

Part C Phase 1—Proposed Changes to Section 370

(Mark-Up from ED)

Pressure to Breach the Fundamental Principles

370.1 This section addresses pressures that could result in a professional accountant taking actions that breach or cause others to breach the fundamental principles.

370.42 A professional accountant in business may face pressure that could create threats, for example, intimidation threats, to compliance with the fundamental principles when undertaking a professional activity. Pressure may be explicit or implicit. Pressure may come from within the organization, for example, from a colleague or superior, from an external individual or organization such as a vendor, customer, or lender, or from meeting internal or external targets and expectations. The professional accountant shall not allow such pressure to result in a breach of the fundamental principles.

370.32 The professional accountant ~~is~~would be in breach of the fundamental principles if the professional accountant places pressure on another individual~~shall not place pressure on others~~ that the professional accountant knows, or has reason to believe, would result in the other individual breaching a breach of the fundamental principles.

~~370.3 This section addresses pressures that could result in a professional accountant taking actions that breach the fundamental principles. The professional accountant shall not place It does not address routine pressures encountered in the workplace such as pressure on others to meet a reporting deadline.~~

370.4 Examples of pressure that could result in a breach of the fundamental principles include:

- Pressure related to conflicts of interest:
 - Pressure from a family member bidding to act as a vendor to the professional accountant's employing organization to select them over another prospective vendor.
 - The guidance in Section 310 is relevant.
- Pressure to influence presentation of ~~h~~information:
 - Pressure to report misleading financial results to meet investor, analyst, or lender expectations.
 - ~~○ Pressure to manipulate performance indicators from superiors, colleagues or others, for example, those who may benefit from participation in compensation or incentive arrangements.~~
 - 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.

The guidance in Section 320 is relevant.

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

The guidance in Section 330 is relevant.

- Pressure related to financial interests:
 - Pressure to manipulate performance indicators ~~Implicit or explicit pressure from superiors, colleagues or others, for example, those who may benefit from participation to present information that has been altered in order to increase their compensation or incentive arrangements.~~

The guidance in Section 340 is relevant.

- Pressure related to inducements:
 - Pressure from others, either internal or external to the employing organization, to offer inducements to inappropriately influence the judgment or decision-making process of an individual or organization.
 - 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.

The guidance in Section 350 is relevant.

- Pressure related to non-compliance with laws and regulations:
 - Pressure to ~~engage in activities or transactions that may violate laws or regulations~~ structure a transaction to evade tax.

The guidance in Section 360 is relevant.

370.5 In determining whether ~~The professional accountant may wish to consider the following when faced with pressure that~~ could result in a breach of the fundamental principles, the professional accountant may consider factors including:

- The intent of the individual who is exerting the pressure and the nature and significance of the pressure.
- The application of relevant laws, regulations, and professional standards to the circumstances.
- ~~The application of policies and procedures, if any, that the employing organization has established, such as an ethics policy that addresses pressure.~~

- The ~~corporate~~ culture and leadership of the employing organization including the extent to which it emphasizes the importance of ethical behavior and the expectation that employees will act in an ethical manner. For example, a corporate culture that tolerates unethical behavior may increase the likelihood that the pressure would result in a breach of the fundamental principles.
- Policies and procedures, if any, that the employing organization has established, such as ethics or human resources policies that address pressure.
- ~~The application of the relevant laws and regulations to the circumstances.~~
- ~~Discussion with the person who is exerting the pressure to clarify their intent and to determine the nature and significance of the pressure.~~

In considering these and other factors, and ~~B~~being alert to the fundamental principle of confidentiality, the professional accountant in business ~~professional accountant~~ may ~~also wish to~~ consult with:

- ~~Relevant professional bodies, regulators or industry associations.~~
- ~~Where appropriate, a~~ A colleague, ~~or superior,~~ human resources personnel, or another professional accountant; ~~or~~
- Relevant professional bodies, industry associations or regulatory agencies; or
- Legal counsel.

370.6 If the professional accountant ~~determines~~has determined that the pressure would result in a breach of the fundamental principles, the professional accountant may ~~wish to consider one or more of the following~~ actions, including:

- Discuss the matter~~Engage in constructive challenge~~ with the individual who is exerting the pressure to seek to resolve it.
- Discuss the matter with the professional accountant's supervisor, if the supervisor is not the individual exerting the pressure.
- ~~Request restructuring or segregating certain responsibilities and duties so that the professional accountant is no longer involved with the individual or entity exerting the pressure.~~
- Escalate the matter within the employing organization~~entity~~, for example, with higher levels of management, internal or external auditors, or those charged with governance, including independent directors and, when appropriate, explaining any consequential risks to the organization.
- Request restructuring or segregating certain responsibilities and duties so that the professional accountant is no longer involved with the individual or entity exerting the pressure, where doing so would eliminate the pressure to breach the fundamental principles. For example, if a professional accountant is pressured in relation to a conflict of interest, the pressure to breach the fundamental principles may be eliminated if the professional accountant is replaced by another person who does not have that conflict of interest.

- Disclose the matter in accordance with any established mechanism such as through the employing organization's confidential ethics hotline.
- Consult with legal counsel.

370.7 ~~In situations where~~ the professional accountant determines that the pressure to breach the fundamental principles has not been~~cannot be alleviated or~~ eliminated, the professional accountant shall:

- ~~Decline to undertake or discontinue the professional activity that would result in a breach of the fundamental principles; and~~
- Consider resigning from.~~The professional accountant shall also consider the professional accountant's continuing relationship with the~~ employing organization.

~~370.8~~ The professional accountant is also encouraged to document the facts, the communications, the courses of action considered, the and parties with whom these matters were discussed, and how the matter was addressed.

~~370.9~~ Where pressure to breach the fundamental principles:

- ~~Arises from a conflict of interest the guidance in Section 310 is relevant.~~
- ~~Arises from presenting information the guidance in Section 320 is relevant.~~
- ~~Arises from acting without sufficient expertise or due care the guidance in Section 330 is relevant.~~
- ~~Arises from a financial interest, compensation or incentive linked to financial reporting and decision making, the guidance in Section 340 is relevant.~~
- ~~Arises from inducements the guidance in Section 350 is relevant~~