests for information.
- Providing factual accounts or testimony about the work performed.
- Assisting the client in analysing the tax issues related to the matter.

604.11 A2 What constitutes a “public tribunal or court” depends on how tax proceedings are heard in the particular jurisdiction.

## SUBSECTION 605 – INTERNAL AUDIT SERVICES

### Introduction

605.1 Providing internal audit services to an Audit Client might create a self-review threat.

605.2 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing an internal audit service to an Audit Client. This subsection includes requirements that prohibit Firms and Network Firms from providing certain internal audit services to Audit Clients in some circumstances because the threats created cannot be addressed by applying safeguards.<sup>36</sup>

### Requirements and Application Material

#### All Audit Clients

605.3 A1 Internal audit services involve assisting the Audit Client in the performance of its internal audit activities. Internal audit activities might include:

- Monitoring of internal control – reviewing controls, monitoring their operation and recommending improvements to them.

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<sup>36</sup> The AUASB has prohibited the use of direct assistance from individual's within the client's internal audit function in Auditing and Assurance Standard ASA 610 *Using the Work of Internal Auditors* (November 2013).

- Examining financial and operating information by:
  - Reviewing the means used to identify, measure, classify and report financial and operating information.
  - Inquiring specifically into individual items including detailed testing of transactions, balances and procedures.
- Reviewing the economy, efficiency and effectiveness of operating activities including non-financial activities of an entity.
- Reviewing compliance with:
  - Laws, regulations and other external requirements.
  - Management policies, directives and other internal requirements.

605.3 A2 The scope and objectives of internal audit activities vary widely and depend on the size and structure of the entity and the requirements of management and Those Charged with Governance.

**R605.4 When providing an internal audit service to an Audit Client, the Firm shall be satisfied that:**

- (a) The client designates an appropriate and competent resource, preferably within senior management, to:**
  - (i) Be responsible at all times for internal audit activities; and**
  - (ii) Acknowledge responsibility for designing, implementing, monitoring and maintaining internal control.**
- (b) The client's management or Those Charged with Governance reviews, assesses and approves the scope, risk and frequency of the internal audit services;**
- (c) The client's management evaluates the adequacy of the internal audit services and the findings resulting from their performance;**
- (d) The client's management evaluates and determines which recommendations resulting from internal audit services to implement and manages the implementation process; and**
- (e) The client's management reports to Those Charged with Governance the significant findings and recommendations resulting from the internal audit services.**

605.4 A1 Paragraph R600.7 precludes a Firm or a Network Firm from assuming a management responsibility. Performing a significant part of the client's internal audit activities increases the possibility that Firm or Network Firm personnel providing internal audit services will assume a management responsibility.

605.4 A2 Examples of internal audit services that involve assuming management responsibilities include:

- Setting internal audit policies or the strategic direction of internal audit activities.
- Directing and taking responsibility for the actions of the entity's internal audit employees.
- Deciding which recommendations resulting from internal audit activities to implement.
- Reporting the results of the internal audit activities to Those Charged with Governance on behalf of management.
- Performing procedures that form part of the internal control, such as reviewing and approving changes to employee data access privileges.
- Taking responsibility for designing, implementing, monitoring and maintaining internal control.
- Performing outsourced internal audit services, comprising all or a substantial portion of the internal audit function, where the Firm or Network Firm is responsible for determining the scope of the internal audit work; and might have responsibility for one or more of the matters noted above.

605.4 A3 When a Firm uses the work of an internal audit function in an Audit Engagement, Auditing and Assurance Standards require the performance of procedures to evaluate the adequacy of that work. Similarly, when a Firm or Network Firm accepts an engagement to provide internal audit services to an Audit Client, the results of those services might be used in conducting the external audit. This creates a self-review threat because it is possible that the Audit Team will use the results of the internal audit service for purposes of the Audit Engagement without:

- (a) Appropriately evaluating those results; or
- (b) Exercising the same level of professional scepticism as would be exercised when the internal audit work is performed by individuals who are not members of the Firm.

605.4 A4 Factors that are relevant in evaluating the level of such a self-review threat include:

- The materiality of the related Financial Statement amounts.
- The risk of misstatement of the assertions related to those Financial Statement amounts.
- The degree of reliance that the Audit Team will place on the work of the internal audit service, including in the course of an external audit.

605.4 A5 An example of an action that might be a safeguard to address such a self-review threat is using professionals who are not Audit Team members to perform the service.

**R605.5** A Firm or a Network Firm shall not provide internal audit services to an Audit Client that is a Public Interest Entity, if the services relate to:

- (a) A significant part of the internal controls over financial reporting;
- (b) Financial accounting systems that generate information that is, individually or in the aggregate, material to the client's accounting records or Financial Statements on which the Firm will express an Opinion; or
- (c) Amounts or disclosures that are, individually or in the aggregate, material to the Financial Statements on which the Firm will express an Opinion.

## **SUBSECTION 606 – INFORMATION TECHNOLOGY SYSTEMS SERVICES**

### **Introduction**

606.1 Providing information technology (IT) systems services to an Audit Client might create a self-review threat.

606.2 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing an IT systems service to an Audit Client. This subsection includes requirements that prohibit Firms and Network Firms from providing certain IT systems services to Audit Clients in some circumstances because the threats created cannot be addressed by applying safeguards.

### **Requirements and Application Material**

#### **All Audit Clients**

606.3 A1 Services related to IT systems include the design or implementation of hardware or software systems. The IT systems might:

- (a) Aggregate source data;
- (b) Form part of the internal control over financial reporting; or
- (c) Generate information that affects the accounting records or Financial Statements, including related disclosures.

However, the IT systems might also involve matters that are unrelated to the Audit Client's accounting records or the internal control over financial reporting or Financial Statements.

606.3 A2 Paragraph R600.7 precludes a Firm or a Network Firm from assuming a management responsibility. Providing the following IT systems services to an Audit Client does not usually create a threat as long as personnel of the Firm or Network Firm do not assume a management responsibility:

- (a) Designing or implementing IT systems that are unrelated to internal control over financial reporting;

- (b) Designing or implementing IT systems that do not generate information forming a significant part of the accounting records or Financial Statements;
- (c) Implementing “off-the-shelf” accounting or financial information reporting software that was not developed by the Firm or Network Firm, if the customisation required to meet the client’s needs is not significant; and
- (d) Evaluating and making recommendations with respect to an IT system designed, implemented or operated by another service provider or the client.

**R606.4 When providing IT systems services to an Audit Client, the Firm or Network Firm shall be satisfied that:**

- (a) The client acknowledges its responsibility for establishing and monitoring a system of internal controls;**
- (b) The client assigns the responsibility to make all management decisions with respect to the design and implementation of the hardware or software system to a competent employee, preferably within senior management;**
- (c) The client makes all management decisions with respect to the design and implementation process;**
- (d) The client evaluates the adequacy and results of the design and implementation of the system; and**
- (e) The client is responsible for operating the system (hardware or software) and for the data it uses or generates.**

606.4 A1 Factors that are relevant in evaluating the level of a self-review threat created by providing IT systems services to an Audit Client include:

- The nature of the service.
- The nature of IT systems and the extent to which they impact or interact with the client’s accounting records or Financial Statements.
- The degree of reliance that will be placed on the particular IT systems as part of the audit.

606.4 A2 An example of an action that might be a safeguard to address such a self-review threat is using professionals who are not Audit Team members to perform the service.

*Audit Clients that are Public Interest Entities*

**R606.5 A Firm or a Network Firm shall not provide IT systems services to an Audit Client that is a Public Interest Entity if the services involve designing or implementing IT systems that:**

- (a) Form a significant part of the internal control over financial reporting; or**
- (b) Generate information that is significant to the client’s accounting records or Financial Statements on which the Firm will express an Opinion.**

## **SUBSECTION 607 – LITIGATION SUPPORT SERVICES**

### **Introduction**

- 607.1 Providing certain litigation support services to an Audit Client might create a self-review or advocacy threat.
- 607.2 In addition to the specific application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing a litigation support service to an Audit Client.

### **Application Material**

#### **All Audit Clients**

- 607.3 A1 Litigation support services might include activities such as:
- Assisting with document management and retrieval.
  - Acting as a witness, including an expert witness.
  - Calculating estimated damages or other amounts that might become receivable or payable as the result of litigation or other legal dispute.
- 607.3 A2 Factors that are relevant in evaluating the level of self-review or advocacy threats created by providing litigation support services to an Audit Client include:
- The legal and regulatory environment in which the service is provided, for example, whether an expert witness is chosen and appointed by a court.
  - The nature and characteristics of the service.
  - The extent to which the outcome of the litigation support service will have a material effect on the Financial Statements on which the Firm will express an Opinion.
- 607.3 A3 An example of an action that might be a safeguard to address such a self-review or advocacy threat is using a professional who was not an Audit Team member to perform the service.
- 607.3 A4 If a Firm or a Network Firm provides a litigation support service to an Audit Client and the service involves estimating damages or other amounts that affect the Financial Statements on which the Firm will express an Opinion, the requirements and application material set out in Subsection 603 related to valuation services apply.

## **SUBSECTION 608 – LEGAL SERVICES**

### **Introduction**

- 608.1 Providing legal services to an Audit Client might create a self-review or advocacy threat.
- 608.2 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to



applying the conceptual framework when providing a legal service to an Audit Client. This subsection includes requirements that prohibit Firms and Network Firms from providing certain legal services to Audit Clients in some circumstances because the threats cannot be addressed by applying safeguards.

## **Requirements and Application Material**

### **All Audit Clients**

- 608.3 A1 Legal services are defined as any services for which the individual providing the services must either:
- (a) Have the required legal training to practice law; or
  - (b) Be admitted to practice law before the courts of the jurisdiction in which such services are to be provided.

### *Acting in an Advisory Role*

- 608.4 A1 Depending on the jurisdiction, legal advisory services might include a wide and diversified range of service areas including both corporate and commercial services to Audit Clients, such as:
- Contract support.
  - Supporting an Audit Client in executing a transaction.
  - Mergers and acquisitions.
  - Supporting and assisting an Audit Client's internal legal department.
  - Legal due diligence and restructuring.
- 608.4 A2 Factors that are relevant in evaluating the level of self-review or advocacy threats created by providing legal advisory services to an Audit Client include:
- The materiality of the specific matter in relation to the client's Financial Statements.
  - The complexity of the legal matter and the degree of judgement necessary to provide the service.
- 608.4 A3 Examples of actions that might be safeguards to address threats include:
- Using professionals who are not Audit Team members to perform the service might address a self-review or advocacy threat.
  - Having an appropriate reviewer who was not involved in providing the service review the audit work or the service performed might address a self-review threat.

### *Acting as General Counsel*

- R608.5 A partner or employee of the Firm or the Network Firm shall not serve as General Counsel for legal affairs of an Audit Client.**

608.5 A1 The position of General Counsel is usually a senior management position with broad responsibility for the legal affairs of a company.

#### *Acting in an Advocacy Role*

**R608.6 A Firm or a Network Firm shall not act in an advocacy role for an Audit Client in resolving a dispute or litigation when the amounts involved are material to the Financial Statements on which the Firm will express an Opinion.**

608.6 A1 Examples of actions that might be safeguards to address a self-review threat created when acting in an advocacy role for an Audit Client when the amounts involved are not material to the Financial Statements on which the Firm will express an Opinion include:

- Using professionals who are not Audit Team members to perform the service.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or the service performed.

## **SUBSECTION 609 – RECRUITING SERVICES**

### **Introduction**

609.1 Providing recruiting services to an Audit Client might create a self-interest, familiarity or intimidation threat.

609.2 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing a recruiting service to an Audit Client. This subsection includes requirements that prohibit Firms and Network Firms from providing certain types of recruiting services to Audit Clients in some circumstances because the threats created cannot be addressed by applying safeguards.

### **Requirements and Application Material**

#### **All Audit Clients**

609.3 A1 Recruiting services might include activities such as:

- Developing a job description.
- Developing a process for identifying and selecting potential candidates.
- Searching for or seeking out candidates.
- Screening potential candidates for the role by:
  - Reviewing the professional qualifications or competence of applicants and determining their suitability for the position.
  - Undertaking reference checks of prospective candidates.
  - Interviewing and selecting suitable candidates and advising on candidates' competence.

- Determining employment terms and negotiating details, such as salary, hours and other compensation.

609.3 A2 Paragraph R600.7 precludes a Firm or a Network Firm from assuming a management responsibility. Providing the following services does not usually create a threat as long as personnel of the Firm or Network Firm does not assume a management responsibility:

- Reviewing the professional qualifications of a number of applicants and providing advice on their suitability for the position.
- Interviewing candidates and advising on a candidate's competence for financial accounting, administrative or control positions.

**R609.4 When a Firm or Network Firm provides recruiting services to an Audit Client, the Firm shall be satisfied that:**

- (a) The client assigns the responsibility to make all management decisions with respect to hiring the candidate for the position to a competent employee, preferably within senior management; and**
- (b) The client makes all management decisions with respect to the hiring process, including:**
  - **Determining the suitability of prospective candidates and selecting suitable candidates for the position.**
  - **Determining employment terms and negotiating details, such as salary, hours and other compensation.**

609.5 A1 Factors that are relevant in evaluating the level of self-interest, familiarity or intimidation threats created by providing recruiting services to an Audit Client include:

- The nature of the requested assistance.
- The role of the individual to be recruited.
- Any conflicts of interest or relationships that might exist between the candidates and the Firm providing the advice or service.

609.5 A2 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is using professionals who are not Audit Team members to perform the service.

*Recruiting Services that are Prohibited*

**R609.6 When providing recruiting services to an Audit Client, the Firm or the Network Firm shall not act as a negotiator on the client's behalf.**

**R609.7 A Firm or a Network Firm shall not provide a recruiting service to an Audit Client if the service relates to:**

- (a) Searching for or seeking out candidates; or**
- (b) Undertaking reference checks of prospective candidates,**  
**with respect to the following positions:**
  - (i) A Director or Officer of the entity; or**
  - (ii) A member of senior management in a position to exert significant influence over the preparation of the client's accounting records or the Financial Statements on which the Firm will express an Opinion.**

## **SUBSECTION 610 – CORPORATE FINANCE SERVICES**

### **Introduction**

610.1 Providing corporate finance services to an Audit Client might create a self-review or advocacy threat.

610.2 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to R600.10 are relevant to applying the conceptual framework when providing a corporate finance service to an Audit Client. This subsection includes requirements that prohibit Firms and Network Firms from providing certain corporate finance services in some circumstances to Audit Clients because the threats created cannot be addressed by applying safeguards.

### **Requirements and Application Material**

#### **All Audit Clients**

610.3 A1 Examples of corporate finance services that might create a self-review or advocacy threat include:

- Assisting an Audit Client in developing corporate strategies.
- Identifying possible targets for the Audit Client to acquire.
- Advising on disposal transactions.
- Assisting in finance raising transactions.
- Providing structuring advice.
- Providing advice on the structuring of a corporate finance transaction or on financing arrangements that will directly affect amounts that will be reported in the Financial Statements on which the Firm will express an Opinion.

610.3 A2 Factors that are relevant in evaluating the level of such threats created by providing corporate finance services to an Audit Client include:

- The degree of subjectivity involved in determining the appropriate treatment for the outcome or consequences of the corporate finance advice in the Financial Statements.
- The extent to which:
  - The outcome of the corporate finance advice will directly affect amounts recorded in the Financial Statements.
  - The amounts are material to the Financial Statements.
- Whether the effectiveness of the corporate finance advice depends on a particular accounting treatment or presentation in the Financial Statements and there is doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

610.3 A3 Examples of actions that might be safeguards to address threats include:

- Using professionals who are not Audit Team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed might address a self-review threat.

*Corporate Finance Services that are Prohibited*

**R610.4 A Firm or a Network Firm shall not provide corporate finance services to an Audit Client that involve promoting, dealing in, or underwriting the Audit Client's shares.**

**R610.5 A Firm or a Network Firm shall not provide corporate finance advice to an Audit Client where the effectiveness of such advice depends on a particular accounting treatment or presentation in the Financial Statements on which the Firm will express an Opinion and:**

- (a) **The Audit Team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and**
- (b) **The outcome or consequences of the corporate finance advice will have a material effect on the Financial Statements on which the Firm will express an Opinion.**

## SECTION 800

### REPORTS ON SPECIAL PURPOSE FINANCIAL STATEMENTS THAT INCLUDE A RESTRICTION ON USE AND DISTRIBUTION (AUDIT AND REVIEW ENGAGEMENTS)

#### Introduction

- 800.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 800.2 This section sets out certain modifications to Part 4A which are permitted in certain circumstances involving audits of Special Purpose Financial Statements where the report includes a restriction on use and distribution. In this section, an engagement to issue a restricted use and distribution report in the circumstances set out in paragraph R800.3 is referred to as an “eligible Audit Engagement.”

#### Requirements and Application Material

##### General

- R800.3 When a Firm intends to issue a report on an audit of Special Purpose Financial Statements which includes a restriction on use and distribution, the Independence requirements set out in Part 4A shall be eligible for the modifications that are permitted by this section, but only if:**
- (a) The Firm communicates with the intended users of the report regarding the modified Independence requirements that are to be applied in providing the service; and**
  - (b) The intended users of the report understand the purpose and limitations of the report and explicitly agree to the application of the modifications.**
- 800.3 A1 The intended users of the report might obtain an understanding of the purpose and limitations of the report by participating, either directly, or indirectly through a representative who has authority to act for the intended users, in establishing the nature and scope of the engagement. In either case, this participation helps the Firm to communicate with intended users about Independence matters, including the circumstances that are relevant to applying the conceptual framework. It also allows the Firm to obtain the agreement of the intended users to the modified Independence requirements.
- R800.4 Where the intended users are a class of users who are not specifically identifiable by name at the time the engagement terms are established, the Firm shall subsequently make such users aware of the modified Independence requirements agreed to by their representative.**

800.4 A1 For example, where the intended users are a class of users such as lenders in a syndicated loan arrangement, the Firm might describe the modified Independence requirements in an engagement letter to the representative of the lenders. The representative might then make the Firm's engagement letter available to the members of the group of lenders to meet the requirement for the Firm to make such users aware of the modified Independence requirements agreed to by the representative.

**R800.5 When the Firm performs an eligible Audit Engagement, any modifications to Part 4A shall be limited to those set out in paragraphs R800.7 to R800.14. The Firm shall not apply these modifications when an audit of Financial Statements is required by law or regulation.**

**R800.6 If the Firm also issues an audit report that does not include a restriction on use and distribution for the same client, the Firm shall apply Part 4A to that Audit Engagement.**

#### **Public Interest Entities**

**R800.7 When the Firm performs an eligible Audit Engagement, the Firm does not need to apply the Independence requirements set out in Part 4A that apply only to Public Interest Entity Audit Engagements.**

#### **Related Entities**

**R800.8 When the Firm performs an eligible Audit Engagement, references to "Audit Client" in Part 4A do not need to include its Related Entities. However, when the Audit Team knows or has reason to believe that a relationship or circumstance involving a Related Entity of the client is relevant to the evaluation of the Firm's Independence of the client, the Audit Team shall include that Related Entity when identifying, evaluating and addressing threats to Independence.**

#### **Networks and Network Firms**

**R800.9 When the Firm performs an eligible Audit Engagement, the specific requirements regarding Network Firms set out in Part 4A do not need to be applied. However, when the Firm knows or has reason to believe that threats to Independence are created by any interests and relationships of a Network Firm, the Firm shall evaluate and address any such threat.**

#### **Financial Interests, Loans and Guarantees, Close Business Relationships, and Family and Personal Relationships**

**R800.10 When the Firm performs an eligible Audit Engagement:**

- (a) The relevant provisions set out in Sections 510, 511, 520, 521, 522, 524 and 525 need apply only to the members of the Engagement Team, their Immediate Family members and, where applicable, Close Family members;**
- (b) The Firm shall identify, evaluate and address any threats to Independence created by interests and relationships, as set out in Sections 510, 511, 520, 521, 522, 524 and 525, between the Audit Client and the following Audit Team**

members:

- (i) Those who provide consultation regarding technical or industry specific issues, transactions or events; and
- (ii) Those who provide quality control for the engagement, including those who perform the Engagement Quality Control Review; and
- (c) The Firm shall evaluate and address any threats that the Engagement Team has reason to believe are created by interests and relationships between the Audit Client and others within the Firm who can directly influence the outcome of the Audit Engagement.

800.10 A1 Others within a Firm who can directly influence the outcome of the Audit Engagement include those who recommend the compensation, or who provide direct supervisory, management or other oversight, of the Audit Engagement Partner in connection with the performance of the Audit Engagement including those at all successively senior levels above the Engagement Partner through to the individual who is the Firm's Senior or Managing Partner (Chief Executive or equivalent).

**R800.11** When the Firm performs an eligible Audit Engagement, the Firm shall evaluate and address any threats that the Engagement Team has reason to believe are created by Financial Interests in the Audit Client held by individuals, as set out in paragraphs R510.4(c) and (d), R510.5, R510.7 and 510.10 A5 and A9.

**R800.12** When the Firm performs an eligible Audit Engagement, the Firm, in applying the provisions set out in paragraphs R510.4(a), R510.6 and R510.7 to interests of the Firm, shall not hold a material Direct or a material Indirect Financial Interest in the Audit Client.

#### **Employment with an Audit Client**

**R800.13** When the Firm performs an eligible Audit Engagement, the Firm shall evaluate and address any threats created by any employment relationships as set out in paragraphs 524.3 A1 to 524.5 A3.

#### **Providing Non-Assurance Services**

**R800.14** If the Firm performs an eligible Audit Engagement and provides a non-assurance service to the Audit Client, the Firm shall comply with Sections 410 to 430 and Section 600, including its subsections, subject to paragraphs R800.7 to R800.9.



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# PART 4B – INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENTS

## SECTION 900

### APPLYING THE CONCEPTUAL FRAMEWORK TO INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENTS

#### Introduction

##### General

900.1 This Part applies to Assurance Engagements other than Audit and Review Engagements (referred to as “Assurance Engagements” in this Part). Examples of such engagements include:

- An audit of specific elements, accounts or items of a Financial Statement.
- Performance assurance on a company's key performance indicators.

900.2 In this Part, the term “Member” refers to individual Members in Public Practice and their Firms.

900.3 APES 320 *Quality Control for Firms* (APES 320) requires a Firm to establish policies and procedures designed to provide it with reasonable assurance that the Firm, its personnel and, where applicable, others subject to Independence requirements maintain Independence where required by relevant ethics standards. Auditing and Assurance Standards establish responsibilities for Engagement Partners and Engagement Teams at the level of the engagement. The allocation of responsibilities within a Firm will depend on its size, structure and organisation. Many of the provisions of Part 4B do not prescribe the specific responsibility of individuals within the Firm for actions related to Independence, instead referring to “Firm” for ease of reference. Firms assign responsibility for a particular action to an individual or a group of individuals (such as an Assurance Team) in accordance with APES 320. In addition, an individual Member in Public Practice remains responsible for compliance with any provisions that apply to that Member’s activities, interests or relationships.

900.4 Independence is linked to the principles of objectivity and integrity. It comprises:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a Firm’s or an Assurance Team member’s integrity, objectivity or professional scepticism has been compromised.

In this Part, references to an individual or Firm being “independent” mean that the individual or Firm has complied with the provisions of this Part.

- 900.5 When performing Assurance Engagements, the Code requires Firms to comply with the fundamental principles and be independent. This Part sets out specific requirements and application material on how to apply the conceptual framework to maintain Independence when performing such engagements. The conceptual framework set out in Section 120 applies to Independence as it does to the fundamental principles set out in Section 110.
- 900.6 This Part describes:
- (a) Facts and circumstances, including Professional Activities, interests and relationships, that create or might create threats to Independence;
  - (b) Potential actions, including safeguards, that might be appropriate to address any such threats; and
  - (c) Some situations where the threats cannot be eliminated or there can be no safeguards to reduce the threats to an Acceptable Level.

### **Description of Other Assurance Engagements**

- 900.7 Assurance Engagements are designed to enhance intended users' degree of confidence about the outcome of the evaluation or measurement of a subject matter against criteria. In an Assurance Engagement, the Firm expresses a conclusion designed to enhance the degree of confidence of the intended users (other than the responsible party) about the outcome of the evaluation or measurement of a subject matter against criteria. The *Framework for Assurance Engagements* issued by the AUASB describes the elements and objectives of an Assurance Engagement and identifies engagements to which Auditing and Assurance Standards apply. For a description of the elements and objectives of an Assurance Engagement, refer to the *Framework for Assurance Engagements*.
- 900.8 The outcome of the evaluation or measurement of a subject matter is the information that results from applying the criteria to the subject matter. The term "subject matter information" is used to mean the outcome of the evaluation or measurement of a subject matter. For example, the *Framework for Assurance Engagements* states that an assertion about the effectiveness of internal control (subject matter information) results from applying a framework for evaluating the effectiveness of internal control, such as COSO<sup>37</sup> or CoCo<sup>38</sup> (criteria), to internal control, a process (subject matter).
- 900.9 Assurance Engagements might be assertion-based or direct reporting. In either case, they involve three separate parties: a Firm, a responsible party and intended users.
- 900.10 In an assertion-based Assurance Engagement, the evaluation or measurement of the subject matter is performed by the responsible party. The subject matter information is in the form of an assertion by the responsible party that is made available to the intended users.

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<sup>37</sup> "Internal Control – Integrated Framework" The Committee of Sponsoring Organizations of the Treadway Commission.

<sup>38</sup> "Guidance on Assessing Control – The CoCo Principles" Criteria of Control Board, The Canadian Institute of Chartered Accountants.

- 900.11 In a direct reporting Assurance Engagement, the Firm:
- (a) Directly performs the evaluation or measurement of the subject matter; or
  - (b) Obtains a representation from the responsible party that has performed the evaluation or measurement that is not available to the intended users. The subject matter information is provided to the intended users in the assurance report.

AUST 900.11.1 The AUASB has issued *Framework for Assurance Engagements* which describes the nature of an Assurance Engagement. To obtain a full understanding of the objectives and elements of an Assurance Engagement it is necessary to refer to the full text of that document.

### **Reports that Include a Restriction on Use and Distribution**

900.12 An assurance report might include a restriction on use and distribution. If it does and the conditions set out in Section 990 are met, then the Independence requirements in this Part may be modified as provided in Section 990.

### **Audit and Review Engagements**

900.13 Independence standards for Audit and Review Engagements are set out in Part 4A – *Independence for Audit and Review Engagements*. If a Firm performs both an Assurance Engagement and an Audit or Review Engagement for the same client, the requirements in Part 4A continue to apply to the Firm, a Network Firm and the Audit or Review Team members.

## **Requirements and Application Material**

### **General**

**R900.14 A Firm performing an Assurance Engagement shall be independent.**

**R900.15 A Firm shall apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence in relation to an Assurance Engagement.**

**AUST R900.15.1 Where a Member in Public Practice identifies multiple threats to Independence, which individually might not be significant, the Member shall evaluate the significance of those threats in aggregate and the safeguards applied or in place to eliminate some or all of the threats or reduce them to an Acceptable Level in aggregate.**

### **Network Firms**

**R900.16 When a Firm has reason to believe that interests and relationships of a Network Firm create a threat to the Firm's Independence, the Firm shall evaluate and address any such threat.**

900.16 A1 Network Firms are discussed in paragraphs 400.50 A1 to 400.54 A1.

## Related Entities

**R900.17** When the Assurance Team knows or has reason to believe that a relationship or circumstance involving a Related Entity of the Assurance Client is relevant to the evaluation of the Firm's Independence from the client, the Assurance Team shall include that Related Entity when identifying, evaluating and addressing threats to Independence.

## Types of Assurance Engagements

### *Assertion-based Assurance Engagements*

**R900.18** When performing an assertion-based Assurance Engagement:

- (a) The Assurance Team members and the Firm shall be independent of the Assurance Client (the party responsible for the subject matter information, and which might be responsible for the subject matter) as set out in this Part. The Independence requirements set out in this Part prohibit certain relationships between Assurance Team members and (i) Directors or Officers, and (ii) individuals at the client in a position to exert significant influence over the subject matter information;
- (b) The Firm shall apply the conceptual framework set out in Section 120 to relationships with individuals at the client in a position to exert significant influence over the subject matter of the engagement; and
- (c) The Firm shall evaluate and address any threats that the Firm has reason to believe are created by Network Firm<sup>39</sup> interests and relationships.

**R900.19** When performing an assertion-based Assurance Engagement where the responsible party is responsible for the subject matter information but not the subject matter:

- (a) The Assurance Team members and the Firm shall be independent of the party responsible for the subject matter information (the Assurance Client); and
- (b) The Firm shall evaluate and address any threats the Firm has reason to believe are created by interests and relationships between an Assurance Team member, the Firm, a Network Firm and the party responsible for the subject matter.

900.19 A1 In the majority of assertion-based Assurance Engagements, the responsible party is responsible for both the subject matter information and the subject matter. However, in some engagements, the responsible party might not be responsible for the subject matter. An example might be when a Firm is engaged to perform an Assurance Engagement regarding a report that an environmental consultant has prepared about a company's sustainability practices for distribution to intended users. In this case, the environmental consultant is the responsible party for the subject matter information but the company is responsible for the subject matter (the sustainability practices).

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<sup>39</sup> See paragraphs 400.50 A1 to 400.54 A1 for guidance on what constitutes a Network Firm.

*Direct Reporting Assurance Engagements*

**R900.20 When performing a direct reporting Assurance Engagement:**

- (a) The Assurance Team members and the Firm shall be independent of the Assurance Client (the party responsible for the subject matter); and**
- (b) The Firm shall evaluate and address any threats to Independence the Firm has reason to believe are created by Network Firm interests and relationships.**

*Multiple Responsible Parties*

900.21 A1 In some Assurance Engagements, whether assertion-based or direct reporting, there might be several responsible parties. In determining whether it is necessary to apply the provisions in this Part to each responsible party in such engagements, the Firm may take into account certain matters. These matters include whether an interest or relationship between the Firm, or an Assurance Team member, and a particular responsible party would create a threat to Independence that is not trivial and inconsequential in the context of the subject matter information. This determination will take into account factors such as:

- (a) The materiality of the subject matter information (or of the subject matter) for which the particular responsible party is responsible.
- (b) The degree of public interest associated with the engagement.

If the Firm determines that the threat created by any such interest or relationship with a particular responsible party would be trivial and inconsequential, it might not be necessary to apply all of the provisions of this section to that responsible party.

**[Paragraphs 900.22 to 900.29 are intentionally left blank]**

**Period During which Independence is Required**

**R900.30 Independence, as required by this Part, shall be maintained during both:**

- (a) The Engagement Period; and**
- (b) The period covered by the subject matter information.**

900.30 A1 The Engagement Period starts when the Assurance Team begins to perform assurance services with respect to the particular engagement. The Engagement Period ends when the assurance report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has ended or the issuance of the final assurance report.

**R900.31** If an entity becomes an Assurance Client during or after the period covered by the subject matter information on which the Firm will express a conclusion, the Firm shall determine whether any threats to Independence are created by:

- (a) Financial or business relationships with the Assurance Client during or after the period covered by the subject matter information but before accepting the Assurance Engagement; or
- (b) Previous services provided to the Assurance Client.

**R900.32** Threats to Independence are created if a non-assurance service was provided to the Assurance Client during, or after the period covered by the subject matter information, but before the Assurance Team begins to perform assurance services, and the service would not be permitted during the Engagement Period. In such circumstances, the Firm shall evaluate and address any threat to Independence created by the service. If the threats are not at an Acceptable Level, the Firm shall only accept the Assurance Engagement if the threats are reduced to an Acceptable Level.

900.32 A1 Examples of actions that might be safeguards to address such threats include:

- Using professionals who are not Assurance Team members to perform the service.
- Having an appropriate reviewer review the assurance and non-assurance work as appropriate.

**R900.33** If a non-assurance service that would not be permitted during the Engagement Period has not been completed and it is not practical to complete or end the service before the commencement of Professional Services in connection with the Assurance Engagement, the Firm shall only accept the Assurance Engagement if:

- (a) The Firm is satisfied that:
  - (i) The non-assurance service will be completed within a short period of time; or
  - (ii) The client has arrangements in place to transition the service to another provider within a short period of time;
- (b) The Firm applies safeguards when necessary during the service period; and
- (c) The Firm discusses the matter with Those Charged with Governance.

[Paragraphs 900.34 to 900.39 are intentionally left blank]

## General Documentation of Independence for Assurance Engagements Other than Audit and Review Engagements

**R900.40** A Firm shall document conclusions regarding compliance with this Part, and the substance of any relevant discussions that support those conclusions. In particular:

- (a) When safeguards are applied to address a threat, the Firm shall document the nature of the threat and the safeguards in place or applied; and
- (b) When a threat required significant analysis and the Firm concluded that the threat was already at an Acceptable Level, the Firm shall document the nature of the threat and the rationale for the conclusion.

900.40 A1 Documentation provides evidence of the Firm's judgements in forming conclusions regarding compliance with this Part. However, a lack of documentation does not determine whether a Firm considered a particular matter or whether the Firm is independent.

[Paragraphs 900.41 to 900.49 are intentionally left blank]

## Breach of an Independence Provision for Assurance Engagements Other than Audit and Review Engagements

*When a Firm Identifies a Breach*

**R900.50** If a Firm concludes that a breach of a requirement in this Part has occurred, the Firm shall:

- (a) End, suspend or eliminate the interest or relationship that created the breach;
- (b) Evaluate the significance of the breach and its impact on the Firm's objectivity and ability to issue an assurance report; and
- (c) Determine whether action can be taken that satisfactorily addresses the consequences of the breach.

In making this determination, the Firm shall exercise professional judgement and take into account whether a reasonable and informed third party would be likely to conclude that the Firm's objectivity would be compromised, and therefore, the Firm would be unable to issue an assurance report.

**R900.51** If the Firm determines that action cannot be taken to address the consequences of the breach satisfactorily, the Firm shall, as soon as possible, inform the party that engaged the Firm or Those Charged with Governance, as appropriate. The Firm shall also take the steps necessary to end the Assurance Engagement in compliance with any applicable legal or regulatory requirements relevant to ending the Assurance Engagement.

**R900.52** If the Firm determines that action can be taken to address the consequences of the breach satisfactorily, the Firm shall discuss the breach and the action it has taken or proposes to take with the party that engaged the Firm or Those Charged with Governance, as appropriate. The Firm shall discuss the breach and the proposed



**action on a timely basis, taking into account the circumstances of the engagement and the breach.**

**R900.53** If the party that engaged the Firm does not, or Those Charged with Governance do not concur that the action proposed by the Firm in accordance with paragraph R900.50(c) satisfactorily addresses the consequences of the breach, the Firm shall take the steps necessary to end the Assurance Engagement in compliance with any applicable legal or regulatory requirements relevant to ending the Assurance Engagement.

*Documentation*

**R900.54** In complying with the requirements in paragraphs R900.50 to R900.53, the Firm shall document:

- (a) The breach;**
- (b) The actions taken;**
- (c) The key decisions made; and**
- (d) All the matters discussed with the party that engaged the Firm or Those Charged with Governance.**

**R900.55** If the Firm continues with the Assurance Engagement, it shall document:

- (a) The conclusion that, in the Firm's professional judgement, objectivity has not been compromised; and**
- (b) The rationale for why the action taken satisfactorily addressed the consequences of the breach so that the Firm could issue an assurance report.**

## **SECTION 905**

### **FEES**

#### **Introduction**

- 905.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 905.2 The nature and level of fees or other types of remuneration might create a self-interest or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### **Requirements and Application Material**

##### **Fees—Relative Size**

- 905.3 A1 When the total fees generated from an Assurance client by the Firm expressing the conclusion in an Assurance Engagement represent a large proportion of the total fees of that Firm, the dependence on that client and concern about losing the client create a self-interest or intimidation threat.
- 905.3 A2 Factors that are relevant in evaluating the level of such threats include:
- The operating structure of the Firm.
  - Whether the Firm is well established or new.
  - The significance of the client qualitatively and/or quantitatively to the Firm.
- 905.3 A3 An example of an action that might be a safeguard to address such a self-interest or intimidation threat is increasing the client base in the Firm to reduce dependence on the Assurance Client.
- 905.3 A4 A self-interest or intimidation threat is also created when the fees generated by the Firm from an Assurance Client represent a large proportion of the revenue from an individual partner's clients.
- 905.3 A5 Examples of actions that might be safeguards to address such a self-interest or intimidation threat include:
- Increasing the client base of the partner to reduce dependence on the Assurance Client.
  - Having an appropriate reviewer who was not an Assurance Team member review the work.

## **Fees—Overdue**

905.4 A1 A self-interest threat might be created if a significant part of fees is not paid before the assurance report, if any, for the following period is issued. It is generally expected that the Firm will require payment of such fees before any such report is issued. The requirements and application material set out in Section 911 with respect to loans and guarantees might also apply to situations where such unpaid fees exist.

905.4 A2 Examples of actions that might be safeguards to address such a self-interest threat include:

- Obtaining partial payment of overdue fees.
- Having an appropriate reviewer who did not take part in the Assurance Engagement review the work performed.

**R905.5 When a significant part of fees due from an Assurance Client remains unpaid for a long time, the Firm shall determine:**

- (a) Whether the overdue fees might be equivalent to a loan to the client; and**
- (b) Whether it is appropriate for the Firm to be re-appointed or continue the Assurance Engagement.**

## **Contingent Fees**

905.6 A1 Contingent Fees are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed. A Contingent Fee charged through an intermediary is an example of an indirect Contingent Fee. In this section, a fee is not regarded as being contingent if established by a court or other public authority.

**R905.7 A Firm shall not charge directly or indirectly a Contingent Fee for an Assurance Engagement.**

**R905.8 A Firm shall not charge directly or indirectly a Contingent Fee for a non-assurance service provided to an Assurance Client if the outcome of the non-assurance service, and therefore, the amount of the fee, is dependent on a future or contemporary judgement related to a matter that is material to the subject matter information of the Assurance Engagement.**

905.9 A1 Paragraphs R905.7 and R905.8 preclude a Firm from entering into certain Contingent Fee arrangements with an Assurance Client. Even if a Contingent Fee arrangement is not precluded when providing a non-assurance service to an Assurance Client, a self-interest threat might still be created.

905.9 A2 Factors that are relevant in evaluating the level of such a threat include:

- The range of possible fee amounts.
- Whether an appropriate authority determines the outcome on which the Contingent Fee depends.
- Disclosure to intended users of the work performed by the Firm and the basis of remuneration.
- The nature of the service.
- The effect of the event or transaction on the subject matter information.

905.9 A3 Examples of actions that might be safeguards to address such a self-interest threat include:

- Having an appropriate reviewer who was not involved in performing the non-assurance service review the relevant assurance work.
- Obtaining an advance written agreement with the client on the basis of remuneration.

## **SECTION 906**

### **GIFTS AND HOSPITALITY**

[Reserved for Section 906 which forms part of Inducements project.]

## **SECTION 907**

### **ACTUAL OR THREATENED LITIGATION**

#### **Introduction**

- 907.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 907.2 When litigation with an Assurance Client occurs, or appears likely, self-interest and intimidation threats are created. This section sets out specific application material relevant to applying the conceptual framework in such circumstances.

#### **Application Material**

##### **General**

- 907.3 A1 The relationship between client management and Assurance Team members must be characterised by complete candour and full disclosure regarding all aspects of a client's operations. Adversarial positions might result from actual or threatened litigation between an Assurance Client and the Firm or an Assurance Team member. Such adversarial positions might affect management's willingness to make complete disclosures and create self-interest and intimidation threats.
- 907.3 A2 Factors that are relevant in evaluating the level of such threats include:
- The materiality of the litigation.
  - Whether the litigation relates to a prior Assurance Engagement.
- 907.3 A3 If the litigation involves an Assurance Team member, an example of an action that might eliminate such self-interest and intimidation threats is removing that individual from the Assurance Team.
- 907.3 A4 An example of an action that might be a safeguard to address such self-interest and intimidation threats is having an appropriate reviewer review the work performed.

## SECTION 910

### FINANCIAL INTERESTS

#### Introduction

- 910.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 910.2 Holding a Financial Interest in an Assurance Client might create a self-interest threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- 910.3 A1 A Financial Interest might be held directly or indirectly through an intermediary such as a collective investment vehicle, an estate or a trust. When a beneficial owner has control over the intermediary or ability to influence its investment decisions, the Code defines that Financial Interest to be direct. Conversely, when a beneficial owner has no control over the intermediary or ability to influence its investment decisions, the Code defines that Financial Interest to be indirect.
- 910.3 A2 This section contains references to the “materiality” of a Financial Interest. In determining whether such an interest is material to an individual, the combined net worth of the individual and the individual’s Immediate Family members may be taken into account.
- 910.3 A3 Factors that are relevant in evaluating the level of a self-interest threat created by holding a Financial Interest in an Assurance Client include:
- The role of the individual holding the Financial Interest.
  - Whether the Financial Interest is direct or indirect.
  - The materiality of the Financial Interest.

##### Financial Interests Held by the Firm, Assurance Team Members and Immediate Family

- R910.4 A Direct Financial Interest or a material Indirect Financial Interest in the Assurance Client shall not be held by:**
- (a) The Firm; or**
  - (b) An Assurance Team member or any of that individual’s Immediate Family.**

## **Financial Interests in an Entity Controlling an Assurance Client**

**R910.5** When an entity has a controlling interest in the Assurance Client and the client is material to the entity, neither the Firm, nor an Assurance Team member, nor any of that individual's Immediate Family shall hold a Direct or material Indirect Financial Interest in that entity.

## **Financial Interests Held as Trustee**

**R910.6** Paragraph R910.4 shall also apply to a Financial Interest in an Assurance Client held in a trust for which the Firm or individual acts as trustee unless:

- (a) None of the following is a beneficiary of the trust: the trustee, the Assurance Team member or any of that individual's Immediate Family, or the Firm;
- (b) The interest in the Assurance Client held by the trust is not material to the trust;
- (c) The trust is not able to exercise significant influence over the Assurance Client; and
- (d) None of the following can significantly influence any investment decision involving a Financial Interest in the Assurance Client: the trustee, the Assurance Team member or any of that individual's Immediate Family, or the Firm.

## **Financial Interests Received Unintentionally**

**R910.7** If a Firm, an Assurance Team member, or any of that individual's Immediate Family, receives a Direct Financial Interest or a material Indirect Financial Interest in an Assurance Client by way of an inheritance, gift, as a result of a merger, or in similar circumstances and the interest would not otherwise be permitted to be held under this section, then:

- (a) If the interest is received by the Firm, the Financial Interest shall be disposed of immediately, or enough of an Indirect Financial Interest shall be disposed of so that the remaining interest is no longer material; or
- (b) If the interest is received by an Assurance Team member, or by any of that individual's Immediate Family, the individual who received the Financial Interest shall immediately dispose of the Financial Interest, or dispose of enough of an Indirect Financial Interest so that the remaining interest is no longer material.

## **Financial Interests – Other Circumstances**

### *Close Family*

**910.8 A1** A self-interest threat might be created if an Assurance Team member knows that a Close Family member has a Direct Financial Interest or a material Indirect Financial Interest in the Assurance Client.



- 910.8 A2 Factors that are relevant in evaluating the level of such a threat include:
- The nature of the relationship between the Assurance Team member and the Close Family member.
  - Whether the Financial Interest is direct or indirect.
  - The materiality of the Financial Interest to the Close Family member.

- 910.8 A3 Examples of actions that might eliminate such a self-interest threat include:
- Having the Close Family member dispose, as soon as practicable, of all of the Financial Interest or dispose of enough of an Indirect Financial Interest so that the remaining interest is no longer material.
  - Removing the individual from the Assurance Team.

- 910.8 A4 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review the work of the Assurance Team member.

*Other Individuals*

- 910.8 A5 A self-interest threat might be created if an Assurance Team member knows that a Financial Interest is held in the Assurance Client by individuals such as:
- Partners and professional employees of the Firm, apart from those who are specifically not permitted to hold such Financial Interests by paragraph R910.4, or their Immediate Family members.
  - Individuals with a close personal relationship with an Assurance Team member.

- 910.8 A6 An example of an action that might eliminate such a self-interest threat is removing the Assurance Team member with the personal relationship from the Assurance Team.

- 910.8 A7 Examples of actions that might be safeguards to address such a self-interest threat include:
- Excluding the Assurance Team member from any significant decision-making concerning the Assurance Engagement.
  - Having an appropriate reviewer review the work of the Assurance Team member.

## SECTION 911

### LOANS AND GUARANTEES

#### Introduction

- 911.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 911.2 A loan or a guarantee of a loan with an Assurance Client might create a self-interest threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- 911.3 A1 This section contains references to the “materiality” of a loan or guarantee. In determining whether such a loan or guarantee is material to an individual, the combined net worth of the individual and the individual’s Immediate Family members may be taken into account.

##### Loans and Guarantees with an Assurance Client

- R911.4 A Firm, an Assurance Team member, or any of that individual’s Immediate Family shall not make or guarantee a loan to an Assurance Client unless the loan or guarantee is immaterial to both:**
- (a) The Firm or the individual making the loan or guarantee, as applicable; and**
  - (b) The client.**

##### Loans and Guarantees with an Assurance Client that is a Bank or Similar Institution

- R911.5 A Firm, an Assurance Team member, or any of that individual’s Immediate Family shall not accept a loan, or a guarantee of a loan, from an Assurance Client that is a bank or a similar institution unless the loan or guarantee is made under normal lending procedures, terms and conditions.**
- 911.5 A1 Examples of loans include mortgages, bank overdrafts, car loans and credit card balances.
- 911.5 A2 Even if a Firm receives a loan from an Assurance Client that is a bank or similar institution under normal lending procedures, terms and conditions, the loan might create a self-interest threat if it is material to the Assurance Client or Firm receiving the loan.
- 911.5 A3 An example of an action that might be a safeguard to address such a self-interest threat is having the work reviewed by an appropriate reviewer, who is not an Assurance Team member, from a Network Firm that is not a beneficiary of the loan.

*Deposit or Brokerage Accounts*

**R911.6** A Firm, an Assurance Team member, or any of that individual's Immediate Family shall not have deposits or a brokerage account with an Assurance Client that is a bank, broker, or similar institution, unless the deposit or account is held under normal commercial terms.

**Loans and Guarantees with an Assurance Client that is not a Bank or Similar Institution**

**R911.7** A Firm or an Assurance Team member, or any of that individual's Immediate Family, shall not accept a loan from, or have a borrowing guaranteed by, an Assurance Client that is not a bank or similar institution, unless the loan or guarantee is immaterial to both:

- (a) The Firm, or the individual receiving the loan or guarantee, as applicable; and
- (b) The client.

## SECTION 920

### BUSINESS RELATIONSHIPS

#### Introduction

- 920.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 920.2 A close business relationship with an Assurance Client or its management might create a self-interest or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- 920.3 A1 This section contains references to the “materiality” of a Financial Interest and the “significance” of a business relationship. In determining whether such a Financial Interest is material to an individual, the combined net worth of the individual and the individual’s Immediate Family members may be taken into account.
- 920.3 A2 Examples of a close business relationship arising from a commercial relationship or common Financial Interest include:
- Having a Financial Interest in a joint venture with either the client or a controlling owner, Director or Officer or other individual who performs senior managerial activities for that client.
  - Arrangements to combine one or more services or products of the Firm with one or more services or products of the client and to market the package with reference to both parties.
  - Distribution or marketing arrangements under which the Firm distributes or markets the client’s products or services, or the client distributes or markets the Firm’s products or services.

##### Firm, Assurance Team Member or Immediate Family Business Relationships

- R920.4 A Firm or an Assurance Team member shall not have a close business relationship with an Assurance Client or its management unless any Financial Interest is immaterial and the business relationship is insignificant to the client or its management and the Firm or the Assurance Team member, as applicable.**
- 920.4 A1 A self-interest or intimidation threat might be created if there is a close business relationship between the Assurance Client or its management and the Immediate Family of an Assurance Team member.

## **Buying Goods or Services**

920.5 A1 The purchase of goods and services from an Assurance client by a Firm, or an Assurance Team member, or any of that individual's Immediate Family does not usually create a threat to Independence if the transaction is in the normal course of business and at arm's length. However, such transactions might be of such a nature and magnitude that they create a self-interest threat.

920.5 A2 Examples of actions that might eliminate such a self-interest threat include:

- Eliminating or reducing the magnitude of the transaction.
- Removing the individual from the Assurance Team.

## **SECTION 921**

### **FAMILY AND PERSONAL RELATIONSHIPS**

#### **Introduction**

- 921.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 921.2 Family or personal relationships with client personnel might create a self-interest, familiarity or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### **Requirements and Application Material**

##### **General**

- 921.3 A1 A self-interest, familiarity or intimidation threat might be created by family and personal relationships between an Assurance Team member and a Director or Officer or, depending on their role, certain employees of the Assurance Client.
- 921.3 A2 Factors that are relevant in evaluating the level of such threats include:
- The individual's responsibilities on the Assurance Team.
  - The role of the family member or other individual within the client, and the closeness of the relationship.

##### **Immediate Family of an Assurance Team Member**

- 921.4 A1 A self-interest, familiarity or intimidation threat is created when an Immediate Family member of an Assurance Team member is an employee in a position to exert significant influence over the subject matter of the engagement.
- 921.4 A2 Factors that are relevant in evaluating the level of such threats include:
- The position held by the Immediate Family member.
  - The role of the Assurance Team member.
- 921.4 A3 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the Assurance Team.
- 921.4 A4 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the Assurance Team so that the Assurance Team member does not deal with matters that are within the responsibility of the Immediate Family member.

**R921.5 An individual shall not participate as an Assurance Team member when any of that individual's Immediate Family:**

- (a) Is a Director or Officer of the Assurance Client;**
- (b) Is an employee in a position to exert significant influence over the subject matter information of the Assurance Engagement; or**
- (c) Was in such a position during any period covered by the engagement or the subject matter information.**

#### **Close Family of an Assurance Team Member**

921.6 A1 A self-interest, familiarity or intimidation threat is created when a Close Family member of an Assurance Team member is:

- (a) A Director or Officer of the Assurance Client; or
- (b) An employee in a position to exert significant influence over the subject matter information of the Assurance Engagement.

921.6 A2 Factors that are relevant in evaluating the level of such threats include:

- The nature of the relationship between the Assurance Team member and the Close Family member.
- The position held by the Close Family member.
- The role of the Assurance Team member.

921.6 A3 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the Assurance Team.

921.6 A4 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the Assurance Team so that the Assurance Team member does not deal with matters that are within the responsibility of the Close Family member.

#### **Other Close Relationships of an Assurance Team Member**

**R921.7 An Assurance Team member shall consult in accordance with Firm policies and procedures if the Assurance Team member has a close relationship with an individual who is not an Immediate or Close Family member, but who is:**

- (a) A Director or Officer of the Assurance Client; or**
- (b) An employee in a position to exert significant influence over the subject matter information of the Assurance Engagement.**

- 921.7 A1 Factors that are relevant in evaluating the level of a self-interest, familiarity or intimidation threat created by such relationships include:
- The nature of the relationship between the individual and the Assurance Team member.
  - The position the individual holds with the client.
  - The role of the Assurance Team member.
- 921.7 A2 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the Assurance Team.
- 921.7 A3 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the Assurance Team so that the Assurance Team member does not deal with matters that are within the responsibility of the individual with whom the Assurance Team member has a close relationship.

### **Relationships of Partners and Employees of the Firm**

- 921.8 A1 A self-interest, familiarity or intimidation threat might be created by a personal or family relationship between:
- (a) A partner or employee of the Firm who is not an Assurance Team member; and
  - (b) A Director or Officer of the Assurance Client or an employee in a position to exert significant influence over the subject matter information of the Assurance Engagement.
- 921.8 A2 Factors that are relevant in evaluating the level of such threats include:
- The nature of the relationship between the partner or employee of the Firm and the Director or Officer or employee of the client.
  - The degree of interaction of the partner or employee of the Firm with the Assurance Team.
  - The position of the partner or employee within the Firm.
  - The role of the individual within the client.
- 921.8 A3 Examples of actions that might be safeguards to address such self-interest, familiarity or intimidation threats include:
- Structuring the partner's or employee's responsibilities to reduce any potential influence over the Assurance Engagement.
  - Having an appropriate reviewer review the relevant assurance work performed.



## SECTION 922

### RECENT SERVICE WITH AN ASSURANCE CLIENT

#### Introduction

- 922.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 922.2 If an Assurance Team member has recently served as a Director or Officer or employee of the Assurance Client, a self-interest, self-review or familiarity threat might be created. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### Service During the Period Covered by the Assurance Report

**R922.3 The Assurance Team shall not include an individual who, during the period covered by the assurance report:**

- (a) Had served as a Director or Officer of the Assurance Client; or**
- (b) Was an employee in a position to exert significant influence over the subject matter information of the Assurance Engagement.**

##### Service Prior to the Period Covered by the Assurance Report

922.4 A1 A self-interest, self-review or familiarity threat might be created if, before the period covered by the assurance report, an Assurance Team member:

- (a) Had served as a Director or Officer of the Assurance Client; or
- (b) Was an employee in a position to exert significant influence over the subject matter information of the Assurance Engagement.

For example, a threat would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current Assurance Engagement.

922.4 A2 Factors that are relevant in evaluating the level of such threats include:

- The position the individual held with the client.
- The length of time since the individual left the client.
- The role of the Assurance Team member.

922.4 A3 An example of an action that might be a safeguard to address such a self-interest, self-review or familiarity threat is having an appropriate reviewer review the work performed by the Assurance Team member.

## SECTION 923

### SERVING AS A DIRECTOR OR OFFICER OF AN ASSURANCE CLIENT

#### Introduction

- 923.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 923.2 Serving as a Director or Officer of an Assurance Client creates self-review and self-interest threats. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### Service as Director or Officer

- R923.3 A partner or employee of the Firm shall not serve as a Director or Officer of an Assurance Client of the Firm.**

##### Service as Company Secretary

- R923.4 A partner or employee of the Firm shall not serve as company secretary for an Assurance Client of the Firm unless:**
- (a) This practice is specifically permitted under local law, professional rules or practice;**
  - (b) Management makes all decisions; and**
  - (c) The duties and activities performed are limited to those of a routine and administrative nature, such as preparing minutes and maintaining statutory returns.**
- 923.4 A1 The position of company secretary has different implications in different jurisdictions. Duties might range from: administrative duties (such as personnel management and the maintenance of company records and registers) to duties as diverse as ensuring that the company complies with regulations or providing advice on corporate governance matters. Usually this position is seen to imply a close association with the entity. Therefore, a threat is created if a partner or employee of the Firm serves as company secretary for an Assurance Client. (More information on providing non-assurance services to an Assurance Client is set out in Section 950, *Provision of Non-assurance Services to an Assurance Client.*)

## SECTION 924

### EMPLOYMENT WITH AN ASSURANCE CLIENT

#### Introduction

924.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.

924.2 Employment relationships with an Assurance Client might create a self-interest, familiarity or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

924.3 A1 A familiarity or intimidation threat might be created if any of the following individuals have been an Assurance Team member or partner of the Firm:

- A Director or Officer of the Assurance Client.
- An employee who is in a position to exert significant influence over the subject matter information of the Assurance Engagement.

##### *Former Partner or Assurance Team Member Restrictions*

**R924.4 If a former partner has joined an Assurance Client of the Firm or a former Assurance Team member has joined the Assurance Client as:**

- (a) A Director or Officer; or**
- (b) An employee in a position to exert significant influence over the subject matter information of the Assurance Engagement,**

**the individual shall not continue to participate in the Firm's business or Professional Activities.**

924.4 A1 Even if one of the individuals described in paragraph R924.4 has joined the Assurance Client in such a position and does not continue to participate in the Firm's business or Professional Activities, a familiarity or intimidation threat might still be created.

924.4 A2 A familiarity or intimidation threat might also be created if a former partner of the Firm has joined an entity in one of the positions described in paragraph 924.3 A1 and the entity subsequently becomes an Assurance Client of the Firm.

924.4 A3 Factors that are relevant in evaluating the level of such threats include:

- The position the individual has taken at the client.
- Any involvement the individual will have with the Assurance Team.
- The length of time since the individual was an Assurance Team member or partner of the Firm.
- The former position of the individual within the Assurance Team or Firm. An example is whether the individual was responsible for maintaining regular contact with the client's management or Those Charged with Governance.

924.4 A4 Examples of actions that might be safeguards to address such a familiarity or intimidation threat include:

- Making arrangements such that the individual is not entitled to any benefits or payments from the Firm, unless made in accordance with fixed pre-determined arrangements.
- Making arrangements such that any amount owed to the individual is not material to the Firm.
- Modifying the plan for the Assurance Engagement.
- Assigning to the Assurance Team individuals who have sufficient experience relative to the individual who has joined the client.
- Having an appropriate reviewer review the work of the former Assurance Team member.

*Assurance Team Members Entering Employment Negotiations with a Client*

**R924.5 A Firm shall have policies and procedures that require Assurance Team members to notify the Firm when entering employment negotiations with an Assurance Client.**

924.5 A1 A self-interest threat is created when an Assurance Team member participates in the Assurance Engagement while knowing that the Assurance Team member will, or might, join the client sometime in the future.

924.5 A2 An example of an action that might eliminate such a self-interest threat is removing the individual from the Assurance Engagement.

924.5 A3 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review any significant judgements made by that Assurance Team member while on the team.

## **SECTION 940**

### **LONG ASSOCIATION OF PERSONNEL WITH AN ASSURANCE CLIENT**

#### **Introduction**

- 940.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 940.2 When an individual is involved in an Assurance Engagement of a recurring nature over a long period of time, familiarity and self-interest threats might be created. This section sets out requirements and application material relevant to applying the conceptual framework in such circumstances.

#### **Requirements and Application Material**

##### **General**

- 940.3 A1 A familiarity threat might be created as a result of an individual's long association with:
- (a) The Assurance Client;
  - (b) The Assurance Client's senior management; or
  - (c) The subject matter and subject matter information of the Assurance Engagement.
- 940.3 A2 A self-interest threat might be created as a result of an individual's concern about losing a long standing Assurance Client or an interest in maintaining a close personal relationship with a member of senior management or Those Charged with Governance. Such a threat might influence the individual's judgement inappropriately.
- 940.3 A3 Factors that are relevant to evaluating the level of such familiarity or self-interest threats include:
- The nature of the Assurance Engagement.
  - How long the individual has been an Assurance Team member, the individual's seniority on the team, and the nature of the roles performed, including if such a relationship existed while the individual was at a prior Firm.
  - The extent to which the work of the individual is directed, reviewed and supervised by more senior personnel.
  - The extent to which the individual, due to the individual's seniority, has the ability to influence the outcome of the Assurance Engagement, for example, by making key decisions or directing the work of other Engagement Team members.
  - The closeness of the individual's personal relationship with the Assurance Client or, if relevant, senior management.
  - The nature, frequency and extent of interaction between the individual and the Assurance Client.

- Whether the nature or complexity of the subject matter or subject matter information has changed.
- Whether there have been any recent changes in the individual or individuals who are the responsible party or, if relevant, senior management.

940.3 A4 The combination of two or more factors might increase or reduce the level of the threats. For example, familiarity threats created over time by the increasingly close relationship between an individual and the Assurance Client would be reduced by the departure of the individual who is the responsible party.

940.3 A5 An example of an action that might eliminate the familiarity and self-interest threats in relation to a specific engagement would be rotating the individual off the Assurance Team.

940.3 A6 Examples of actions that might be safeguards to address such familiarity or self-interest threats include:

- Changing the role of the individual on the Assurance Team or the nature and extent of the tasks the individual performs.
- Having an appropriate reviewer who was not an Assurance Team member review the work of the individual.
- Performing regular independent internal or external quality reviews of the engagement.

**R940.4 If a Firm decides that the level of the threats created can only be addressed by rotating the individual off the Assurance Team, the Firm shall determine an appropriate period during which the individual shall not:**

- (a) Be a member of the Engagement Team for the Assurance Engagement;**
- (b) Provide quality control for the Assurance Engagement; or**
- (c) Exert direct influence on the outcome of the Assurance Engagement.**

**The period shall be of sufficient duration to allow the familiarity and self-interest threats to be addressed.**

## SECTION 950

### PROVISION OF NON-ASSURANCE SERVICES TO ASSURANCE CLIENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENT CLIENTS

#### Introduction

- 950.1 Firms are required to comply with the fundamental principles, be independent, and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 950.2 Firms might provide a range of non-assurance services to their Assurance Clients, consistent with their skills and expertise. Providing certain non-assurance services to Assurance Clients might create threats to compliance with the fundamental principles and threats to Independence. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

#### Requirements and Application Material

##### General

- R950.3 Before a Firm accepts an engagement to provide a non-assurance service to an Assurance Client, the Firm shall determine whether providing such a service might create a threat to Independence.**
- 950.3 A1 The requirements and application material in this section assist Firms in analysing certain types of non-assurance services and the related threats that might be created when a Firm accepts or provides non-assurance services to an Assurance Client.
- 950.3 A2 New business practices, the evolution of financial markets and changes in information technology are among the developments that make it impossible to draw up an all-inclusive list of non-assurance services that might be provided to an Assurance Client. As a result, the Code does not include an exhaustive listing of all non-assurance services that might be provided to an Assurance Client.

##### *Evaluating Threats*

- 950.4 A1 Factors that are relevant in evaluating the level of threats created by providing a non-assurance service to an Assurance Client include:
- The nature, scope and purpose of the service.
  - The degree of reliance that will be placed on the outcome of the service as part of the Assurance Engagement.
  - The legal and regulatory environment in which the service is provided.

- Whether the outcome of the service will affect matters reflected in the subject matter or subject matter information of the Assurance Engagement, and, if so:
  - The extent to which the outcome of the service will have a material or significant effect on the subject matter of the Assurance Engagement.
  - The extent of the Assurance Client's involvement in determining significant matters of judgement.
- The level of expertise of the client's management and employees with respect to the type of service provided.

#### Materiality in Relation to an Assurance Client's Information

950.4 A2 The concept of materiality in relation to an Assurance Client's information is addressed in *Standard on Assurance Engagements (ASAE) 3000, Assurance Engagements Other than Audits or Reviews of Historical Financial Information*. The determination of materiality involves the exercise of professional judgement and is impacted by both quantitative and qualitative factors. It is also affected by perceptions of the financial or other information needs of users.

#### Multiple Non-assurance Services Provided to the Same Assurance Client

950.4 A3 A Firm might provide multiple non-assurance services to an Assurance Client. In these circumstances the combined effect of threats created by providing those services is relevant to the Firm's evaluation of threats.

#### *Addressing Threats*

950.5 A1 Paragraph 120.10 A2 includes a description of safeguards. In relation to providing non-assurance services to Assurance Clients, safeguards are actions, individually or in combination, that the Firm takes that effectively reduce threats to Independence to an Acceptable Level. In some situations, when a threat is created by providing a service to an Assurance Client, safeguards might not be available. In such situations, the application of the conceptual framework set out in Section 120 requires the Firm to decline or end the non-assurance service or the Assurance Engagement.

#### *Prohibition on Assuming Management Responsibilities*

**R950.6 A Firm shall not assume a management responsibility related to the subject matter or subject matter information of an Assurance Engagement provided by the Firm. If the Firm assumes a management responsibility as part of any other service provided to the Assurance Client, the Firm shall ensure that the responsibility is not related to the subject matter or subject matter information of the Assurance Engagement provided by the Firm.**

950.6 A1 Management responsibilities involve controlling, leading and directing an entity, including making decisions regarding the acquisition, deployment and control of human, financial, technological, physical and intangible resources.



950.6 A2 Providing a non-assurance service to an Assurance Client creates self-review and self-interest threats if the Firm assumes a management responsibility when performing the service. In relation to providing a service related to the subject matter or subject matter information of an Assurance Engagement provided by the Firm, assuming a management responsibility also creates a familiarity threat and might create an advocacy threat because the Firm becomes too closely aligned with the views and interests of management.

950.6 A3 Determining whether an activity is a management responsibility depends on the circumstances and requires the exercise of professional judgement. Examples of activities that would be considered a management responsibility include:

- Setting policies and strategic direction.
- Hiring or dismissing employees.
- Directing and taking responsibility for the actions of employees in relation to the employees' work for the entity.
- Authorising transactions.
- Controlling or managing bank accounts or investments.
- Deciding which recommendations of the Firm or other third parties to implement.
- Reporting to Those Charged with Governance on behalf of management.
- Taking responsibility for designing, implementing, monitoring and maintaining internal control.

950.6 A4 Providing advice and recommendations to assist the management of an Assurance Client in discharging its responsibilities is not assuming a management responsibility. (Ref: Paras. R950.6 to 950.6 A3).

**R950.7 To avoid assuming a management responsibility when providing non-assurance services to an Assurance Client that are related to the subject matter or subject matter information of the Assurance Engagement, the Firm shall be satisfied that client management makes all related judgements and decisions that are the proper responsibility of management. This includes ensuring that the client's management:**

- (a) **Designates an individual who possesses suitable skill, knowledge and experience to be responsible at all times for the client's decisions and to oversee the services. Such an individual, preferably within senior management, would understand:**
- (i) **The objectives, nature and results of the services; and**
  - (ii) **The respective client and Firm responsibilities.**

**However, the individual is not required to possess the expertise to perform or re-perform the services.**

- (b) **Provides oversight of the services and evaluates the adequacy of the results of the service performed for the client's purpose; and**

- (c) **Accepts responsibility for the actions, if any, to be taken arising from the results of the services.**

*Other Considerations Related to Providing Specific Non-Assurance Services*

- 950.8 A1 A self-review threat might be created if the Firm is involved in the preparation of subject matter information which is subsequently the subject matter information of an Assurance Engagement. Examples of non-assurance services that might create such self-review threats when providing services related to the subject matter information of an Assurance Engagement include:
- (a) Developing and preparing prospective information and subsequently providing assurance on this information.
  - (b) Performing a valuation that forms part of the subject matter information of an Assurance Engagement.

## SECTION 990

### REPORTS THAT INCLUDE A RESTRICTION ON USE AND DISTRIBUTION (ASSURANCE ENGAGEMENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENTS)

#### Introduction

- 990.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to Independence.
- 990.2 This section sets out certain modifications to Part 4B which are permitted in certain circumstances involving Assurance Engagements where the report includes a restriction on use and distribution. In this section, an engagement to issue a restricted use and distribution assurance report in the circumstances set out in paragraph R990.3 is referred to as an “eligible Assurance Engagement.”

#### Requirements and Application Material

##### General

- R990.3 When a Firm intends to issue a report on an Assurance Engagement which includes a restriction on use and distribution, the Independence requirements set out in Part 4B shall be eligible for the modifications that are permitted by this section, but only if:**
- (a) The Firm communicates with the intended users of the report regarding the modified Independence requirements that are to be applied in providing the service; and**
  - (b) The intended users of the report understand the purpose, subject matter information and limitations of the report and explicitly agree to the application of the modifications.**
- 990.3 A1 The intended users of the report might obtain an understanding of the purpose, subject matter information, and limitations of the report by participating, either directly, or indirectly through a representative who has authority to act for the intended users, in establishing the nature and scope of the engagement. In either case, this participation helps the Firm to communicate with intended users about Independence matters, including the circumstances that are relevant to applying the conceptual framework. It also allows the Firm to obtain the agreement of the intended users to the modified Independence requirements.
- R990.4 Where the intended users are a class of users who are not specifically identifiable by name at the time the engagement terms are established, the Firm shall subsequently make such users aware of the modified Independence requirements agreed to by their representative.**

990.4 A1 For example, where the intended users are a class of users such as lenders in a syndicated loan arrangement, the Firm might describe the modified Independence requirements in an engagement letter to the representative of the lenders. The representative might then make the Firm's engagement letter available to the members of the group of lenders to meet the requirement for the Firm to make such users aware of the modified Independence requirements agreed to by the representative.

**R990.5 When the Firm performs an eligible Assurance Engagement, any modifications to Part 4B shall be limited to those modifications set out in paragraphs R990.7 and R990.8.**

**R990.6 If the Firm also issues an assurance report that does not include a restriction on use and distribution for the same client, the Firm shall apply Part 4B to that Assurance Engagement.**

#### **Financial Interests, Loans and Guarantees, Close Business, Family and Personal Relationships**

**R990.7 When the Firm performs an eligible Assurance Engagement:**

- (a) The relevant provisions set out in Sections 910, 911, 920, 921, 922 and 924 need apply only to the members of the Engagement Team, and their Immediate and Close Family members;**
- (b) The Firm shall identify, evaluate and address any threats to Independence created by interests and relationships, as set out in Sections 910, 911, 920, 921, 922 and 924, between the Assurance Client and the following Assurance Team members;**
  - (i) Those who provide consultation regarding technical or industry specific issues, transactions or events; and**
  - (ii) Those who provide quality control for the engagement, including those who perform the Engagement Quality Control Review; and**
- (c) The Firm shall evaluate and address any threats that the Engagement Team has reason to believe are created by interests and relationships between the Assurance Client and others within the Firm who can directly influence the outcome of the Assurance Engagement, as set out in Sections 910, 911, 920, 921, 922 and 924.**

990.7 A1 Others within the Firm who can directly influence the outcome of the Assurance Engagement include those who recommend the compensation, or who provide direct supervisory, management or other oversight, of the Assurance Engagement Partner in connection with the performance of the Assurance Engagement.

**R990.8 When the Firm performs an eligible Assurance Engagement, the Firm shall not hold a material Direct or a material Indirect Financial Interest in the Assurance Client.**

## **TRANSITIONAL PROVISIONS**

The Code is subject to the following transitional provisions:

### *Long Association of Personnel with an Audit or Assurance Client*

1. Paragraph R540.19 shall have effect only for audits of Financial Statements for periods beginning prior to 31 December 2023. This will facilitate the transition to the required cooling-off period of five consecutive years for Engagement Partners where legislation or regulation has specified a cooling-off period of less than five consecutive years.

## CONFORMITY WITH INTERNATIONAL PRONOUNCEMENTS

### *APES 110 and the IESBA Code*

APES 110 incorporates the *International Code of Ethics for Professional Accountants (including International Independence Standards)* (IESBA Code) issued by the International Ethics Standards Board for Accountants (IESBA) in April 2018.

### *Compliance with the IESBA Code*

The principles and requirements of APES 110 and the IESBA Code are consistent except for the following:

- Removal of the term 'International' from the title;
- The addition of a Scope and Application section in APES 110;
- Requirement paragraphs in APES 110 are in **bold-type** font;
- APES 110 generally refers to Members whereas the IESBA Code refers to professional accountants;
- Defined terms are in title case in APES 110;
- The addition of paragraphs and definitions prefixed as AUST in APES 110. The additional definitions are of AASB, Administration, AUASB, Auditing and Assurance Standards, Australian Accounting Standards, Member and Professional Bodies;
- APES 110 tailors the following IESBA defined terms to the Australian environment: Assurance Engagement, Audit Engagement, Director or Officer, Engagement Team, Financial Statements, Firm, Member in Public Practice, and Review Engagement;
- The definition of Engagement Team in APES 110 does not exclude individuals within the client's internal audit function who provide direct assistance on an Audit Engagement as the AUASB has prohibited the use of direct assistance in Auditing and Assurance Standard ASA 610 *Using the Work of Internal Auditors* (November 2013);
- APES 110 uses the term 'NOCLAR' whereas the IESBA Code refers to 'non-compliance';
- APES 110 includes additional text in the section heading of Part 2 to indicate that the section includes employment relationships of Members in Public Practice;
- Enhancing the clarity of provisions in Sections 320 and 360 by replacing some of the references to the Proposed Accountant, Existing Accountant or Predecessor Accountant with the term Member in Public Practice;
- Paragraph AUST 400.8.1 of APES 110 expresses Public Interest Entity in the singular form consistent with its definition in the Glossary; and
- Paragraph AUST 400.8.1 in APES 110 mandates Firms to determine whether additional entities are Public Interest Entities and the reference to member bodies has been removed.