

Conflicts of Interest

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Timeline

- Project approved October 2009
- ED issued December 2011
- 50 responses to September 2012
- Completion anticipated in 2013

Objective

- To provide more comprehensive guidance on identifying, evaluating and managing conflicts of interest
- To address issues both for professional accountants in public practice and in business in a broadly similar way
- To recognize, however, the particular considerations for professional accountants in public practice where conflicts might be created by relationships of other members of the accountant's firm

Revised Structure

- Five respondents commented that the order of paragraphs should make clearer distinction between identification, evaluation and management of conflicts
- Task Force proposes the following revised structure:

| <i>Exposure Draft</i> | <i>Task Force proposal</i> |
|---|---|
| <i>220.3 Reasonable steps</i> | <i>220.3 Third party test</i> |
| <i>220.4 Third party test</i> | <i>220.4 Reasonable steps to identify</i> |
| <i>220.5 Identify and evaluate</i> | <i>220.5 Effective process</i> |
| <i>220.6 Effective process</i> | <i>220.6 Evaluation</i> |
| <i>220.7 Evaluation, disclosure, consent and safeguards</i> | <i>220.7 Safeguards</i> |
| | <i>220.8 Disclosure and consent</i> |

Description of a conflict of interest

- Majority of respondents agreed with the description and examples, but six respondents prefer a definition or made other suggestions to improve clarity
- Task Force proposed revisions to examples to reflect comments received
- To address concerns about the lack of clarity in the description, the Task Force proposed to revise description to provide a clearer linkage between the subject of a professional service and the existence of a conflicting interest or relationship

Proposed revised description

A professional accountant in public practice may be faced with a conflict of interest when performing a professional service. A conflict of interest creates a threat to objectivity and may create threats to other fundamental principles. Such threats may be created ~~by~~when:

~~Conflicts~~ The professional accountant provides professional services with respect to a particular matter for~~between the interests of two or more clients whose interests with respect to that matter are in conflict~~; or

~~Conflicts between~~ The interests of the professional accountant with respect to a particular matter and the interests of the client for whom the professional accountant provides professional services with respect to that same matter are in conflict.

Third party test

- ED: *whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant at that time, would be likely to conclude that compliance with the fundamental principles is compromised*
- 36 respondents agreed
- Seven respondents noted that the third party test is subjective and a matter of judgment and cultural differences may result in inconsistent application of the test
- Propose to emphasise the need to exercise professional judgement when applying the test
- Propose to conform the test to that used in paragraph 100.2(c) that compliance with the fundamental principles is not compromised

“Reason to believe” threshold for network firms

- ED: *evaluate any potential conflicts of interest that the professional accountant has reason to believe may exist due to interests and relationships of a network firm*
- 31 respondents agreed
- Six respondents disagreed with the threshold: the requirement should be strengthened to a “reasonably be expected to know threshold” or “knows or could reasonably be expected to know” threshold
- Task Force recommends that no significant changes need be made to the Exposure Draft wording. The IESBA were supportive.

Disclosure and Consent

- ED: *it is generally necessary to disclose the nature of the conflict to the client and all known relevant parties and to obtain written consent from the client and such parties before performing the professional service.*
- 26 respondents agreed. Six respondents did not support the guidance.

Various other comments:

- Guidance is insufficiently clear as a result of some of the phrases used in 220.7 (e.g. “generally necessary”, “in certain circumstances”, “common commercial practice”)
- More guidance requested for when verbal or implied consent would be acceptable
- Provide guidance about the circumstances when disclosure and consent apply

Disclosure and Consent 2

- To clarify and strengthen the paragraph, the Task Force proposes:
 - To address disclosure and consent separately
 - To subdivide disclosure into “specific” and “general”
 - To analyze consent into verbal, written and implied
 - To place the examples of safeguards in a separate paragraph
 - To add an example of when implied consent might be acceptable
 - To require determination of whether specific disclosure and consent is needed depending on the significance of the threat
- The Task Force does not propose to strengthen documenting consent

Disclosure and Consent 3

CAG members are asked whether they agree with:

- Addressing disclosure and consent separately,
- Analyzing consent into general, explicit and implied,
- Including a new “shall” statement requiring the professional accountant to determine whether the significance of the threat is such that specific disclosure and consent are necessary

When consent cannot be obtained

- The ED proposed three conditions to be in place for an engagement to be accepted when consent cannot be obtained
- 36 respondents agreed
- 4 respondents stated the firm should decline engagement
- Proposed changes:
 - clarifying conditions, in particular that professional accountant can only proceed if inability to do so would result in a “disproportionate adverse outcome to the clients or other relevant third parties”
 - documentation to be required

Part C

- The Task Force did not identify any points of principle arising from responses to Questions 6, 7 and 8 on which it needed the Board's direction in June. It will review the detailed responses in more depth at a later stage and will request the Board's input at a future meeting

IOSCO response

- Relationship of Conflicts of Interest and Public Interest
- Should the Public Interest be a fundamental principle?
- IFAC Board policy paper on Public Interest
- IESBA to consider these matters outside the Conflicts project, in December 2012