

27 October 2015

APESB issues revised APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business*

Accounting Professional & Ethical Standards Board Limited (APESB) today announced the issue of the revised APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business* (Revised APES GN 40) to replace the existing APES GN 40 (Issued March 2012).

Please refer to Appendix 1 of this technical update for details of the revisions. The revised APES GN 40 will be effective from the date of issue.

The revised guidance note is available from APESB's website: www.apesb.org.au

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Appendix 1

Revisions to existing APES GN 40 (March 2012)

Accounting Professional & Ethical Standards Board Limited (APESB) has approved the following revisions to APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business* which was originally issued in March 2012.

Paragraph Reference	Revisions
1.1	<p>The objectives of APES GN 40 <i>Ethical Conflicts in the Workplace – Considerations for Members in Business</i> are to provide guidance to a Member in Business in respect of:</p> <ul style="list-style-type: none"> • fundamental responsibilities of the Member in Business when dealing with ethical conflicts in the workplace; • the application of the conceptual framework in the Code to identify, evaluate and address ethical issues; • specific circumstances such as dealing with conflicts of interest, reporting of information, acting with sufficient expertise, financial interests and inducements; and • the disclosure of confidential information of an Employer to a third party and whistleblowing.
1.4 2	Accounting Professional & Ethical Standards Board Limited (APESB) issues <u>has revised</u> professional guidance note APES GN 40 <i>Ethical Conflicts in the Workplace – Considerations for Members in Business</i> (the Guidance Note). This Guidance Note supersedes APES GN 4 – Members 40 issued in Business Guidance Statement March 2012.
1.6 7	All references to Professional Standards, and Guidance Notes and <u>legislation</u> are references to those provisions as amended from time to time.
1.7 8	Members in Business need to <u>should</u> be familiar with relevant Professional Standards and Guidance Notes when providing <u>performing</u> Professional Services <u>Activities</u> .
1.8 9	In applying the guidance outlined in APES GN 40, Members <u>in Business</u> should be guided not merely by the words but also by the spirit of this Guidance Note and the Member's professional obligation to comply with the <u>requirements of the Code</u> .
1.10	In this Guidance Note, 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.
2	<p>Acceptable Level means a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances <u>available to the Member at that time</u>, that compliance with the fundamental principles is not compromised.</p> <p>Member means a <u>M</u>member of a Professional Body that has adopted this Guidance Note as applicable to their <u>M</u>membership, as defined by that Professional Body.</p>

	<p>Member in Business means a Member employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or Professional Bodies, or a Member contracted by such entities.</p> <p>Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.</p> <p>Professional Bodies means the Institute of Chartered Accountants in Australia and New Zealand, CPA Australia and the Institute of Public Accountants.</p> <p>Professional Services means services requiring accountancy or related skills performed by a Member including accounting, auditing, taxation, management consulting and financial management services.</p> <p>Those Charged with Governance means 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 may include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.</p>
3.1	<p>The Code is the conceptual framework and foundation on which all APESB pronouncements are based. Compliance with and application of the Code is fundamental to the professional ethical behaviour of Members in Business. Non-compliance with the Code can lead to disciplinary proceedings being initiated by the Professional Body to which the Member belongs.</p>
3.3	<p>The term Professional Services Activity is defined in the Code as services an activity requiring accountancy or related skills performed by a Member including accounting, auditing, taxation, management consulting and financial management services. Whilst a number of these services are typically performed by Members in Public Practice, services Activities performed by Members in Business for the Employer are also captured by the definition of Professional Services Activity. Such services typically, this includes activities these performed by financial accountants, tax accountants, financial analysts, financial planners, management accountants, internal auditors and financial controllers.</p>
3.4	<p>A Member in Business who provides performs a Professional Services Activity is required to comply with Part A – General Application of the Code and Part C – Members in Business including Section 100 Introduction and Fundamental Principles and any relevant law or regulation. Part C is specific to Members in Business and describes the application of the fundamental principles to some of the more commonly encountered situations that may create threats to compliance with the fundamental principles.</p>
5.2	<p>Threats to the fundamental principles are discussed in Part A – General Application of the Code. Threats fall into one or more of the following categories:</p> <ul style="list-style-type: none"> (a) Self-interest – the threat that a financial or other interest will inappropriately influence the judgement or behaviour of a Member in Business; (b) Self-review – the threat that a Member in Business will not appropriately evaluate the results of a previous judgement or service

	<p><u>Professional Activity</u> performed by the Member or another individual within the Employer, on which the Member in Business will rely when forming a judgement as part of providing a current service <u>Professional Activity</u>;</p> <p>(c) Advocacy – the threat that a Member in Business will promote the Employer’s position to the point that the Member’s objectivity is compromised;</p> <p>(d) Familiarity – the threat that due to a long or close relationship with the Employer, a Member in Business will be too sympathetic to the Employer’s interests or will accept the Employer’s view on certain matters without sufficient scrutiny; and</p> <p>(e) Intimidation – the threat that a Member in Business will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the Member.</p>
6	Overview of APES 110 PART <u>Part C: Members in Business</u>
6.2	APES 110 Part C Section 300 provides an overview of the various types of threats encountered by Members in Business in their work environment and appropriate safeguards that can be considered. In certain circumstances there may be no safeguards to reduce the threats to an Acceptable Level and the Member may need to consider refusing to perform the duties in question or resigning from the employing organisation (e.g. paragraphs 300.15, 320.6 <u>7</u> and 330.4 of the Code).
6.3	APES 110 PART Part <u>Part C</u> Sections 310-350 specifies professional obligations of Members in Business in the following circumstances: <ul style="list-style-type: none"> • Section 310 – Potential <u>Conflicts of Interest</u>; • Section 320 – Preparation and Reporting of Information; • Section 330 – Acting with Sufficient Expertise; • Section 340 – <u>Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making</u>; and • Section 350 – Inducements.
7.2	Where potential conflicts arise, a Member in Business is required to comply with section 310 Potential <u>Conflicts of Interest</u> of the Code. Examples and the potential approaches to resolving such conflicts are shown in Case Studies 1 – 4.
10.1	Financial interests of a Member in Business or their immediate or close family members may give rise to threats to compliance with the fundamental principles of the Code. The Member is required to comply with section 340 <u>Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making</u> of the Code in such circumstances. The Code requires the Member to evaluate the significance of such a threat, and the appropriate safeguards to be applied. The Member should examine the nature of the financial interest which includes considerations such as the significance of the interest and whether it is direct or indirect, as well as the value of the interest. An example showing considerations which may be applied by Members where financial interests threaten compliance with the fundamental principles of the Code is provided in Case Study 11. An additional example of personal financial gain for a Member is provided in Case Study 13.

12.1	In accordance with Section 140 <i>Confidentiality</i> of the Code, a Member in Business who acquires confidential information in the course of providing <u>performing</u> a Professional Service <u>Activity</u> is prohibited from disclosing that information without proper and specific authority or unless there is a legal or professional right or duty to disclose it.
Appendix 1	Summary of revisions to the previous APES GN 40 (Issued March 2012) – Added