

**Basis for Conclusions**  
**Prepared by the Staff of the IESBA®**  
July 2018

*International Ethics Standards Board  
for Accountants®*

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# Revisions to the Code Pertaining to the Offering and Accepting of Inducements



International  
Ethics Standards  
Board for Accountants®

This document was prepared by the Staff of the International Ethics Standards Board for Accountants® (IESBA®).

The IESBA is a global independent standard-setting board. Its objective is to serve the public interest by setting high-quality ethics standards for professional accountants worldwide and by facilitating the convergence of international and national ethics standards, including auditor independence requirements, through the development of a robust *International Code of Ethics for Professional Accountants™* (including *International Independence Standards™*) (the Code).

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**BASIS FOR CONCLUSIONS:  
REVISIONS TO THE CODE PERTAINING TO THE OFFERING AND  
ACCEPTING OF INDUCEMENTS**

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## I. Introduction

1. The IESBA believes it is in the public interest to strengthen the provisions in the Code<sup>1</sup> to assist both professional accountants in business (PAIBs) and professional accountants in public practice (PAPPs) with complying with the fundamental principles, in particular the principles of integrity, objectivity and professional behavior, when dealing with the offering and accepting of inducements, including gifts and hospitality.
2. During its April 2018 teleconference, the IESBA approved with the affirmative votes of 15 out of 15 IESBA members present the final text of Sections 250,<sup>2</sup> 340,<sup>3</sup> 420<sup>4</sup> and 906<sup>5</sup> of the Code relating to the offering and accepting of inducements, including gifts and hospitality (hereinafter referred to as the inducements provisions). The inducements provisions are drafted using the new structure and drafting conventions for the restructured Code.
3. This Basis for Conclusions explains how the IESBA has addressed the significant matters raised on exposure. It relates to, but does not form part of, the inducements provisions approved by the IESBA.

## II. Background

4. In early 2013, the IESBA approved the [Review of Part C of the Code Project](#) (Part C project) to strengthen Part C of the extant Code to better promote ethical behavior by PAIBs. The IESBA agreed to approach the review of extant Part C in two phases:
  - (a) Phase 1 of the project addressed mainly the topics of pressure to breach the fundamental principles,<sup>6</sup> and the preparation and presentation of information.<sup>7</sup> The IESBA approved a close-off document<sup>8</sup> titled [Changes to Part C of the Code Addressing Preparation and Presentation of Information, and Pressure to Breach the Fundamental Principles](#) (Part C Close-off document) at its November/December 2015 meeting. The Part C Close-off document was drafted in accordance with the structure and drafting conventions of the extant Code.
  - (b) Phase 2 of the Part C project involved a review of the provisions in the extant Code relating to the offering and accepting of inducements. This body of work is referred to as the inducements project in this document.

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<sup>1</sup> The references to “the Code” in this paper are to the revised and restructured Code which was [released](#) on April 9, 2018, and which will become effective in June 2019.

<sup>2</sup> Part 2 – Professional Accountants in Business, Section 250, *Inducements, Including Gifts and Hospitality*

<sup>3</sup> Part 3 – Professional Accountants in Public Practice, Section 340, *Inducements, Including Gifts and Hospitality*

<sup>4</sup> Part 4A – Independence for Audit and Review Engagements, Section 420, *Gifts and Hospitality*

<sup>5</sup> Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements, Section 906, *Gifts and Hospitality*

<sup>6</sup> Extant Part C – Professional Accountants in Business, Section 370, *Pressure to Breach the Fundamental Principles*

<sup>7</sup> Extant Part C, Section 320, *Preparation and Reporting of Information*

<sup>8</sup> A “close-off document” refers to new or revised provisions developed under the extant structure and drafting conventions. As part of the Structure of the Code project, restructuring changes were made to these new and revised provisions to reflect the new structure and drafting convention for the Code. The new and revised provisions in the restructured Code also reflect conforming amendments arising from the Safeguards projects as applicable.

### *Restructuring Part C of the Extant Code*

5. As part of its Structure of the Code (Structure) project which involved restructuring the provisions in the extant Code for greater understandability and usability, the IESBA issued for exposure in January 2017, *inter alia*, the proposed restructured text for the extant Part C provisions as revised under Phase 1 of the Part C project. These January 2017 proposals were set out in Part 2 of the January 2017 Exposure Draft, [Improving the Structure of the Code of Ethics for Professional Accountants – Phase 2](#) (Structure ED-2). The January 2017 proposals also incorporated proposed conforming amendments arising from the IESBA's Safeguards project (see Exposure Draft, [Proposed Revisions Pertaining to Safeguards in the Code—Phase 2 and Related Conforming Amendments](#) (Safeguards ED-2)).
6. In December 2017, the IESBA finalized the Structure and Safeguards projects. In approving the restructured Code, the IESBA also finalized the Applicability project.

### *Applicability Project*

7. The IESBA resolved to address questions that arose during its deliberations in Phase 1 of the Part C project about the applicability of the provisions in Part C to PAPPs. In January 2017, the IESBA issued the Exposure Draft, [Proposed Revisions to Clarify the Applicability of Provisions in Part C of the Extant Code to Professional Accountants in Public Practice](#), to clarify the circumstances in which the revised Phase 1 provisions (i.e., Part 2 of the new Code) should also apply to PAPPs. The Applicability provisions were finalized as part of the restructured Code in December 2017.

### *Inducements Project*

8. In early 2015, the IESBA commenced its review of the inducements provisions in the Code with a consideration of literature and guidance material from other organizations regarding the offering and accepting of different forms of inducements, including information from Transparency International UK on bribery of government officials and corruption. The review also involved a “gap analysis” of Section 350<sup>9</sup> of the extant Code relating to PAIBs to identify whether and how enhancements could be made to the Code.
9. Amongst other matters, the scope of the inducements project included a consideration of revisions to:
  - Enhance the description of an inducement in the extant Code.
  - Respond to continuing concerns about the prevalence of bribery and corruption and facilitation payments, and determine how the Code should address these matters.
  - Provide additional guidance in the Code that takes into account the role of culture in determining whether the offering or accepting of an inducement creates threats to compliance with the fundamental principles.
  - Consider the need for symmetry between the provisions for PAIBs in Section 350 under Part C of the extant Code and those for PAPPs in Section 260<sup>10</sup> under Part B.

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<sup>9</sup> Extant Part C, Section 350, *Inducements*

<sup>10</sup> Extant Part B – Professional Accountants in Public Practice, Section 260, *Gifts and Hospitality*

10. In September 2017, the IESBA issued an Exposure Draft, [\*Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements\*](#) (Inducements ED), with a 90-day comment period that ended on December 8, 2017. Amongst other matters, the proposals in the Inducements ED:
- Clarified the description of the term “inducement” and provided additional examples of inducements.
  - Emphasized professional accountants’ (PAs’) responsibility to comply with relevant laws and regulations relating to bribery and corruption when offering or being offered inducements. The proposals also reminded PAs of their responsibilities under Sections 260<sup>11</sup> and 360<sup>12</sup> relating to non-compliance or suspected non-compliance with laws and regulations.
  - Prohibited PAs from offering and accepting inducements made with intent to improperly influence the behavior of the recipients.
  - Clarified how the conceptual framework set out in Section 120<sup>13</sup> should be applied to identify, evaluate and address threats to compliance with the fundamental principles created by the offering and accepting of inducements.
  - Introduced additional provisions on the offering and accepting of inducements by immediate or close family members.
  - Aligned the provisions relating to inducements for PAPPs (Part 3 of the Code) with the enhanced provisions for PAIBs (Part 2 of the Code).
11. A total of 46 comment letters were received from various respondents, including regulators and audit oversight bodies, national standard setters, IFAC member bodies, other professional bodies, firms and an investor representative. There was strong overall support for the IESBA’s proposals to enhance the provisions relating to the offering and accepting of inducements in the Code.
12. The IESBA revised its proposals to address the significant matters raised by respondents to the Inducements ED, taking into account the input provided by the IESBA Consultative Advisory Group (CAG).

### III. Description of an Inducement

#### Definition

13. During the development of the ED, the IESBA formed the view that the term “inducement” should be broad and neutral as an inducement can influence either good or bad behavior. In reaching this conclusion, the IESBA acknowledged that the term is often used in contexts that have negative connotations. To ensure consistency in how the term is understood and used in the Code, the IESBA provided a description of “inducement” in the proposals together with a list of examples of inducements.
14. Respondents were generally supportive of the description in the ED. It was suggested that the term should be included in the glossary.

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<sup>11</sup> Part 2, Section 260, *Responding to Non-Compliance with Laws and Regulations*

<sup>12</sup> Part 3, Section 360, *Responding to Non-Compliance with Laws and Regulations*

<sup>13</sup> Part 1 – Complying with the Code, Fundamental Principles and Conceptual Framework, Section 120, *The Conceptual Framework*

15. Some respondents queried whether defining “inducement” as a neutral term will lead to confusion given the negative connotations often attached to the term and the lack of guidance on what constitutes an acceptable inducement. This question was also raised by a few IESBA CAG representatives. There was also a view that the definition should not capture certain gifts and hospitality as they may be offered only as a social courtesy and may not contain any intent to influence the behavior of another individual.

#### *IESBA Decisions*

16. The IESBA reaffirmed that it is important to avoid presuming that all inducements have a negative connotation. Accordingly, it determined that the description of an inducement as proposed in the ED should clearly convey its neutral nature. With regard to whether to provide additional guidance on what an acceptable inducement is, the IESBA determined that it would be difficult to describe such an inducement in the Code as it will depend on the circumstances. For instance, a small gift that is acceptable in one context might not be acceptable under a different set of circumstances.
17. The IESBA also noted that even a small gift or gesture of hospitality, such as a cup of coffee at a client’s offices, could be argued to be a means to influence the behavior of the recipient, albeit only to engender a positive working relationship. Accordingly, a PA must apply professional judgement when determining whether an object, situation or action, such as a gift, hospitality or a commercial opportunity, falls within the Code’s definition of an inducement under a particular set of circumstances.
18. The IESBA accepted the suggestion to add the description of an inducement to the glossary of terms in the Code.

#### **Examples of Inducements**

19. The ED proposed a list of examples of inducements to assist users in understanding the wide-ranging and neutral nature of the concept of an inducement in the Code.
20. A few respondents suggested that the list be further expanded. It was also suggested in discussion with the CAG that “facilitation payment” be deleted as this type of inducement differs from the other examples in the list given that it lacks a sense of neutrality.

#### *IESBA Decisions*

21. Accepting the comments received, the IESBA agreed to remove “facilitation payment” from the list and to add a few new examples of inducements (see paragraph 250.4 A1).<sup>14</sup>

### **IV. General Approach to Dealing with Inducements**

#### **Structure of Provisions**

22. As stated in the ED, PAs are required to comply with the fundamental principles in relation to the offering or accepting of an inducement. In structuring the proposals, the IESBA had aimed to lay out the following logical roadmap to assist PAs in complying with the fundamental principles when dealing with the offer or acceptance of an inducement in the course of performing professional activities or services:

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<sup>14</sup> See also paragraph 340.4 A1.

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- A PA should not offer or accept an inducement prohibited by laws and regulations such as those related to bribery and corruption (paragraph R250.5).<sup>15</sup>
  - Where an inducement is not prohibited by laws or regulations, the PA should apply the intent test to determine if there is actual or perceived intent to improperly influence the behavior of the recipient or another individual (improper intent):
    - If there is such actual or perceived intent, the PA is prohibited from offering or accepting the inducement (or encouraging others to offer or accept the inducement) even if it is trivial and inconsequential (paragraphs R250.7 - 250.9 A3).<sup>16</sup>
    - If there is no such actual or perceived intent, threats to compliance with the fundamental principles might nonetheless be created. Accordingly, the PA should apply the conceptual framework set out in Section 120 to identify, evaluate and address any threats to compliance with the fundamental principles, unless the inducement is trivial and inconsequential. If the inducement is trivial and inconsequential, any threats created will be at an acceptable level.
23. A number of respondents suggested that decision trees or flowcharts would help users to better understand the hierarchy of decisions and thought process.

*IESBA Decisions*

24. The IESBA acknowledged that flowcharts would be a helpful tool to explain the thought process and the logical steps that could be taken by a PA to deal with the ethical issues that might arise from the offering or accepting of an inducement. Accordingly, flowcharts have been developed and are included in Appendices 1, 2 and 3 of this Basis for Conclusions.

**Intent test**

25. The IESBA had previously considered the merits of tests other than the intent test, such as whether an inducement could result in the obtaining of an undue benefit. The IESBA had concluded that the intent of the offeror is a key principle in assessing the potential impact an inducement might have, or, as importantly, might be perceived to have, on the behavior of another individual.
26. A few respondents queried the appropriateness of the intent test and suggested that the intent of an offeror is not the appropriate criterion to assess the threats created by an inducement. Amongst other matters, these respondents suggested that:
- It is difficult for a PA to ascertain the actual intent of another individual unless the PA has been explicitly informed.
  - The focus should be on potential effect rather than intent as it should not matter what the intent is if an inducement impairs the objectivity or integrity of the recipient. It was also argued that the intent test appeared to add a new layer of the reasonable and informed third party (RITP) test.
  - The concept of “improper intent” is not suitable for a global code in light of cultural differences.

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<sup>15</sup> See also paragraph R340.5

<sup>16</sup> See also paragraphs R340.7 - 340.9 A3



- The intent test might also be difficult to operationalize as it requires an individual to objectively assess the intent of another individual.

*IESBA Decisions*

27. The IESBA reaffirmed that the intent test is the appropriate test. In response to respondents' concerns, the IESBA noted the following:
- Intent is an important element in determining whether an inducement might create threats to compliance with the fundamental principles, particularly integrity, objectivity and professional behavior. In this regard, the IESBA determined that offering or accepting an inducement where a PA concludes there is intent to improperly influence behavior would in all cases breach the fundamental principle of integrity (see paragraph 250.9 A2).<sup>17</sup>
  - The intent test takes into account cultural and social norms and practices, and the use of the RITP test should assist in assessing intent. The importance of exercising professional judgment in making this determination has also been emphasized in the application material (see paragraph 250.9 A3).<sup>18</sup>
  - If there is no intent to improperly influence the behavior of the recipient or another individual, the PA should apply the conceptual framework to identify, evaluate and address the threats created by an inducement. This addresses the circumstance where a person might actually be influenced even in the absence of intent to improperly influence behavior.

**V. Bribery and Corruption**

28. Given that bribery and corruption continue to be major issues of the public interest, the IESBA agreed to include provisions in the proposals to require PAs to obtain an understanding of the relevant laws and regulations, such as those related to bribery and corruption, and to comply with them.
29. There was general support among respondents for the proposals on how a PA should deal with inducements that are illegal. A few respondents, however, were of the view that the proposals did not add to the requirement to comply with relevant laws and regulations, which is already covered in the Code under the fundamental principle of professional behavior.

*IESBA Decision*

30. The IESBA reaffirmed that the provision related to illegal inducements (paragraph R250.5<sup>19</sup>) serves the important objective of reminding PAs of their responsibility to comply with laws and regulations that prohibit the offering or accepting of inducements in certain circumstances, especially those involving bribery and corruption. The IESBA, therefore, determined that this provision should not be removed even though the requirement to comply with laws and regulations is more broadly covered under the fundamental principle of professional behavior in the Code.

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<sup>17</sup> See also paragraph 340.9 A2

<sup>18</sup> See also paragraph 340.9 A3

<sup>19</sup> See also paragraph R340.5

## VI. Inducements with Intent to Improperly Influence Behavior

### Prohibition

31. The IESBA believes there are no safeguards that can reduce to an acceptable level threats created by the offering or accepting of inducements with improper intent, irrespective of whether the inducements are trivial and inconsequential. In this regard, the IESBA believes it has set a high bar in the Code for what is acceptable behavior vis-à-vis PAs, as laws and regulations on bribery and corruption vary from jurisdiction to jurisdiction and not all inducements with improper intent are illegal.
32. Some respondents regarded an inducement that is trivial and inconsequential to be unlikely to have any improper intent or have any influence over the behavior of the recipient or another individual. It was argued that a reasonable person is unlikely to conclude such an inducement will have any undue influence and that a PA should have sufficient integrity to discount such inducements. As such, it was felt that the proposals would place undue burden on PAs if they are required to assess the threats created by these inducements.
33. A few respondents also suggested that the term “trivial and inconsequential” might be difficult to apply in practice or that the proposals should include further guidance on its meaning, such as a definition or a list of relevant factors to consider.

### *IESBA Decisions*

34. The IESBA reaffirmed that all inducements made with improper intent should be prohibited, even if they are trivial and inconsequential. To make the rationale for this prohibition clear, the IESBA has added paragraph 250.9 A2 to explain that the offering or accepting of an inducement with intent to improperly influence behavior will result in a breach of the fundamental principle of integrity.
35. Whilst the offering or accepting of an inducement with improper intent will always result in a breach of the principle of integrity, the IESBA noted that such action might lead to a breach of other fundamental principles, in particular the principle of professional behavior, but not necessarily in all cases. Whether there would be a breach of the principle of professional behavior in particular will depend on the specific facts and circumstances, including the nature and significance of the inducement.
36. With regard to the concerns about undue burdens being placed on PAs by scoping in inducements that are trivial and inconsequential, the IESBA believes that the requirement to consider the intent of such an inducement should not result in any significant increase in the PA's workload as the consideration involved should be relatively straightforward. This is especially so given that the likelihood of a trivial and inconsequential inducement being made with improper intent should be low particularly if it is part of the business, social or cultural norm. In many instances, appropriate policies can also be tailored to meet the specific circumstances most often encountered.
37. The IESBA did not consider it necessary to define the term “trivial and inconsequential” in the Code as the words “trivial” and “inconsequential” are generally understood within their dictionary meanings. The IESBA also noted that the term has been used for a long time already in the provisions of the extant Code<sup>20</sup> that deal with inducements, and is also used in the International Independence

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<sup>20</sup> Extant Part B – Professional Accountants in Public Practice, Section 260, *Gifts and Hospitality*; Section 290, *Independence – Audit and Review Engagements*, paragraph 290.227, *Gifts and Hospitality*; Section 291, *Independence – Other Assurance Engagements*, paragraph 291.156, *Gifts and Hospitality*

Standards.<sup>21</sup>

### **Meaning of “Improperly Influencing Behavior”**

38. A few respondents felt that more clarity was necessary on what constitutes improper intent, i.e., an effort to improperly influence another person’s behavior. These respondents therefore felt that the proposals were unclear as to the circumstances in which an inducement would be acceptable.
39. The proposals in the ED also limited the target of the intent to the recipient. A few respondents suggested that the target should be expanded to include not only the recipient but also other individuals associated with the recipient, which might include the PA. For instance, an inducement made to a recipient other than a PA could be made with the intent of influencing the behavior of that PA as well as, or instead of, the actual recipient.

### *IESBA Decisions*

40. In response to respondents’ comments, the IESBA agreed to add new application material to explain what “improperly influences” means. The IESBA agreed that, for the purposes of the Code, an inducement should be regarded as improperly influencing an individual’s behavior if it causes the individual to act in an unethical manner. In determining what in turn constitutes unethical behavior the IESBA added new application material to paragraph 250.9 A1<sup>22</sup> to explain that it is appropriate for the PA to use the fundamental principles as a frame of reference. In this regard, the IESBA noted that, whilst individuals who are not PAs are not subject to the requirements of the Code, it is nonetheless still appropriate for a PA to determine if an inducement will cause an individual who is not a PA to act unethically as viewed through the lens of the fundamental principles.
41. The IESBA noted that an inducement might influence not only the recipient, but also other individuals, such as business partners or family members, who have some relationship with the recipient. The IESBA agreed that these other individuals should be explicitly included within the scope of the prohibitions of inducements with improper intent (paragraphs R250.7 and R250.8).<sup>23</sup> Such other individuals may be the PA assessing the inducement. If the other individual is not the PA, that person must have some relationship with the recipient to be within scope (see paragraph 250.9 A1).<sup>24</sup>

### **Relevant Factors in Determining Intent**

42. To facilitate a PA’s exercise of professional judgment when determining if there is actual or perceived improper intent, the ED provided a list of factors for the PA to consider.
43. A few respondents suggested that it might be helpful to explicitly state the need to use professional judgement to distinguish improper influence from influence that is not improper.
44. In developing the proposals in the ED, the IESBA acknowledged that cultural differences can play a role in determining whether it is ethical for a PA to offer or accept an inducement, and therefore considered whether to provide further guidance in this respect. However, the IESBA believed that a

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<sup>21</sup> Part 4B, Section 900, *Applying the Conceptual Framework to Independence for Assurance Engagements Other Than Audit and Review*, paragraph 900.21 A1

<sup>22</sup> See also paragraph 340.9 A1

<sup>23</sup> See also paragraphs R340.7 and R340.8

<sup>24</sup> See also paragraph 340.9 A1

principles-based approach to addressing inducements that leverages the conceptual framework already provides a sufficient and comprehensive basis to dealing with ethical questions and dilemmas relating to inducements, regardless of the cultural context. Accordingly, the IESBA did not consider it necessary to include specific provisions in the Code to deal with cultural differences. The IESBA also noted that the application of the RITP test when evaluating the level of a threat would ordinarily involve taking into account the cultural factor if it is relevant.

45. However, some respondents expressed the view that cultural differences are important in determining intent and suggested that they should be added as a factor for consideration.

#### *IESBA Decisions*

46. The IESBA agreed that the Code should expressly state the need to exercise professional judgment as this would be an important reminder to PAs when considering whether there is any intent to improperly influence behavior.
47. Whilst reaffirming that use of the conceptual framework provides a sufficient and comprehensive basis to dealing with ethical questions and dilemmas relating to inducements regardless of the cultural context, the IESBA agreed to make explicit in the final provisions that cultural practice is a factor that might be relevant in the consideration (see paragraph 250.9 A3).<sup>25</sup>

#### **Further Actions to Consider**

48. A respondent was of the view that where an inducement is offered with intent to improperly influence behavior, threats to compliance with the fundamental principles might still be created even if the PA complied with the prohibitions in the Code not to offer or accept, or encourage others to offer or accept, such inducement.

#### *IESBA Decision*

49. The IESBA agreed with this view and noted that this point was addressed in paragraph 350.4 of the extant Code. Accordingly, the IESBA has added application material to recognize it and indicate what actions might be appropriate as safeguards to address the threats, in addition to the need for the PA to comply with the requirements in R250.7 and R250.8 (see paragraphs 250.10 A1-A2).<sup>26</sup> Similar provisions have also been added to the subsection relating to immediate or close family members.

## **VII. Inducements with No Intent to Improperly Influence Behavior**

### **Applying the Conceptual Framework**

50. When a PA has concluded that an inducement is not made with actual or perceived intent to improperly influence the behavior of the recipient or of another individual, the proposals provided that the PA should apply the conceptual framework to identify, evaluate and address any threats that might be created by offering or accepting, or encouraging others to offer or accept, the inducement, unless it is trivial and inconsequential. The proposals also included examples of threats, guidance on evaluating the level of threats, examples of actions that might be safeguards as well as actions that would eliminate threats.

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<sup>25</sup> See also paragraph 340.9 A3

<sup>26</sup> See paragraph 340.10 A1-A2

51. A few respondents pointed out that this was the only key area in the proposals that did not contain any requirement and that the provisions could be clearer about what inducements are covered. Other respondents suggested that the upshot for establishing the threshold of “trivial and inconsequential” should be more clearly stated.

#### *IESBA Decisions*

52. The IESBA noted that the requirement to apply the conceptual framework set out in Section 120 of the Code is an overarching obligation that need not and should not be re-imposed in individual sections. For that reason, it determined that paragraph 250.11 A1<sup>27</sup> should simply direct the PA to apply the conceptual framework when dealing with an inducement with no improper intent.
53. The IESBA considered whether it was necessary to note explicitly that threats might be created due to the influence that an inducement might have on individuals other than the recipient. The IESBA concluded that the application of the conceptual framework is not constrained in any way and, therefore, a PA would have to consider threats from any inducement with which the PA was associated. This is in contrast to paragraphs R250.7 and R250.8 which are focused on particular types of inducement targeted at specified individuals. So for example, if the business partner of the PA was offered an inducement which the PA concluded was not made with any intent to improperly influence either the business partner or the PA, the PA would still need to consider if threats to the PA's compliance with the fundamental principles might be created.
54. Finally, the IESBA accepted to clarify that if an inducement without improper intent is trivial and inconsequential, any threats created as a result will be at an acceptable level (see paragraph 250.11 A2).<sup>28</sup> As such, a PA will not need to apply the conceptual framework in that instance.

#### **Addressing Threats**

55. The IESBA acknowledged that threats to compliance with the fundamental principles created by the offering or accepting of an inducement with no improper intent can be eliminated if a PA simply does not offer or accept the inducement. However, the IESBA did not include this action in the ED as it was of the view that such an option is always available to the PA and is consistent with eliminating the circumstances creating the threats under the conceptual framework.
56. Despite its being a more obvious option that might eliminate a threat, there was strong support from some respondents for including the option of not offering or accepting an inducement if a threat cannot be reduced to an acceptable level.
57. Some respondents queried the usefulness of the examples of action in the ED that might be safeguards to address threats created by the offering or accepting of inducements with no improper intent. For instance, a few respondents felt that the proposals had an unbalanced focus on gifts and that there should be focus also on non-financial inducements as well as examples more relevant to SMPs.

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<sup>27</sup> See also paragraph 340.11 A1

<sup>28</sup> See also paragraph 340.11 A2

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58. In light of respondents' comments, the IESBA agreed to include the option of declining or not offering an inducement as an example of an action that might eliminate a threat (see paragraph 250.11 A5).<sup>29</sup>
59. The IESBA also considered the comments received regarding the examples of actions that might be safeguards and made revisions as appropriate. In this regard, the IESBA also added three new examples on being transparent with senior management, reimbursing the cost of an inducement and returning the inducement (see paragraph 250.11 A6).<sup>30</sup> The IESBA also noted that inclusion of actions in the lists of examples did not imply that they would be safeguards in all circumstances but simply that they might be so in some circumstances.

## VIII. Immediate or Close Family Members

### Scope

60. The IESBA acknowledged that inducements may be offered by or to an immediate or close family member of a PA whereby threats to compliance with the fundamental principles might be created in some circumstances. Accordingly, the ED proposed requirements and application material on dealing with such circumstances.
61. A few respondents suggested that a PA's responsibility regarding the actions of others should not be restricted to the accountant's immediate or close family members. These respondents suggested that the scope of a PA's responsibility should be expanded to include wider family members, related parties or individuals who are in business with the PA or who are the immediate or close family member of a counterparty or client.

*IESBA Decisions*

62. After further consideration, the IESBA reaffirmed that the scope should be limited to immediate and close family members of the PA as the Code would require the PA to take positive action to discourage the offering or accepting of inducements made with improper intent. In this regard, the IESBA noted the need to strike an appropriate balance regarding how far a PA's responsibilities should be expanded in the Code. The IESBA also noted that inducements offered to or by an individual other than a close or immediate family member of the PA would be sufficiently covered by other requirements (See paragraphs R250.7 and R250.8).<sup>31</sup>

### Knowledge Required

63. The ED proposed to require a PA to remain alert to potential threats to the accountant's compliance with the fundamental principles created by inducements that are offered by or to the accountant's immediate or close family member. Some respondents suggested that more clarity was needed on the scope of the PA's responsibility to "remain alert" as it may be misconstrued as a monitoring responsibility.

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<sup>29</sup> See also paragraph 340.11 A5

<sup>30</sup> See also paragraph 340.11 A6

<sup>31</sup> See also paragraphs R340.7 and R340.8

64. The ED also proposed to impose a responsibility on the PA to advise the immediate or close family member not to offer or accept the inducement where the accountant has reason to believe there is intent to improperly influence behavior.
65. Some respondents were of the view that the term “has reason to believe...” presumed access to certain information that a PA might not have at the time. They also felt that this might place the PA in the position of having to demonstrate that the PA had no such reason to believe with the benefit of hindsight. It was further suggested that the proposals should specifically state that PAs only need to act when they become aware of a threat and that they do not need to specifically enquire of the personal business of their immediate and close family members.

#### *IESBA Decisions*

66. The IESBA reaffirmed that the term “remain alert” strikes an appropriate balance between the extremes of requiring the PA to assume an active monitoring responsibility and willfully ignoring circumstances that might create threats to compliance with the fundamental principles. The IESBA noted that whilst the PA is required to continually be observant of the relevant circumstances that might create threats to compliance with the fundamental principles, the Code does not demand comprehensive knowledge of such situations or require the PA to actively seek out information the PA is unlikely to obtain otherwise.
67. After further consideration, the IESBA agreed to clarify that a PA is only required to take further action when the PA becomes aware of an inducement being offered to or by an immediate or close family member with improper intent (see paragraph R250.13).<sup>32</sup>

#### **References to Other Parts of the Proposals**

68. The proposals explained that the list of factors for generally determining whether there is improper intent is also relevant to determining whether there is actual or perceived intent to improperly influence the behavior of the PA, a counterparty, or an existing or prospective client when an immediate or close family member of the PA is involved. In addition, the proposals also included as a factor for consideration the nature or closeness of the relationships between the relevant parties.
69. As indicated in the explanatory memorandum to the ED, the IESBA intended the term “nature or closeness” to cover not only the type of relationship (e.g. siblings and parents and children) but also the degree of connection between the two parties in the relationship. A few respondents queried how the “closeness of the relationship” can be effectively assessed or evaluated. It was further suggested that the factors relevant to inducements involving family members should be consistent with the factors relevant to threats created by family and personal relationships in audit and other engagements.<sup>33</sup>
70. Where the PA’s advice has not been acted upon by the immediate or close family member, or where the PA does not have reason to believe the inducement is made with improper intent, the ED explained that the application material relating to the offering or accepting an inducement with no improper intent is also relevant in those circumstances.

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<sup>32</sup> See also paragraph R340.13

<sup>33</sup> Part 4A, Section 521, *Family and Personal Relationships*; Part 4B, Section 921, *Family and Personal Relationships*

71. Some respondents felt that the proposals were not sufficiently clear in explaining how the cross-reference to the earlier provisions on dealing with inducements with no improper intent works.

*IESBA Decisions*

72. The IESBA reaffirmed that the term “closeness of a relationship” is intended to cover the degree of connection between the two parties in the relationship. The IESBA noted that the concept of closeness of a relationship is already used elsewhere in the Code<sup>34</sup> and therefore did not consider additional clarification to be necessary. The IESBA believes that this aspect of a relationship, in addition to the nature of the relationship, is an important element in determining the intent behind an inducement as well as the level of threats created.
73. With respect to the cross reference to other application material, the IESBA agreed to clarify the provisions by adding a subheading, “Application of the Conceptual Framework,” above paragraphs 250.14 A1 and 340.14 A1, and more clearly stating the circumstances in which threats to compliance with the fundamental principles might be created when immediate or close family members of a PA are involved.

**IX. Alignment of Inducements Provisions in Part 3 of the Code**

74. The IESBA determined that the enhancements to the inducements provisions for PAIBs should also be applicable to PAPPs. This is because it is likely that circumstances PAPPs encounter involving inducements that might create threats to compliance with the fundamental principles would be similar to those encountered by PAIBs. Accordingly, the IESBA determined to align Section 340 with Section 250, tailoring the terminology and examples for the PAPP context.
75. In the explanatory memorandum to the ED, the IESBA had noted that, for the purposes of Section 340, when a PAPP offers or accepts an inducement the counterparty would generally be a client and the proposed requirements are intended to capture both existing and prospective clients.
76. Some respondents queried whether the term “client” should include prospective clients, related parties of the client or persons that can influence the clients, such as entities or persons that have control or significant influence over them.

*IESBA Decisions*

77. After due deliberation, the IESBA agreed to explicitly include reference to prospective client in Section 340 where appropriate. It is further noted that the scope of paragraphs R340.7 and R340.8 is sufficiently broad to cover the related parties of a client or persons who can influence the client as either offerors, offerees or persons who are the target of the intended influence.

**X. Amendments to the International Independence Standards**

78. In developing the proposals in the ED, the IESBA agreed that only limited amendments be made to Sections 420 and 906, and determined that consideration of whether to undertake a more comprehensive review of those sections was beyond the scope of the Part C project.
79. Some respondents suggested that the scope of the independence provisions should be expanded to cover all inducements, the offering of inducements as well as immediate or close family members,

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<sup>34</sup> Paragraphs 521.3 A2, 540.3 A3, 921.3 A2 and 940.3 A3



instead of being limited currently to the acceptance of gifts and hospitality by the firm, network firm (in the case of audit and review engagements only), or an audit or assurance team member.<sup>35</sup>

80. There was also a concern from a few respondents that the language used to refer users of Sections 420 and 906 to the material in Section 340 might lead them to the conclusion that non-compliance with a requirement in Section 340 would automatically constitute a breach of the independence provisions, thereby triggering the need to apply the breach of independence provisions set out in Sections 400<sup>36</sup> and 900. Those respondents believed that it might be possible to not comply with the provisions in Section 340 without also breaching the independence provisions. It was noted that this would be particularly the case if the person who did not comply with the provisions in Section 340 was not part of the audit or assurance engagement team.

#### *IESBA Decisions*

81. The IESBA noted that any development of new requirements and application material in the independence sections to fully align with the changes in Section 340 warrants further deliberation beyond the scope of this project, and that this matter should be considered as part of the IESBA's future strategy discussions.
82. To address the concern that the reference to Section 340 might create confusion about whether non-compliance with a requirement in Section 340 would also cause a breach of the independence provisions, the IESBA determined to add two new paragraphs to Sections 420 and 906 as follows:
- The first new paragraph broadly reminds users of the requirements and application material in Section 340 relating to inducements offered to or by an audit or assurance client. The paragraph further states that non-compliance with Section 340 might create threats to the independence of the firm, or audit or assurance team member, and thereby prompt further action that might need to be taken (see paragraph 420.3 A1).<sup>37</sup>
  - The second new paragraph reminds users that, in accordance with Section 340, gifts and hospitality should not be accepted where the intent is to improperly influence behavior even if the value is trivial and inconsequential. (See paragraph 420.3 A2).<sup>38</sup>
83. These revisions clarify the interaction between Section 340 and Sections 420 and 906. For instance, if an auditor is offered a gift from an audit client that is trivial and inconsequential, the auditor is not prohibited under Section 420 from accepting it. However, the auditor must first ensure that the gift is not illegal or was not made with intent to improperly influence the auditor's behavior in accordance with Section 340.

## **XI. Effective Date**

84. The inducements provisions have the same effective date as for the [new Code](#).

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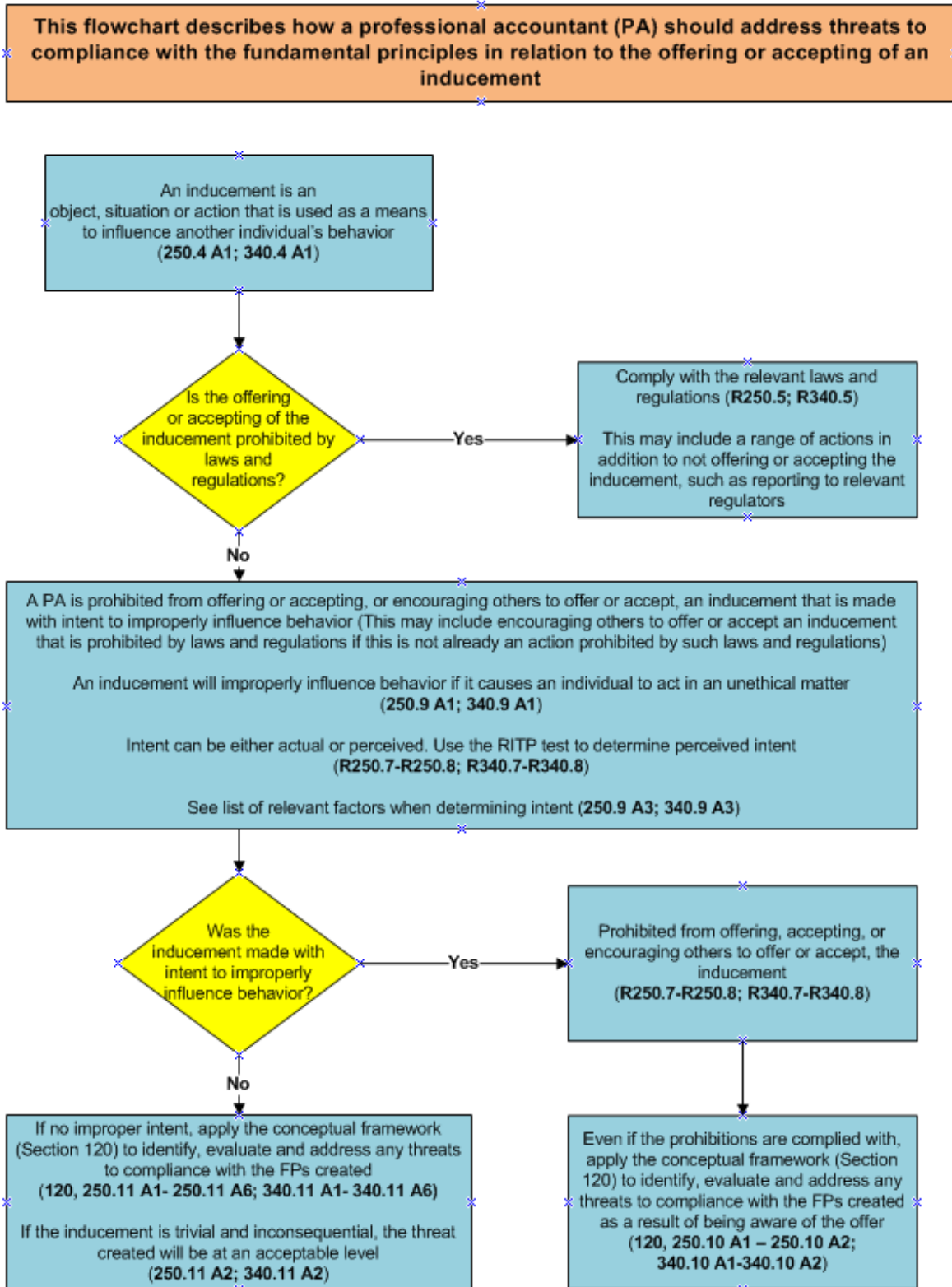
<sup>35</sup> Extant Part B, paragraph 290.227 and paragraph 291.156

<sup>36</sup> Part 4A, Section 400, *Applying the Conceptual Framework to Independence for Audit and Review Engagements*

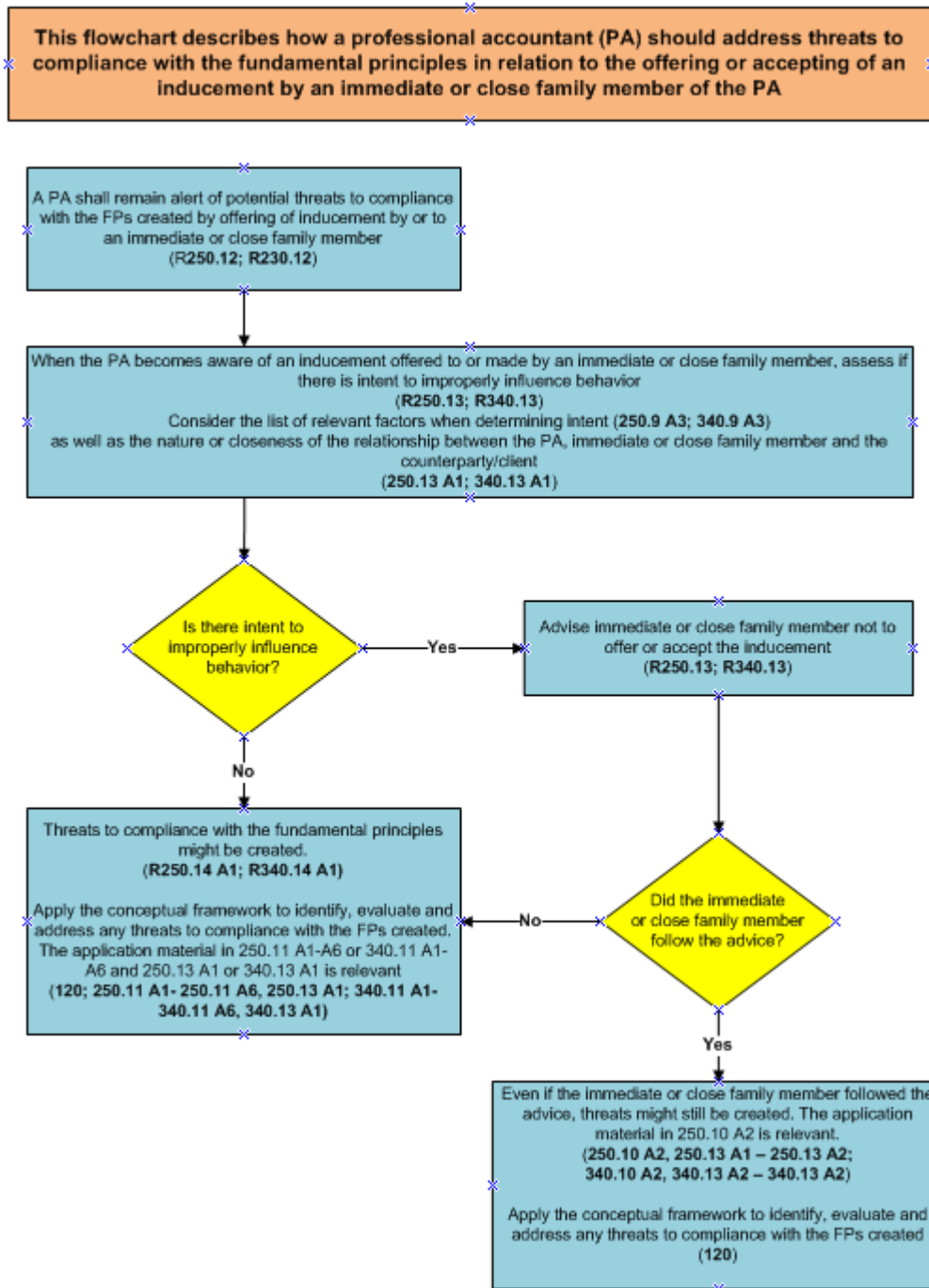
<sup>37</sup> See also paragraph 906.3 A1

<sup>38</sup> See also paragraph 906.3 A2

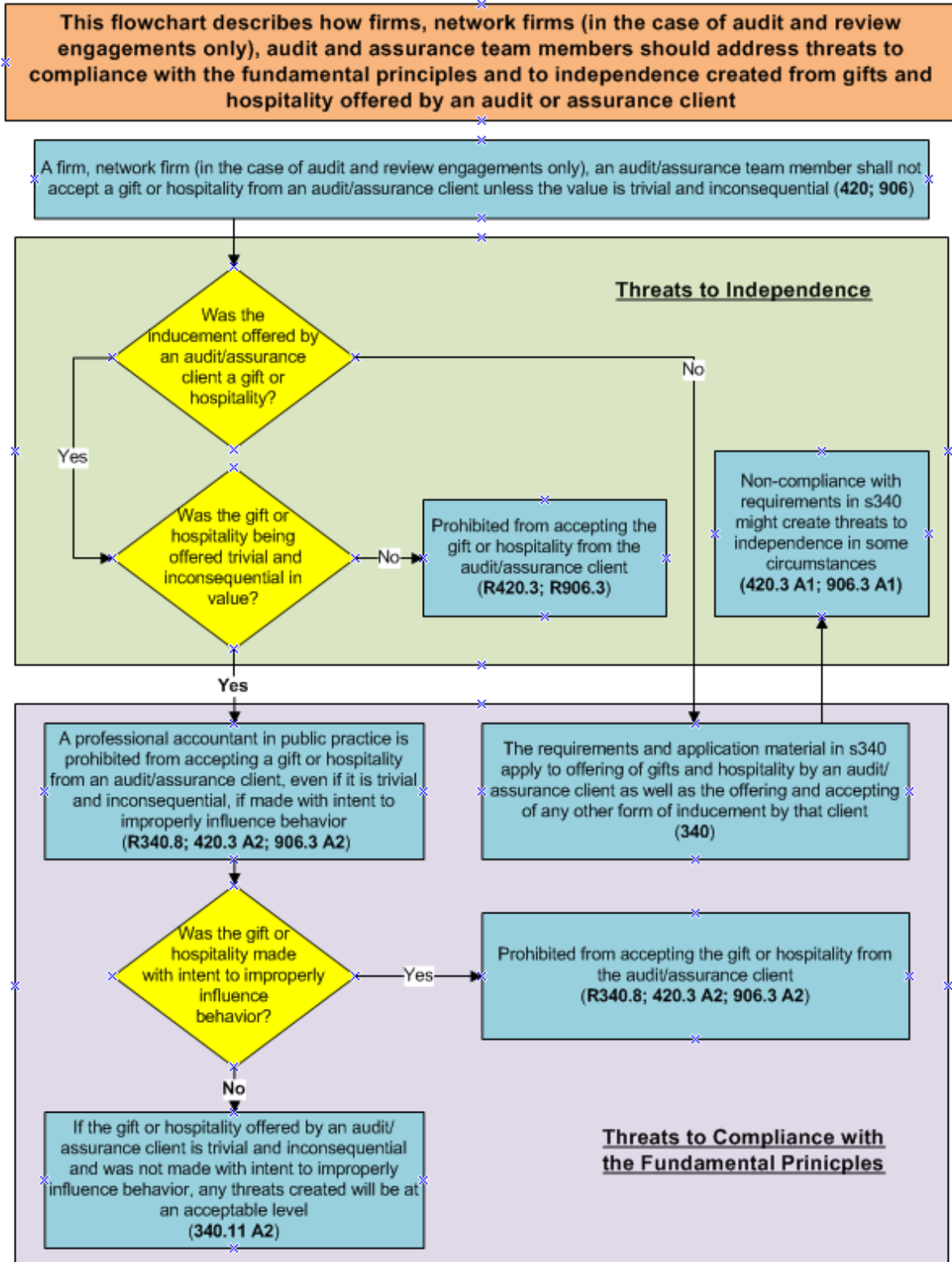
Flowchart: Inducements Offered by or to a Professional Accountant



Flowchart: Inducements Offered by or to an Immediate or Close Family Member



Flowchart: Gifts and hospitality Offered by an Audit or Assurance Client



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