

Revision of Part C Phase 2–Proposed Section 250 (Revised Extant Section 350)

Note to Meeting Participants

The Task Force's proposals were drafted in accordance with the structure drafting guidelines set out in **Agenda Item 3-I**, and also incorporate the conclusions reached to-date with respect to the Safeguards project. The Structure and Safeguards Task Forces plan to review the Task Force's updated proposals, inclusive of any input from the Board, in advance of its March 2017 meeting.

Part 2 – PROFESSIONAL ACCOUNTANTS IN BUSINESS

Section 250, Gifts, Hospitality and other Inducements

Introduction

- 250.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 250.2 A professional accountant might offer or accept inducements that create a self-interest, familiarity or intimidation threat to compliance with the principles of integrity and objectivity and might create threats to compliance with the other fundamental principles.
- 250.3 Section 250 focuses on requirements and application material relevant to applying the conceptual framework when offering or accepting gifts, hospitality and other inducements that do not constitute non-compliance with laws and regulations, such as bribery and corruption.

Requirements and Application Material

- 250.4 A1 Inducements can appear in many different situations, ranging from minor acts of hospitality between business colleagues to actual non-compliance with law and regulations.

Types of Inducements

- 250.5 A1 Depending on the circumstances, the offering or accepting of inducements might affect the professional accountant's ability to comply with the fundamental principles. Inducements can appear in many different forms, for example as:

- Gifts.
- Hospitality.
- Entertainment.
- Facilitation Payments; and
- Political Donations.

An inducement can also refer to preferential treatment and inappropriate appeals to friendship and loyalty.

- R250.6** Offering or accepting inducements might lead to non-compliance with laws and regulations. In most jurisdictions, there are legal or regulatory provisions governing bribery and corruption.

The professional accountant shall obtain an understanding of those legal or regulatory provisions and comply with them.

- 250.7 A1 Other inducements might not be defined as illegal in a certain jurisdiction, but might still result in a breach of compliance with the fundamental principles. For example, a payment made to a public official to obtain a service to which the individual paying would be legally entitled to without making the payment might result in a threat to compliance with the fundamental principles.

Application of the Conceptual Framework to Inducements

- 250.8 A1 Threats to compliance with the fundamental principles, especially the principles of objectivity or integrity are created when an inducement is made in an attempt to unduly influence actions or decisions, encourage illegal or dishonest behavior, or obtain confidential information.

R250.9 A professional accountant shall assess whether the offering or accepting of an inducement might be made, or might be perceived by others to be made, with the intention of unduly influencing behavior. Where this involves an inducement offered to or accepted by an immediate or close family member, the accountant shall make the same assessment.

- 250.9 A1 Factors that are relevant in assessing whether there exists an actual or perceived intent to unduly influence the recipient's behavior include the following:

- The value, frequency and nature of the inducements. Inducements accepted or offered on a regular basis, especially to or from the same party, might result in the professional accountant becoming less mindful to the fact that such inducements, in totality, might create a threat.
- The occasion that has given rise to the inducements, such as a religious holiday or wedding.
- Whether the offer of the inducements can be directly associated with the conduct of business.
- Whether the inducements are specific to an individual or available to a broader group. The broader group might be internal to the employing organization or external to the employing organization, such as other customers or vendors.
- The roles and positions of the individuals offering or accepting the inducements.

- 250.9. A2 A professional accountant is encouraged to advise immediate or close family members of relevant threats and how those threats might be addressed where they are in positions that might result in offers of inducements, for example, as a result of their employing organization.

R250.10 A professional accountant shall not accept any gifts, hospitality or other inducements that the accountant has reason to believe are being made with the intention of unduly influencing the accountant. Neither shall an accountant offer any gifts, hospitality or other inducements that are made with the intention of unduly influencing the recipient.

R250.11 A professional accountant shall not offer or accept, or encourage others to offer or accept, any gifts, hospitality or other inducements that can be perceived by others to be made with the intention of unduly influencing the recipient.

Identifying Threats

- R250.12** Even when the professional accountant believes that there is no actual or perceived intent to unduly influence the accountant, accepting the inducement might still create a threat to compliance with the fundamental principles. Therefore, the professional accountant shall identify possible threats, unless the inducement is trivial and inconsequential.
- 250.12 A1 Self-interest threats might be created from the offering or accepting of inducements, as the inducement might be made with the ulterior intention of gaining an otherwise unavailable advantage.
- 250.12 A2 Familiarity threats might be created if the offering or accepting of an inducement results in the relationship between the professional accountant and another individual, such as a vendor or customer, becoming too close, whether on a professional or personal level, and thus affecting the accountant's professional judgment.
- 250.12 A3 Intimidation threats might be created if the offering or accepting of an inducement is followed by threats to make that offer or acceptance public and damage the reputation of either the professional accountant or an immediate or close family member.
- 250.12 A4 Paragraph 120.6 A3 describes the categories of threats. The following are example of facts and circumstances that might create threats from the offering or accepting of inducements:
- (a) Self-interest Threats
 - A professional accountant accepting hospitality from a vendor during a procurement process.
 - (b) Familiarity Threats
 - A professional accountant regularly accepting complimentary offers to attend sporting events with a supplier.
 - (c) Intimidation Threats
 - An immediate or close family member accepts an inducement from an individual or entity that subsequently conducts sensitive business transactions with the professional accountant.

Evaluating Threats

- 250.13 A1 Factors that are relevant to evaluating the level of any threats created by offering or accepting inducements include:
- The value, frequency and nature of the inducement. Inducements accepted or offered on a regular basis, especially to or from the same party, might result in the professional accountant becoming less mindful to the fact that such inducements, in totality, might create a threat.
 - The occasion that has given rise to the inducements, such as a religious holiday or wedding.
 - Whether the offer of the inducements can be directly associated with the conduct of business.

- Whether the inducements are specific to an individual or available to a broader group. The broader group might be internal to the employing organization or external to the employing organization, such as other customers or vendors.
- The roles and positions of the individuals offering or accepting the inducements.
- The specific policies and procedures of the employing organization of the counterparty offering or receiving the inducements. To the extent that professional accountants are able to do so, taking into account their position and seniority in the organization, accountants are encouraged to complement the guidance in Section 250 with more specific policies and procedures.

250.13 A2 Consultation with a colleague or a professional organization might assist the professional accountant understand the factors that are relevant in evaluating the level of the threat.

Addressing Threats

250.14 A1 Examples of actions that might be safeguards to address threats created by offering or accepting an inducement include:

- Registering the inducements, whether offered, accepted or declined, in a log monitored by those charged with governance to ensure transparency.
- Obtaining instructions from senior management or those charged with governance of the employing organization on whether to accept or decline the inducements.
- Having an appropriate individual perform a secondary review of any work performed or decisions made by the accountant with respect to the individual or organization from which the accountant accepted or offered the inducements.

250.14 A2 Other actions that might address threats created by offering or accepting inducements include:

- Recusing from making any business-related decisions involving the individual or organization, such as a customer or vendor, to whom the professional accountant offered or accepted the inducements when it becomes apparent that the inducements might affect, or be perceived to affect, the accountant's judgement.
- Donating the inducements to charity after receipt, when it is not appropriate to refuse them.

R250.15 If the level of the threat created cannot be reduced to an acceptable level the professional accountant shall refrain from offering or accepting the inducement.

Relation to Other Sections in the Code

250.16 A1 When a professional accountant encounters or is made aware of inducements that might result in non-compliance or suspected non-compliance with laws and regulations by other individuals working for or under the employing organization, Section 360 is also relevant.

250.16 A2 A professional accountant might also face pressure to offer or accept inducements that might create threats, for example, intimidation threats, to compliance with the fundamental principles. In such situations, Section 370 is also relevant.