

PART C—PROFESSIONAL ACCOUNTANTS IN BUSINESS

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SECTION 300 - INTRODUCTION

300.1 This Part of the Code describes how the conceptual framework contained in Part A applies in certain situations to professional accountants in business*. This Part does not describe all of the circumstances and relationships that could be encountered by a professional accountant in business* that create or may create threats to compliance with the fundamental principles. Therefore, the professional accountant in business* is encouraged to be alert for such circumstances and relationships.

Professional accountants in business shall also read Part A which sets out the fundamental principles and conceptual framework that professional accountants* are required to adhere to. It may also be helpful for professional accountants in business* to refer to other parts of this Code in relevant circumstances: for example, sections 221, 'Corporate finance advice', and 241, 'Agencies and referrals.'*

300.2 Investors, creditors, employers and other sectors of the business community, as well as governments and the public at large, all may rely on the work of professional accountants in business*. Professional accountants in business may be solely or jointly responsible for the preparation and reporting of financial and other information, which both their employing organisations and third parties may rely on. They may also be responsible for providing effective financial management and competent advice on a variety of business-related matters.

Professional accountants in business are engaged in an executive or non-executive capacity in such areas as commerce, industry, the public and service sectors (including public sector bodies), education, the not for profit sector, regulatory bodies or professional bodies.*

300.3 A professional accountant in business* may be a salaried employee, a partner*, director* (whether executive or non-executive), an owner manager, a volunteer or another working for one or more employing organisation. The legal form of the relationship with the employing organisation, if any, has no bearing on the ethical responsibilities incumbent on the professional accountant* in business.

* See Definitions for parts A, B and C

Professional accountants are reminded that this Code applies to all their professional and business activities, with and without reward.*

- 300.4** A professional accountant in business* has a responsibility to further the legitimate aims of the accountant's employing organisation. This Code does not seek to hinder a professional accountant in business* from properly fulfilling that responsibility, but addresses circumstances in which compliance with the fundamental principles may be compromised.
- 300.5** A professional accountant in business* may hold a senior position within an organisation. The more senior the position, the greater will be the ability and opportunity to influence events, practices and attitudes. A professional accountant in business* is expected, therefore, to encourage an ethics-based culture in an employing organisation that emphasises the importance that senior management places on ethical behaviour.
- 300.6** A professional accountant in business* shall not knowingly engage in any business, occupation, or activity that impairs or might impair integrity, objectivity or the good reputation of the profession and as a result would be incompatible with the fundamental principles.

Fundamental Principles

- 300.6a** *A professional accountant* shall comply with the following fundamental principles:*
- (a) **Integrity** – *to be straightforward and honest in all professional and business relationships.*
 - (b) **Objectivity** – *to not allow bias, conflict of interest or undue influence of others to override professional or business judgments*
 - (c) **Professional Competence and Due Care** – *to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services* based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.*
 - (d) **Confidentiality** – *to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the professional accountant* or third parties.*
 - (e) **Professional Behaviour** – *to comply with relevant laws and regulations and avoid any action that discredits the profession.*
- 300.7** Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances and relationships. Threats fall into one or more of the following categories:
- (a) Self-interest;

* See Definitions for parts A, B and C

- (b) Self-review;
- (c) Advocacy;
- (d) Familiarity; and;
- (e) Intimidation.

These threats are discussed further in Part A of this Code.

300.8 Examples of circumstances that may create self-interest threats for a professional accountant in business* include:

- Holding a financial interest* in, or receiving a loan* or guarantee from the employing organisation.
- Participating in incentive compensation arrangements offered by the employing organisation.
- Inappropriate personal use of corporate assets.
- Concern over employment security.
- Commercial pressure from outside the employing organisation.

300.9 An example of a circumstance that creates a self-review threat for a professional accountant in business* is determining the appropriate accounting treatment for a business combination after performing the feasibility study that supported the acquisition decision.

300.10 When furthering the legitimate goals and objectives of their employing organisations, professional accountants in business* may promote the organisation's position, provided any statements made are neither false nor misleading. Such actions generally would not create an advocacy threat.

300.11 Examples of circumstances that may create familiarity threats for a professional accountant in business* include:

- Being responsible for the employing organisation's financial reporting when an immediate or close family* member employed by the entity makes decisions that affect the entity's financial reporting.
- Long association with business contacts influencing business decisions.
- Accepting a gift or preferential treatment, unless the value is trivial and inconsequential.

300.12 Examples of circumstances that may create intimidation threats for a professional accountant in business* include:

- Threat of dismissal or replacement of the professional accountant in business* or a close or immediate family* member over a disagreement

* See Definitions for parts A, B and C

about the application of an accounting principle or the way in which financial information is to be reported.

- A dominant personality attempting to influence the decision making process, for example with regard to the awarding of contracts or the application of an accounting principle.

300.13 Safeguards that may eliminate or reduce threats to an acceptable level* fall into two broad categories:

- (a) Safeguards created by the profession, legislation or regulation; and
- (b) Safeguards in the work environment.

Examples of safeguards created by the profession, legislation or regulation are detailed in paragraph 100.14 of Part A of this Code.

300.14 Safeguards in the work environment include:

- The employing organisation's systems of corporate oversight or other oversight structures.
- The employing organisation's ethics and conduct programs.
- Recruitment procedures in the employing organisation emphasising the importance of employing high calibre competent staff.
- Strong internal controls.
- Appropriate disciplinary processes.
- Leadership that stresses the importance of ethical behaviour and the expectation that employees will act in an ethical manner.
- Policies and procedures to implement and monitor the quality of employee performance.
- Timely communication of the employing organisation's policies and procedures, including any changes to them, to all employees and appropriate training and education on such policies and procedures.
- Policies and procedures to empower and encourage employees to communicate to senior levels within the employing organisation any ethical issues that concern them without fear of retribution.
- Consultation with another appropriate professional accountant*.

300.15 In circumstances where a professional accountant in business* believes that unethical behaviour or actions by others will continue to occur within the employing organisation, the professional accountant in business* may consider obtaining legal advice. In those extreme situations where all available safeguards have been exhausted and it is not possible to reduce the threat to

* See Definitions for parts A, B and C

an acceptable level*, a professional accountant in business* may conclude that it is appropriate to *disassociate from the task and/or* resign from the employing organisation.

300.16 *To assist professional accountants* to determine an appropriate course of action when faced with a situation which could threaten their compliance with the fundamental principles the following sections give examples of specific areas of activity which could give rise to ethical dilemmas and the action which could be taken in response. This is not a comprehensive list of examples but aims to cover the key areas most likely to be encountered by professional accountants*. Illustrative case studies of how the guidance might be applied in example situations are available at www.icaew.com/ethics.*

300.17 *Professional accountants* who are in doubt as to their ethical position may seek advice from the ICAEW's Technical Advisory Services by e-mail: ethics@icaew.com or phone +44 (0)1908 248 250. Further guidance on sources of advice is available in section 1.*

SECTION 310 – POTENTIAL CONFLICTS

310.1 A professional accountant in business* shall comply with the fundamental principles. There may be times, however, when a professional accountant's* responsibilities to an employing organisation and professional obligations to comply with the fundamental principles are in conflict. A professional accountant in business* is expected to support the legitimate and ethical objectives established by the employer and the rules and procedures drawn up in support of those objectives. Nevertheless, where a relationship or circumstance creates a threat to compliance with the fundamental principles, a professional accountant in business* shall apply the conceptual framework approach described in section 100 to determine a response to the threat.

310.2 As a consequence of responsibilities to an employing organisation, a professional accountant in business* may be under pressure to act or behave in ways that could create threats to compliance with the fundamental principles. Such pressure may be explicit or implicit; it may come from a supervisor, manager, director* or another individual within the employing organisation. A professional accountant in business* may face pressure to:

- Act contrary to law or regulation.
- Act contrary to technical or professional standards.
- Facilitate unethical or illegal earnings management strategies.
- Lie to others, or otherwise intentionally mislead (including misleading by remaining silent) others, in particular:
 - The auditors of the employing organisation; or
 - Regulators.

* See Definitions for parts A, B and C

- Issue, or otherwise be associated with, a financial or non-financial report that materially misrepresents the facts, including statements in connection with, for example:
 - The financial statements*;
 - Tax compliance;
 - Legal compliance; or
 - Reports required by securities regulators.

310.3 The significance of any threats arising from such pressures, such as intimidation threats, shall be evaluated and safeguards applied when necessary to eliminate them or reduce them to an acceptable level*. Examples of such safeguards include:

- Obtaining advice, where appropriate, from within the employing organisation, an independent professional advisor or *ICAEW (see section 1 of this Code)*.
- Using a formal dispute resolution process within the employing organisation.
- Seeking legal advice.

Informal discussions with fellow professional accountants in business or in practice may assist in clarifying the steps needed to be taken.*

SECTION 320 - PREPARATION AND REPORTING OF INFORMATION

320.1 Professional accountants in business are often involved in the preparation and reporting of information that may either be made public or used by others inside or outside the employing organisation. Such information may include financial or management information, for example, forecasts and budgets, financial statements*, management's discussion and analysis, and the management letter of representation provided to the auditors during the audit of the entity's financial statements*. A professional accountant in business* shall prepare or present such information fairly, honestly and in accordance with relevant professional standards so that the information will be understood in its context.

320.2 A professional accountant in business* who has responsibility for the preparation or approval of the general purpose financial statements* of an employing organisation shall be satisfied that those financial statements* are presented in accordance with the applicable financial reporting standards.

320.3 A professional accountant in business* shall take reasonable steps to maintain information for which the professional accountant in business* is responsible in a manner that:

* See Definitions for parts A, B and C

- (a) Describes clearly the true nature of business transactions, assets, or liabilities;
- (b) Classifies and records information in a timely and proper manner; and
- (c) Represents the facts accurately and completely in all material respects.

320.4 Threats to compliance with the fundamental principles, for example, self-interest or intimidation threats to objectivity or professional competence and due care, are created where a professional accountant in business* is pressured (either externally or by the possibility of personal gain) to become associated with misleading information or to become associated with misleading information through the actions of others.

Accordingly, professional accountants shall not be associated with reports, returns, communications or other information where they believe that the information:*

- *Contains a materially false or misleading statement;*
- *Contains statements or information furnished recklessly;*
- *Omits or obscures information required to be included where such omission or obscurity would be misleading.*

320.5 The significance of such threats will depend on factors such as the source of the pressure and the degree to which the information is, or may be, misleading. The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate them or reduce them to an acceptable level*. Such safeguards include consultation with superiors within the employing organisation, the audit committee* or those charged with governance* of the organisation, or with *ICAEW*.

320.6 Where it is not possible to reduce the threat to an acceptable level*, a professional accountant in business* shall refuse to be or remain associated with information the professional accountant* determines is misleading. A professional accountant in business* may have been unknowingly associated with misleading information. Upon becoming aware of this, the professional accountant in business* shall take steps to be disassociated from that information. In determining whether there is a requirement to report, the professional accountant in business* may consider obtaining legal advice. In addition, the professional accountant* may consider whether to resign.

SECTION 330 - ACTING WITH SUFFICIENT EXPERTISE

330.1 The fundamental principle of professional competence and due care requires that a professional accountant in business* only undertake significant tasks for which the professional accountant in business* has, or can obtain, sufficient specific training or experience. A professional accountant in business* shall not

* See Definitions for parts A, B and C

intentionally mislead an employer as to the level of expertise or experience possessed, nor shall a professional accountant in business* fail to seek appropriate expert advice and assistance when required.

330.2 Circumstances that create a threat to a professional accountant in business* performing duties with the appropriate degree of professional competence and due care include having:

- Insufficient time for properly performing or completing the relevant duties.
- Incomplete, restricted or otherwise inadequate information for performing the duties properly.
- Insufficient experience, training and/or education.
- Inadequate resources for the proper performance of the duties.

330.3 The significance of the threat will depend on factors such as the extent to which the professional accountant in business* is working with others, relative seniority in the business, and the level of supervision and review applied to the work. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level*. Examples of such safeguards include:

- Obtaining additional advice or training.
- Ensuring that there is adequate time available for performing the relevant duties.
- Obtaining assistance from someone with the necessary expertise.
- Consulting, where appropriate, with:
 - Superiors within the employing organisation;
 - Independent experts; or
 - *ICAEW*.

330.4 When threats cannot be eliminated or reduced to an acceptable level*, professional accountants in business* shall determine whether to refuse to perform the duties in question. If the professional accountant in business* determines that refusal is appropriate, the reasons for doing so shall be clearly communicated.

SECTION 340 - FINANCIAL INTERESTS*

340.1 Professional accountants in business may have financial interests*, or may know of financial interests* of immediate or close family* members, that, in certain circumstances, may create threats to compliance with the fundamental

* See Definitions for parts A, B and C

principles. For example, self-interest threats to objectivity or confidentiality may be created through the existence of the motive and opportunity to manipulate price sensitive information in order to gain financially. Examples of circumstances that may create self-interest threats include situations where the professional accountant in business* or an immediate or close family* member:

- Holds a direct or indirect financial interest* in the employing organisation and the value of that financial interest* could be directly affected by decisions made by the professional accountant in business*;
- Is eligible for a profit related bonus and the value of that bonus could be directly affected by decisions made by the professional accountant in business*;
- Holds, directly or indirectly, share options in the employing organisation, the value of which could be directly affected by decisions made by the professional accountant in business*;
- Holds, directly or indirectly, share options in the employing organisation which are, or will soon be, eligible for conversion; or
- May qualify for share options in the employing organisation or performance related bonuses if certain targets are achieved.

340.2 The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level*. In evaluating the significance of any threat, and, when necessary, determining the appropriate safeguards to be applied to eliminate the threat or reduce it to an acceptable level*, a professional accountant in business* shall evaluate the nature of the financial interest*. This includes evaluating the significance of the financial interest* and determining whether it is direct or indirect. What constitutes a significant or valuable stake in an organisation will vary from individual to individual, depending on personal circumstances. Examples of such safeguards include:

- Policies and procedures for a committee independent of management to determine the level or form of remuneration of senior management.
- Disclosure of all relevant interests and of any plans to trade in relevant shares to those charged with the governance of the employing organisation, in accordance with any internal policies.
- Consultation, where appropriate, with superiors within the employing organisation.
- Consultation, where appropriate, with those charged with the governance of the employing organisation or relevant professional bodies.
- Internal and external audit procedures.

* See Definitions for parts A, B and C

- Up-to-date education on ethical issues and on the legal restrictions and other regulations around potential insider trading.

340.3 A professional accountant in business* shall neither manipulate information nor use confidential information for personal gain.

SECTION 350 – INDUCEMENTS

Receiving Offers

350.1 A professional accountant in business* or an immediate or close family* member may be offered an inducement. Inducements may take various forms, including gifts, hospitality, preferential treatment, and inappropriate appeals to friendship or loyalty.

350.2 Offers of inducements may create threats to compliance with the fundamental principles. When a professional accountant in business* or an immediate or close family* member is offered an inducement, the situation shall be evaluated. Self-interest threats to objectivity or confidentiality are created when an inducement is made in an attempt to unduly influence actions or decisions, encourage illegal or dishonest behaviour, or obtain confidential information. Intimidation threats to objectivity or confidentiality are created if such an inducement is accepted and it is followed by threats to make that offer public and damage the reputation of either the professional accountant in business* or an immediate or close family* member.

350.3 The existence and significance of any threats will depend on the nature, value and intent behind the offer. If a reasonable and informed third party, weighing all the specific facts and circumstances, would consider the inducement insignificant and not intended to encourage unethical behaviour, then a professional accountant in business* may conclude that the offer is made in the normal course of business and may generally conclude that there is no significant threat to compliance with the fundamental principles.

350.4 The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate them or reduce them to an acceptable level*. When the threats cannot be eliminated or reduced to an acceptable level* through the application of safeguards, a professional accountant in business* shall not accept the inducement. As the real or apparent threats to compliance with the fundamental principles do not merely arise from acceptance of an inducement but, sometimes, merely from the fact of the offer having been made, additional safeguards shall be adopted. A professional accountant in business* shall evaluate any threats created by such offers and determine whether to take one or more of the following actions:

- (a) Informing higher levels of management or those charged with governance* of the employing organisation immediately when such offers have been made;

* See Definitions for parts A, B and C

- (b) Informing third parties of the offer – for example, *ICAEW* or the employer of the individual who made the offer; a professional accountant in business* may however, consider seeking legal advice before taking such a step; and
- (c) Advising immediate or close family* members of relevant threats and safeguards where they are potentially in positions that might result in offers of inducements, for example, as a result of their employment situation; and
- (d) Informing higher levels of management or those charged with governance* of the employing organisation where immediate or close family* members are employed by competitors or potential suppliers of that organisation.

Making Offers

- 350.5** A professional accountant in business* may be in a situation where the professional accountant in business* is expected, or is under other pressure, to offer inducements to influence the judgment or decision-making process of an individual or organisation, or obtain confidential information.
- 350.6** Such pressure may come from within the employing organisation, for example, from a colleague or superior. It may also come from an external individual or organisation suggesting actions or business decisions that would be advantageous to the employing organisation, possibly influencing the professional accountant in business* improperly.
- 350.7** A professional accountant in business* shall not offer an inducement to improperly influence professional judgment of a third party.
- 350.8** Where the pressure to offer an unethical inducement comes from within the employing organisation, the professional accountant* shall follow the principles and guidance regarding ethical conflict resolution set out in Part A of this Code.

* See Definitions for parts A, B and C