

# Code of Ethics

New Zealand Institute of Chartered Accountants

This New Zealand Institute of Chartered Accountants (NZICA) Code of Ethics (this document) is based on the Final Pronouncement *International Code of Ethics for Professional Accountants (including International Independence Standards)* and associated amending pronouncements – see New Zealand Preface for complete list of publications and publication dates (see page 12) – of the International Ethics Standards Board for Accountants (IESBA), published by the International Federation of Accountants (IFAC) and are used with the permission of IFAC (**IFAC Material**). NZICA has supplemented and amended the IFAC material to make it suitable for its requirements including adding its own publication title; NZICA and Chartered Accountants Australia and New Zealand (**CA ANZ**) trademarks and related logos; the sections titled “Changes of Substance”, “Notice of Legal Status”, “New Zealand Preface” and “New Zealand Scope and Application”; references to applicable pronouncements of NZICA and/or the External Reporting Board; NZ specific paragraphs including NZ R100.9 – NZ100.13A1, NZ113.1 A3.1, NZ114.1A1.1, NZ R115.3, NZ120.17A1 – NZ120.19A, NZ210.8A4, NZ R310.9.1 – NZ R310.9.2 and NZ310.14A1 (in substitution of deleted IFAC material), NZ R320.7.1 – NZ R320.7.2, NZ R330.4.1, NZ R330.5.1 - NZ330.5.2A1, NZ 380.23 A1 and NZ 380.26A3; NZ specific terms and definitions that are prefaced with ‘NZ’ in the Glossary; and the “Conformity Statements” (**NZICA Material**).

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## **Changes of Substance From the 12/2024 Extant Code**

The text in this document replaces the extant *Code of Ethics* (application 15 December 2024)

### **Overview of Changes**

The primary changes to the extant Code comprise:

- The addition of sections *280* and *380* and revisions to section *321* and the *Glossary* to align the Code with Final Pronouncement: Revisions to the Code Addressing Tax Planning and Related Services, developed under the under the International Ethics Standards Board for Accountants (IESBA) Tax Planning and Related Services project;
- Conforming and editorial amendments.

### **Effective Dates**

#### *Revised Code*

- 1 July 2025 except for the changes described above which are effective for tax planning activities and tax planning services commencing on or after 1 July 2025 (early adoption allowed).

#### *Transitional Provision*

For tax planning activities or tax planning services commenced before the above effective date, such services or activities may be continued and be completed under the extant provisions of the Code.

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## GUIDE TO THE CODE

(This Guide is a non-authoritative aid to using the Code.)

### Purpose of the Code

1. The *Code of Ethics* (“the Code”) sets out *fundamental principles* of ethics for *members*, reflecting the profession’s recognition of its *public interest* responsibility. These principles establish the standard of behaviour expected of a *member*. The *fundamental principles* are: integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.
2. The Code provides a *conceptual framework* that *members* are to apply in order to identify, evaluate and address *threats* to compliance with the *fundamental principles*. The Code sets out requirements and application material on various topics to help *members* apply the *conceptual framework* to those topics.
3. In the case of *audits, reviews* and other *assurance engagements*, the Code directs *members* to the International independence Standards (New Zealand) (refer to the NZAuASB's Professional and Ethical Standard 1, International Code of Ethics for Assurance Practitioners (including International independence Standards) (New Zealand) (*PES 1*)), established by the application of the *conceptual framework* to *threats* to *independence* in relation to these engagements.

### How the Code is Structured

4. The Code contains the following material:
  - *Part 1 – Complying with the Code, Fundamental Principles and Conceptual Framework*, which includes the *fundamental principles* and the *conceptual framework* and is applicable to all *members*.
  - *Part 2 – Members in Business*, which sets out additional material that applies to *members in business* when performing *professional activities*. *Members in business* include *members* employed, engaged or contracted in an executive or non-executive capacity in, for example:
    - Commerce, industry or service.
    - The public sector.
    - Education.
    - The not-for-profit sector.
    - Regulatory or *professional bodies*.

*Part 2* is also applicable to individuals who are *members in public practice* when performing *professional activities* pursuant to their relationship with the *firm*, whether as a contractor, employee or owner.
  - *Part 3 – Members in Public Practice*, which sets out additional material that applies to *members in public practice* when providing *professional services*.
  - *International Independence Standards (New Zealand)* (refer *PES 1*), which sets out additional material that applies to *members in public practice* when providing *assurance services*, as follows:

- Part 4A – *Independence for Audit and Review Engagements*, which applies when performing *audit* or *review engagements*.
  - Part 4B – *Independence for Assurance Engagements Other than Audit and Review Engagements*, which applies when performing *assurance engagements* that are not *audit* or *review engagements*.
  - *Glossary*, which contains defined terms (together with additional explanations where appropriate) and described terms which have a specific meaning in certain parts of the Code.
5. The Code contains sections which address specific topics. Some sections contain subsections dealing with specific aspects of those topics. Each section of the Code is structured, where appropriate, as follows:
- Introduction – sets out the subject matter addressed within the section, and introduces the requirements and application material in the context of the *conceptual framework*. Introductory material contains information, including an explanation of terms used, which is important to the understanding and application of each Part and its sections.
  - Requirements – establish general and specific obligations with respect to the subject matter addressed.
  - Application material – provides context, explanations, suggestions for actions or matters to consider, illustrations and other guidance to assist in complying with the requirements.

## How to Use the Code

### *The Fundamental Principles, Independence and Conceptual Framework*

6. The Code requires *members* to comply with the *fundamental principles* of ethics. The Code also requires them to apply the *conceptual framework* to identify, evaluate and address *threats* to compliance with the *fundamental principles*. Applying the *conceptual framework* requires having an inquiring mind, exercising *professional judgment*, and using the *reasonable and informed third party test*.
7. The *conceptual framework* recognises that the existence of conditions, policies and procedures established by the profession, legislation, regulation, the *firm*, or the *employing organisation might* impact the identification of *threats*. Those conditions, policies and procedures *might* also be a relevant factor in the *member's* evaluation of whether a threat is at an *acceptable level*. When *threats* are not at an *acceptable level*, the *conceptual framework* requires the *member* to address those *threats*. Applying *safeguards* is one way that *threats might* be addressed. *Safeguards* are actions individually or in combination that the *member* takes that effectively reduce *threats* to an *acceptable level*.
8. In addition, the Code requires members to be independent when performing *audit*, *review* and other *assurance engagements*. The *conceptual framework* applies in the same way to identifying, evaluating and addressing *threats to independence* as to *threats* to compliance with the *fundamental principles*.
9. Complying with the Code requires knowing, understanding and applying:
- All of the relevant provisions of a particular section in the context of *Part 1*, together with the additional material set out in Sections 200, 300, 400 (refer Part 4A of *PES 1*) and 900 (refer Part 4B of *PES 1*), as applicable.

## GUIDE TO THE CODE

- All of the relevant provisions of a particular section, for example, applying the provisions that are set out under the subheadings titled “General” and “All Audit or Review Clients” together with additional specific provisions, including those set out under the subheadings titled “Audit or Review Clients that are not Public Interest Entities” or “Audit or Review Clients that are Public Interest Entities.”
- All of the relevant provisions set out in a particular section together with any additional provisions set out in any relevant subsection.

### *Requirements and Application Material*

10. Requirements and application material are to be read and applied with the objective of complying with the *fundamental principles*, applying the *conceptual framework* and, when performing *audit, review* and other *assurance engagements*, being independent.

### Requirements

11. Requirements are designated with the letter “R”, denoted in **bold-type** and, in most cases, include the word “shall.” The word “shall” in the Code imposes an obligation on a *member* or *firm* to comply with the specific provision in which “shall” has been used.
12. In some situations, the Code provides a specific exception to a requirement. In such a situation, the provision is designated with the letter “R” but uses “*may*” or conditional wording.
13. When the word “*may*” is used in the Code, it denotes permission to take a particular action in certain circumstances, including as an exception to a requirement. It is not used to denote possibility.
14. When the word “*might*” is used in the Code, it denotes the possibility of a matter arising, an event occurring or a course of action being taken. The term does not ascribe any particular level of possibility or likelihood when used in conjunction with a threat, as the evaluation of the level of a threat depends on the facts and circumstances of any particular matter, event or course of action.

### Application Material

15. In addition to requirements, the Code contains application material that provides context relevant to a proper understanding of the Code. In particular, the application material is intended to help a *member* to understand how to apply the *conceptual framework* to a particular set of circumstances and to understand and comply with a specific requirement. While such application material does not of itself impose a requirement, consideration of the material is necessary to the proper application of the requirements of the Code, including application of the *conceptual framework*. Application material is designated with the letter “A.”
16. Where application material includes lists of examples, these lists are not intended to be exhaustive.

### *Appendix to Guide to the Code*

17. The Appendix to this Guide provides an overview of the Code.

## OVERVIEW OF THE CODE

### *PART 1*

#### **COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK**

(ALL MEMBERS - SECTIONS 100 TO 199)

### *PART 2*

#### **MEMBERS IN BUSINESS**

(SECTIONS 200 TO 299)

(PART 2 IS ALSO APPLICABLE TO INDIVIDUAL MEMBERS IN PUBLIC PRACTICE WHEN PERFORMING PROFESSIONAL ACTIVITIES PURSUANT TO THEIR RELATIONSHIP WITH THE FIRM)

### *PART 3*

#### **MEMBERS IN PUBLIC PRACTICE**

(SECTIONS 300 TO 399)

#### **INTERNATIONAL INDEPENDENCE STANDARDS**

##### **(NEW ZEALAND) [REFER PES 1]**

(PARTS 4A AND 4B)

##### **PART 4A – INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS**

(SECTIONS 400 TO 899)

##### **PART 4B – INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENTS**

(SECTIONS 900 TO 999)

### **GLOSSARY**

(ALL MEMBERS)

**CODE OF ETHICS**  
**New Zealand Institute of Chartered Accountants**

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## NOTICE OF LEGAL STATUS OF THE CODE OF ETHICS

The *Code of Ethics* of the New Zealand Institute of Chartered Accountants (NZICA) was made by the New Zealand Regulatory Board of NZICA on 4 February 2025 pursuant to section 7 of the New Zealand Institute of Chartered Accountants Act 1996. The Act states, in section 7, that the Code of Ethics is secondary legislation for the purposes of the Legislation Act 2019. This means that the *Code of Ethics* must be tabled in Parliament and can be disallowed by Parliament.

NZICA has prescribed the following *Code of Ethics* to be binding on all *members* of NZICA.

*Members* of NZICA are also *members* of Chartered Accountants Australia and New Zealand (CA ANZ) and are subject to all applicable by-laws, rules, regulations, standards and guidance of CA ANZ.

This *Code of Ethics* replaces all previous Codes of Ethics issued by the New Zealand Regulatory Board of NZICA.

This *Code of Ethics* is effective from 1 July 2025.

## NEW ZEALAND PREFACE

The *Code of Ethics* ("the Code"), amended by NZICA in February 2025, is based on the Final Pronouncement *International Code of Ethics for Professional Accountants (including International Independence Standards)* of the International Ethics Standards Board for Accountants (IESBA), published by the International Federation of Accountants (IFAC) in April 2018<sup>1</sup>. It also includes the Final Pronouncement *Revisions to the Code Pertaining to the Offering and Accepting of Inducements* of the IESBA, published by IFAC in July 2018<sup>2</sup>, the Final Pronouncement *Revisions to Part 4B of the Code to Reflect Terms and Concepts Used in International Standard on Assurance Engagements 3000 (Revised)* of the IESBA, published by IFAC in January 2020<sup>3</sup>, the Final Pronouncement *Revisions to the Code to Promote the Role and Mindset Expected of Professional Accountants* of the IESBA, published by IFAC in October 2020<sup>4</sup>, the Final Pronouncement *Revisions to the Code Addressing the Objectivity of an Engagement Quality Reviewer and Other Appropriate Reviewers*, published by IFAC in January 2021<sup>5</sup>, the Final Pronouncement *Revisions to the Non-Assurance Services Provisions of the Code*, published by IFAC in April 2021<sup>6</sup>, the Final Pronouncement *Revisions to the Fee-related Provisions of the Code*, published by IFAC in April 2021<sup>7</sup>, the Final Pronouncement *Quality Management-related Conforming Amendments to the Code*, published by IFAC in April 2022<sup>8</sup>, the Final Pronouncement *Revisions to the Definitions of Listed Entity and Public Interest Entity*, published by IFAC in April 2022<sup>9</sup>, the Final Pronouncement *Revisions to the Code Relating to the Definition of Engagement Team and Group Audits*,

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published by IFAC in February 2023<sup>10</sup>, the Final Pronouncement *Technology-related Provisions of the Code*, published by IFAC in April 2023<sup>11</sup> and the Final Pronouncement *Revisions to the Code Addressing Tax Planning and Related Services*, published by IFAC in April 2024<sup>12</sup>.

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New Zealand additions and definitions are prefixed with NZ in this Code.

## **Interaction between NZAuASB's Code of Ethics for Assurance Practitioners and the Code**

The New Zealand Auditing and Assurance Standards Board (NZAuASB) is New Zealand's independent standard setting body for audit and assurance standards, including the professional and ethical standards applying to *assurance practitioners*.

In September 2011, a pronouncement was approved by the NZICA Council that made it a requirement for all *members* providing *assurance services* to adhere to the standards issued by the NZAuASB. Therefore, *assurance practitioners* must comply with both Professional and Ethical Standard 1 (*PES 1*) International Code of Ethics for *Assurance Practitioners* (including International Independence Standards) (New Zealand) issued by the NZAuASB; and the NZICA Code.

In *PES 1* the *independence* requirements relating to *assurance engagements* are incorporated in two parts:

- Part 4A – Independence for Audit and Review Engagements; and
- Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements.

These two parts are not replicated in the Code, instead *members* are referred to Parts 4A and 4B of *PES 1* issued by NZAuASB.

In *PES 1* the requirements relating to responding to *non-compliance with laws and regulations* for *assurance engagements* are in Paragraphs R360.10 – 360.28 A1.

These paragraphs have not been replicated in the Code instead *members* are referred to Paragraphs R360.10 – 360.28 A1 of *PES 1* issued by NZAuASB.

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## NEW ZEALAND SCOPE AND APPLICATION

- NZ 1.1 The amended Code is effective from 1 July 2025. This supersedes the Code (effective 15 December 2024).
- NZ R1.2 Compliance with the Code is mandatory for all *members*.**
- NZ 1.2 A1 The requirements are equally applicable to all *members*, whether they are in public practice, commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or *professional bodies* who *might* be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer or acting in an honorary capacity.
- NZ R1.3 The Code is based on a number of *fundamental principles* that express the basic tenets of professional and ethical behaviour and conduct. *Members* shall abide by these *fundamental principles* in all their business and *professional activities*. If the *fundamental principles* are threatened and the level of the threat cannot be eliminated or reduced to an *acceptable level*, the *member* or *firm* shall terminate or decline the activity.**
- NZ 1.4 The Code is designed to provide *members* with authoritative guidance on minimum acceptable standards of professional conduct. Non-compliance with the Code *might* expose a *member* to disciplinary action.
- NZ R1.5 The Code focuses on essential matters of principle and is not to be taken as a definitive statement on all matters. *Members* shall be able to demonstrate at all times that their actions, behaviour, and conduct comply with the Code.**
- NZ1.6 The Code is not intended to detract from responsibilities which *might* be imposed by law or regulation.
- NZ R1.7 All *members* outside of New Zealand shall comply with the Code to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**
- NZ R1.8 All references in the Code to “*technical and professional standards*” are to the standards issued by NZICA, the External Reporting Board, the New Zealand Auditing and Assurance Standards Board, the New Zealand Accounting Standards Board or other standards or authoritative guidance applicable to the task or engagement.**
- All references in the Code to legislation are references to those provisions as amended from time to time.**
- NZ R1.9 In applying the requirements outlined in the Code, *members* shall be guided, not merely by the words, but also by the spirit of the Code. The fact that particular behaviour or conduct is not discussed within the Code, does not prevent it from amounting to a breach of the Code.**

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# PART 1 – COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

## SECTION 100

### COMPLYING WITH THE CODE

#### Introduction

100.1 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the *public interest*.

100.2 [Amended. Refer to NZ100.2]

NZ100.2 Confidence in the accountancy profession is a reason why businesses, governments and other organisations involve *members* in a broad range of areas including financial and corporate reporting, assurance and other *professional activities*. *Members* understand and acknowledge that such confidence is based on skills and values that *members* bring to the *professional activities* they undertake, including:

- (a) Adherence to ethical principles and *technical and professional standards*;
- (b) Use of business acumen;
- (c) Application of expertise on technical and other matters; and
- (d) Exercise of *professional judgement*.

The application of these skills and values enables *members* to provide advice or other output that meets the purpose for which it was provided, and which can be relied upon by the intended users of such output

100.3 [Amended. Refer to NZ100.3]

NZ100.3 The Code sets out high quality standards of ethical behaviour expected of *members*.

100.4 The Code establishes five *fundamental principles* to be complied with by all *members*. It also includes a *conceptual framework* that sets out the approach to be taken to identify, evaluate and address *threats* to compliance with those *fundamental principles* and, for *audits* and other *assurance engagements*, *threats to independence*. The Code also applies the *fundamental principles* and the *conceptual framework* to a range of facts and circumstances that *members might* encounter, whether in business or in public practice.

#### Requirements and Application Material

100.5 A1 [Amended. Refer to NZ100.5 A1]

NZ100.5 A1 The requirements in the Code (including those in the New Zealand Scope and Application), designated with the letter “R” and denoted in **bold-type** impose obligations.

100.5 A2 Application material, designated with the letter “A,” provides context, explanations, suggestions for actions or matters to consider, illustrations and other guidance relevant to a proper understanding of the Code. In particular, the application material is intended to help a *member* to understand how to apply the *conceptual framework* to a particular set of circumstances and to understand and comply with a specific requirement. While such application material does not of itself impose a requirement, consideration of the material is necessary to the proper application of the requirements of the Code, including application of the *conceptual framework*.

**R100.6 A member shall comply with the Code.**

- 100.6 A1 Upholding the *fundamental principles* and compliance with the specific requirements of the Code enable *members* to meet their responsibility to act in the *public interest*.
- 100.6 A2 Complying with the Code includes giving appropriate regard to the aim and intent of the specific requirements.
- 100.6 A3 Compliance with the requirements of the Code does not mean that *members* will have always met their responsibility to act in the *public interest*. There *might* be unusual or exceptional circumstances in which a *member* believes that complying with a requirement or requirements of the Code *might* not be in the *public interest* or would lead to a disproportionate outcome. In those circumstances, the *member* is encouraged to consult with an appropriate body such as a *professional* or regulatory body.
- 100.6 A4 In acting in the *public interest*, a *member* considers not only the preferences or requirements of an individual client or *employing organisation*, but also the interests of other stakeholders when performing *professional activities*.

**R100.7 If there are circumstances where laws or regulations preclude a member from complying with certain parts of the Code, those laws and regulations prevail, and the member shall comply with all other parts of the Code.**

- 100.7 A1 The principle of professional behaviour requires a *member* to comply with relevant laws and regulations. Some jurisdictions *might* have provisions that differ from or go beyond those set out in the Code. *Members* in those jurisdictions need to be aware of those differences and comply with the more stringent provisions unless prohibited by law or regulation.

**Breaches of the Code**

**R100.8 Paragraphs R400.80 to R400.89 and R900.50 to R900.55 (refer PES 1) address a breach of *International Independence Standards (New Zealand)*. A *member* who identifies a breach of any other provision of the Code shall evaluate the significance of the breach and its impact on the *member's* ability to comply with the *fundamental principles*. The *member* shall also:**

- (a) Take whatever actions *might* be available, as soon as possible, to address the consequences of the breach satisfactorily; and
- (b) Determine whether to report the breach to the relevant parties.

- 100.8 A1 Relevant parties to whom such a breach *might* be reported include those who *might* have been affected by it, a *professional* or regulatory body or an oversight authority.

**Duty to Disclose Unethical Behaviour**

**NZ R100.9 Subject to R100.7, members have a professional duty to report unethical behaviour of other members to NZICA. Any member who encounters or becomes aware of a matter which provides reasonable grounds for suspecting defalcation, fraud, dishonesty or other unethical behaviour by any other member shall make a report immediately to the most senior executive of NZICA.**

- NZ100.9 A1 In circumstances where a *member* has made a report to NZICA, the *member* should be aware that:

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- (a) The information disclosed *might* form the basis of a complaint by NZICA, and in certain circumstances the *member* who made the report *might* be requested and/or required to participate in any disciplinary proceedings;
- (b) The information disclosed, including the name and other information which *might* enable identification of the *member* who has made the report, could be made available to the *member* about whom the report relates pursuant to the Privacy Act 2020;
- (c) In all situations where the *member* considers disclosing *confidential information*, the *member* must consider:
  - (i) The interests of all parties who *might* be affected; and
  - (ii) The need to obtain legal advice and consult NZICA.

**NZ R100.10** The duty to report shall extend to the *member's* own conduct. In the event of disciplinary proceedings, the fact that a *member* has made such a report will count in the *member's* favour.

### **Member in practice with non-members**

**NZ R100.11** Non-members who are permitted to practice with *members*, regardless of practice structure, shall comply with this Code. *Members* who practise with non-members, as *principals*, shall ensure that those non-members comply with this Code.

**NZ R100.12** When there is a reference in this Code to "*member*" it shall also be deemed to include a reference to a non-member partner or director, in so far as it is not inconsistent with the NZICA Rules and this Code

### **Members' Responsibility for the Conduct of Others**

**NZ R100.13** A *member* shall take reasonable steps to ensure others do not carry out on the *member's* behalf acts which if carried out by the *member*, would place the *member* in breach of the NZICA Rules or this Code.

**NZ100.13 A1** *Members* can be held responsible for the compliance with the Code of all persons associated with the *member*, who are either under the *member's* supervision or are the *member's* partners or fellow directors in a corporate practice.

## SECTION 110

### THE FUNDAMENTAL PRINCIPLES

#### General

110.1 A1 [Amended. Refer to NZ110.1 A1]

NZ110.1 A1 There are five *fundamental principles* of ethics for *members*:

- (a) Integrity – to be straightforward and honest in all professional and business relationships.
- (b) Objectivity – to exercise professional or business judgment without being compromised by:
  - (i) Bias;
  - (ii) Conflict of interest; or
  - (iii) Undue influence of, or undue reliance on, individuals, organisations, technology or other factors.
- (c) Professional Competence and Due Care – to:
  - (i) Attain and maintain professional knowledge and skill at the level required to ensure that a client or *employing organisation* receives competent *professional activities*, based on current *technical and professional standards* and relevant laws and regulations; and
  - (ii) Act diligently and in accordance with applicable *technical and professional standards* and relevant laws and regulations.
- (d) Confidentiality – to respect the confidentiality of information acquired as a result of professional and business relationships.
- (e) Professional Behaviour – to:
  - (i) Comply with relevant laws and regulations;
  - (ii) Behave in a manner consistent with the profession's responsibility to act in the *public interest* in all professional and business activities and relationships; and
  - (iii) Avoid any conduct that the *member* knows or should know *might* discredit the profession.

**R110.2 A member shall comply with each of the *fundamental principles*.**

110.2 A1 The *fundamental principles* of ethics establish the standard of behaviour expected of a *member*. The *conceptual framework* establishes the approach which a *member* is required to apply in complying with those *fundamental principles*. Subsections 111 to 115 set out requirements and application material related to each of the *fundamental principles*.

110.2 A2 A *member might* face a situation in which complying with one *fundamental principles* conflicts with complying with one or more other *fundamental principles*. In such a situation, the *member might* consider consulting, on an anonymous basis if necessary, with:

- Others within the *firm* or *employing organisation*.
- *Those charged with governance*.
- A *professional body*.

- A regulatory body.
- Legal counsel.

However, such consultation does not relieve the *member* from the responsibility to exercise *professional judgment* to resolve the conflict or, if necessary, and unless prohibited by law or regulation, disassociate from the matter creating the conflict.

110.2 A3 The *member* is encouraged to document the substance of the issue, the details of any discussions, the decisions made and the rationale for those decisions.

## SUBSECTION 111 – INTEGRITY

**R111.1 A *member* shall comply with the principle of integrity, which requires a *member* to be straightforward and honest in all professional and business relationships.**

111.1 A1 Integrity involves fair dealing, truthfulness and having the strength of character to act appropriately, even when facing pressure to do otherwise or when doing so *might* create potential adverse personal or organisational consequences.

111.1 A2 Acting appropriately involves:

- (a) Standing one's ground when confronted by dilemmas and difficult situations; or
- (b) Challenging others as and when circumstances warrant, in a manner appropriate to the circumstances.

**R111.2 A *member* shall not knowingly be associated with reports, returns, communications or other information where the *member* believes that the information:**

- (a) Contains a materially false or misleading statement;
- (b) Contains statements or information provided recklessly; or
- (c) Omits or obscures required information where such omission or obscurity would be misleading.

111.2 A1 If a *member* provides a modified report in respect of such a report, return, communication or other information, the *member* is not in breach of paragraph R111.2.

**R111.3 When a *member* becomes aware of having been associated with information described in paragraph R111.2, the *member* shall take steps to be disassociated from that information.**

## SUBSECTION 112 – OBJECTIVITY

**R112.1 A *member* shall comply with the principle of objectivity, which requires a *member* to exercise professional or business judgment without being compromised by:**

- (a) Bias;
- (b) Conflict of interest; or
- (c) Undue influence of, or undue reliance on, individuals, organisations, technology or other factors.

**R112.2 A *member* shall not undertake a *professional activity* if a circumstance or relationship unduly influences the *member's professional judgment* regarding that activity.**

## SUBSECTION 113 – PROFESSIONAL COMPETENCE AND DUE CARE

R113.1 [Amended. Refer to NZ R113.1]

**NZ R113.1 A *member* shall comply with the principle of professional competence and due care, which requires a *member* to:**

- (a) Attain and maintain professional knowledge and skills at the level required to ensure that a client or *employing organisation* receives competent *professional activities*, based on current *technical and professional standards* and relevant laws and regulations; and**
- (b) Act diligently and in accordance with applicable *technical and professional standards* and relevant laws and regulations.**

113.1 A1 Serving clients and *employing organisations* with professional competence involves the exercise of sound judgment in applying professional knowledge and skills.

113.1 A2 The knowledge and skills necessary for a *professional activity* vary depending on the nature of the activity being undertaken. For example, in addition to the application of any technical knowledge relevant to the *professional activity*, interpersonal, communication and organisational skills facilitate the *member's* interaction with entities and individuals with whom the *member* interacts.

113.1 A3 Maintaining professional competence requires a *member* to have a continuing awareness and understanding of technical, professional, business and technology-related developments relevant to the *professional activities* undertaken by the *member*. Continuing professional development enables a *member* to develop and maintain the capabilities to perform competently within the professional environment.

113.1 A4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.

NZ113.1 A4.1 Timeliness also extends to a *member's* obligation to respond in a timely manner to NZICA.

**R113.2 In complying with the principle of professional competence and due care, a *member* shall take reasonable steps to ensure that those working in a professional capacity under the *member's* authority have appropriate training and supervision.**

**R113.3 Where appropriate, a *member* shall make clients, the *employing organisation*, or other users of the *member's professional activities*, aware of the limitations inherent in the activities and explain the implications of those limitations.**

## SUBSECTION 114 – CONFIDENTIALITY

**R114.1 A *member* shall comply with the principle of confidentiality, which requires a *member* to respect the confidentiality of information acquired in the course of professional and business relationships. A *member* shall:**

- (a) Be alert to the possibility of inadvertent disclosure, including in a social environment, and particularly to a close business associate or an *immediate* or a *close family member*;**
- (b) Maintain confidentiality of information within the *firm* or *employing organisation*;**

- (c) **Maintain confidentiality of information disclosed by a prospective client or *employing organisation*; and**
- (d) **Take reasonable steps to ensure that personnel under the *member's* control, and individuals from whom advice and assistance are obtained, comply with the *member's* duty of confidentiality**

114.1 A1 Maintaining the confidentiality of information acquired in the course of professional and business relationships involves the *member* taking appropriate action to protect the confidentiality of such information in the course of its collection, use, transfer, storage or retention, dissemination and lawful destruction.

**R114.2 Subject to paragraph NZ R114.3, a *member* shall not:**

- (a) **Disclose *confidential information* acquired in the course of professional and business relationships;**
- (b) **Use *confidential information* acquired in the course of professional and business relationships for the advantage of the *member*, the *firm*, the *employing organisation* or a third party;**
- (c) **Use or disclose any *confidential information*, either acquired or received in the course of a professional or business relationship, after that relationship has ended; and**
- (d) **Use or disclose information in respect of which the duty of confidentiality applies notwithstanding that that information has become publicly available, whether properly or improperly.**

R114.3 [Amended. Refer to NZ R114.3]

**NZ R114.3 As an exception to paragraph R114.2, a *member* may disclose or use *confidential information*, or other information described in paragraph R114.2(d), where:**

- (a) **There is a legal or professional duty or right to do so; or**
- (b) **This is authorised by the client or any person with the authority to permit disclosure or use of the *confidential information* , or other information described in paragraph R114.2(d), and this is not prohibited by law or regulation.**

114.3 A1 Confidentiality serves the *public interest* because it facilitates the free flow of information from the *member's* client or *employing organisation* to the *member* in the knowledge that the information will not be disclosed to a third party. Nevertheless, the following are circumstances where *members* *might* be required or have the duty or right to disclose *confidential information*:

- (a) Disclosure is required by law or regulation, for example:
  - (i) Production of documents or other provision of evidence in the course of legal proceedings; or
  - (ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and
- (b) There is a professional duty or right to disclose or use, when not prohibited by law or regulation:
  - (i) To comply with the quality review of a *professional body*;

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- (ii) To respond to an inquiry or investigation by a *professional* or regulatory body;
- (iii) To protect the professional interests of a *member* in legal proceedings; or
- (iv) To comply with *technical and professional standards*, including ethics requirements.

NZ114.3A1.1 The circumstances in paragraph 114.3 A1 do not specifically address New Zealand legal and regulatory requirements. A *member* considering disclosing or using *confidential information* about a client or *employing organisation* without their consent is advised to first obtain legal advice

114.3 A2 In deciding whether to disclose or use *confidential information*, factors to consider, depending on the circumstances, include:

- Whether the interests of any parties, including third parties whose interests *might* be affected, could be harmed if the client or *employing organisation* authorises the disclosure or use of information by the *member*.
- Whether all the relevant information is known and substantiated, to the extent practicable. Factors affecting the decision to disclose or use, the information, include:
  - Unsubstantiated facts.
  - Incomplete information.
  - Unsubstantiated conclusions.
- The proposed means of communicating the information.
- Whether the parties to whom the information is to be provided or access is to be granted are appropriate recipients.
- Any applicable law or regulation (including those governing privacy) in a jurisdiction where disclosure might take place and, if different, the jurisdiction where the *confidential information* originates.

114.3 A3 The circumstances in which a *firm* or *employing organisation* seeks authorisation to use or disclose *confidential information*, include where the information is to be used for training purposes, in the development of products or technology, in research or as source material for industry or other benchmarking data or studies. Such authorisation might be general in its application (for example, in relation to use of the information for internal training purposes or quality enhancement initiatives). When obtaining the authorisation of the individual or entity that provided such information for use in specific circumstances, relevant considerations to be communicated (preferably in writing) might include:

- The nature of the information to be used or disclosed.
- The purpose for which the information is to be used or disclosed (for example, technology development, research or benchmarking data or studies).
- The individual or entity who will undertake the activity for which the information is to be used or disclosed.
- Whether the identity of the individual or entity that provided such information or any individuals or entities to which such information relates will be identifiable from the output of the activity for which the information is to be used or disclosed.

R114.4 [Amended. Refer to NZ R114.4]

NZ R114.4 A *member* shall continue to comply with the principle of confidentiality even after the end of the relationship between the *member* and a client or *employing organisation*. When changing employment or acquiring a new client, the *member* is entitled to use prior experience but shall not use or disclose any *confidential information*, or other information described in paragraph R114.2(d), acquired or received in the course of a professional or business relationship.

## SUBSECTION 115 – PROFESSIONAL BEHAVIOUR

R115.1 A *member* shall comply with the principle of professional behaviour, which requires a *member* to:

- (a) Comply with relevant laws and regulations;
- (b) Behave in a manner consistent with the profession's responsibility to act in the *public interest* in all *professional activities* and business relationships; and
- (c) Avoid any conduct that the *member* knows or should know *might* discredit the profession.

A *member* shall not knowingly engage in any business, occupation or activity that impairs or *might* impair the integrity, objectivity or good reputation of the profession, and as a result would be incompatible with the *fundamental principles*.

115.1 A1 Conduct that *might* discredit the profession includes conduct that a *reasonable and informed third party* would be likely to conclude adversely affects the good reputation of the profession.

R115.2 When undertaking marketing or promotional activities, a *member* shall not bring the profession into disrepute. A *member* shall be honest and truthful and shall not make:

- (a) Exaggerated claims for the services offered by, or the qualifications or experience of, the *member*; or
- (b) Disparaging references or unsubstantiated comparisons to the work of others.

115.2 A1 If a *member* is in doubt about whether a form of *advertising* or marketing is appropriate, the *member* is encouraged to consult with the relevant *professional body*.

NZ R115.3 A *member* shall act with courtesy and consideration.

## SECTION 120

### THE CONCEPTUAL FRAMEWORK

#### Introduction

- 120.1 The circumstances in which *members* operate *might* create *threats* to compliance with the *fundamental principles*. Section 120 sets out requirements and application material, including a *conceptual framework*, to assist *members* in complying with the *fundamental principles* and meeting their responsibility to act in the *public interest*. Such requirements and application material accommodate the wide range of facts and circumstances, including the various *professional activities*, interests and relationships, that create *threats* to compliance with the *fundamental principles*. In addition, they deter *members* from concluding that a situation is permitted solely because that situation is not specifically prohibited by the Code.
- 120.2 The *conceptual framework* specifies an approach for a *member* to:
- (a) Identify *threats* to compliance with the *fundamental principles*;
  - (b) Evaluate the *threats* identified; and
  - (c) Address the *threats* by eliminating or reducing them to an *acceptable level*.

#### Requirements and Application Material

##### General

- R120.3 The *member* shall apply the *conceptual framework* to identify, evaluate and address *threats* to compliance with the *fundamental principles* set out in Section 110.**
- 120.3 A1 Additional requirements and application material that are relevant to the application of the *conceptual framework* are set out in:
- (a) *Part 2 – Members in Business*;
  - (b) *Part 3 – Members in Public Practice*; and
  - (c) *International Independence Standards (New Zealand)* (refer *PES 1*), as follows:
    - (i) *Part 4A – Independence for Audit and Review Engagements*; and
    - (ii) *Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements*.
- R120.4 When dealing with an ethics issue, the *member* shall consider the context in which the issue has arisen or *might* arise. Where an individual who is a *member in public practice* is performing *professional activities* pursuant to the *member's* relationship with the *firm*, whether as a contractor, employee or owner, the individual shall comply with the provisions in *Part 2* that apply to these circumstances.**
- R120.5 When applying the *conceptual framework*, the *member* shall:**
- (a) Have an inquiring mind;
  - (b) Exercise *professional judgment*; and
  - (c) Use the *reasonable and informed third party test* described in paragraph 120.5 A9.

*Having an Inquiring Mind*

120.5 A1 An inquiring mind is a prerequisite to obtaining an understanding of known facts and circumstances necessary for the proper application of the *conceptual framework*. Having an inquiring mind involves:

- (a) Considering the source, relevance and sufficiency of information obtained, taking into account the nature, scope and outputs of the *professional activity* being undertaken; and
- (b) Being open and alert to a need for further investigation or other action.

120.5 A2 When considering the source, relevance and sufficiency of information obtained, the *member might* consider, amongst other matters, whether:

- New information has emerged or there have been changes in facts and circumstances.
- The information or its source *might* be influenced by bias or self-interest.
- There is a reason to be concerned that potentially relevant information *might* be missing from the facts and circumstances known to the *member*.
- There is an inconsistency between the known facts and circumstances and the *member's* expectations.
- The information provides a reasonable basis on which to reach a conclusion.
- There *might* be other reasonable conclusions that could be reached from the information obtained.

120.5 A3 [Amended. Refer to NZ120.5 A3]

NZ120.5 A3 Paragraph *R120.5* requires all *members* to have an inquiring mind when identifying, evaluating and addressing *threats* to the *fundamental principles*. This prerequisite for applying the *conceptual framework* applies to all *members* regardless of the *professional activity* undertaken. Under auditing, review and other assurance standards, including those issued by the NZAuASB, *members* are also required to exercise professional scepticism, which includes a critical assessment of evidence.

*Exercise of Professional Judgment*

120.5 A4 Professional judgment involves the application of relevant training, professional knowledge, skill and experience commensurate with the facts and circumstances, taking into account the nature and scope of the particular *professional activities*, and the interests and relationships involved.

120.5 A5 Professional judgment is required when the *member* applies the *conceptual framework* in order to make informed decisions about the courses of actions available, and to determine whether such decisions are appropriate in the circumstances. In making this determination, the *member might* consider matters such as whether:

- The *member's* expertise and experience are sufficient to reach a conclusion.
- There is a need to consult with others with relevant expertise or experience.
- The *member's* own preconception or bias *might* be affecting the *member's* exercise of professional judgment.

120.5 A6 The circumstances in which *members* carry out *professional activities* and the factors involved vary considerably in their range and complexity. The *professional judgment* exercised by *members* *might* need to take into account the complexity arising from the compounding effect of the interaction between, and changes in, elements of the facts and circumstances that are uncertain and variables and assumptions that are interconnected or interdependent.

120.5 A7 Managing complexity involves:

- Making the *firm* or *employing organisation* and, if appropriate, relevant stakeholders aware of the inherent uncertainties or difficulties arising from the facts and circumstances. (Ref: Para. R113.3)
- Being alert to any developments or changes in the facts and circumstances and assessing whether they *might* impact any judgments the *member* has made. (Ref: Para. R120.5 to 120.5 A3, and R120.9 to 120.9 A2)

120.5 A8 Managing complexity might also involve:

- Analysing and investigating as relevant, any uncertain elements, the variables and assumptions and how they are connected or interdependent.
- Using technology to analyse relevant data to inform the *member's* judgment.
- Consulting with others, including experts, to ensure appropriate challenge and additional input as part of the evaluation process.

#### *Reasonable and Informed Third Party*

120.5 A9 The reasonable and informed third party test is a consideration by the *member* about whether the same conclusions would likely be reached by another party. Such consideration is made from the perspective of a reasonable and informed third party, who weighs all the relevant facts and circumstances that the *member* knows, or could reasonably be expected to know, at the time the conclusions are made. The reasonable and informed third party does not need to be a *member*, but would possess the relevant knowledge and experience to understand and evaluate the appropriateness of the *member's* conclusions in an impartial manner.

#### **Identifying Threats**

**R120.6 The *member* shall identify *threats* to compliance with the *fundamental principles*.**

120.6 A1 An understanding of the facts and circumstances, including any *professional activities*, interests and relationships that *might* compromise compliance with the *fundamental principles*, is a prerequisite to the *member's* identification of *threats* to such compliance. The existence of certain conditions, policies and procedures established by the profession, legislation, regulation, the *firm*, or the *employing organisation* that can enhance the *member* acting ethically *might* also help identify *threats* to compliance with the *fundamental principles*. Paragraph 120.8 A2 includes general examples of such conditions, policies and procedures which are also factors that are relevant in evaluating the level of *threats*.

120.6 A2 *Threats* to compliance with the *fundamental principles* *might* be created by a broad range of facts and circumstances. It is not possible to define every situation that creates *threats*. In addition, the nature of engagements and work assignments *might* differ and, consequently, different types of *threats* *might* be created.

- 120.6 A3 *Threats* to compliance with the *fundamental principles* fall into one or more of the following categories:
- (a) Self-interest threat – the threat that a financial or other interest will inappropriately influence a *member's* judgment or behaviour;
  - (b) Self-review threat – the threat that a *member* will not appropriately evaluate the results of a previous judgment made, or an activity performed by the *member*, or by another individual within the *member's firm* or *employing organisation*, on which the *member* will rely when forming a judgment as part of performing a current activity;
  - (c) Advocacy threat – the threat that a *member* will promote a client's or *employing organisation's* position to the point that the *member's* objectivity is compromised;
  - (d) Familiarity threat – the threat that due to a long or close relationship with a client, or *employing organisation*, a *member* will be too sympathetic to their interests or too accepting of their work; and
  - (e) Intimidation threat – the threat that a *member* will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the *member*.
- 120.6 A4 A circumstance *might* create more than one threat, and a threat *might* affect compliance with more than one *fundamental principle*

### Evaluating Threats

**R120.7** When the *member* identifies a threat to compliance with the *fundamental principles*, the *member* shall evaluate whether such a threat is at an *acceptable level*.

#### *Acceptable Level*

120.7 A1 An *acceptable level* is a level at which a *member* using the *reasonable and informed third party test* would likely conclude that the *member* complies with the *fundamental principles*.

#### *Factors Relevant in Evaluating the Level of Threats*

120.8 A1 The consideration of qualitative as well as quantitative factors is relevant in the *member's* evaluation of *threats*, as is the combined effect of multiple *threats*, if applicable.

120.8 A2 The existence of conditions, policies and procedures described in paragraph 120.6 A1 *might* also be factors that are relevant in evaluating the level of *threats* to compliance with *fundamental principles*. Examples of such conditions, policies and procedures include:

- Corporate governance requirements.
- Educational, training and experience requirements for the profession.
- Effective complaint systems which enable the *member* and the general public to draw attention to unethical behaviour.
- An explicitly stated duty to report breaches of ethics requirements.
- Professional or regulatory monitoring and disciplinary procedures.

*Consideration of New Information or Changes in Facts and Circumstances*

**R120.9** If the *member* becomes aware of new information or changes in facts and circumstances that *might* impact whether a threat has been eliminated or reduced to an *acceptable level*, the *member* shall re-evaluate and address that threat accordingly.

120.9 A1 Remaining alert throughout the *professional activity* assists the *member* in determining whether new information has emerged or changes in facts and circumstances have occurred that:

- (a) Impact the level of a threat; or
- (b) Affect the *member's* conclusions about whether *safeguards* applied continue to be appropriate to address identified *threats*.

120.9 A2 If new information results in the identification of a new threat, the *member* is required to evaluate and, as appropriate, address this threat. (Ref: Paras. R120.7 and R120.10).

**Addressing Threats**

**R120.10** If the *member* determines that the identified *threats* to compliance with the *fundamental principles* are not at an *acceptable level*, the *member* shall address the *threats* by eliminating them or reducing them to an *acceptable level*. The *member* shall do so by:

- (a) Eliminating the circumstances, including interests or relationships, that are creating the *threats*;
- (b) Applying *safeguards*, where available and capable of being applied, to reduce the *threats* to an *acceptable level*; or
- (c) Declining or ending the specific *professional activity*.

*Actions to Eliminate Threats*

120.10 A1 Depending on the facts and circumstances, a threat *might* be addressed by eliminating the circumstance creating the threat. However, there are some situations in which *threats* can only be addressed by declining or ending the specific *professional activity*. This is because the circumstances that created the *threats* cannot be eliminated and *safeguards* are not capable of being applied to reduce the threat to an *acceptable level*.

*Safeguards*

120.10 A2 *Safeguards* are actions, individually or in combination, that the *member* takes that effectively reduce *threats* to compliance with the *fundamental principles* to an *acceptable level*.

*Consideration of Significant Judgments Made and Overall Conclusions Reached*

**R120.11** The *member* shall form an overall conclusion about whether the actions that the *member* takes, or intends to take, to address the *threats* created will eliminate those *threats* or reduce them to an *acceptable level*. In forming the overall conclusion, the *member* shall:

- (a) Review any significant judgments made or conclusions reached; and
- (b) Use the *reasonable and informed third party test*.

## Other Considerations when Applying the Conceptual Framework

### *Bias*

120.12 A1 Conscious or unconscious bias affects the exercise of *professional judgement* when identifying, evaluating and addressing *threats* to compliance with the *fundamental principles*.

120.12 A2 Examples of potential bias to be aware of when exercising *professional judgement* include:

- Anchoring bias, which is a tendency to use an initial piece of information as an anchor against which subsequent information is inadequately assessed.
- Automation bias, which is the tendency to favour output generated from automated systems, even when human reasoning or contradictory information raises questions as to whether such output is reliable or fit for purpose.
- Availability bias, which is a tendency to place more weight on events or experiences that immediately come to mind or are readily available than those that are not.
- Confirmation bias, which is a tendency to place more weight on information that corroborates an existing belief than information that contradicts or casts doubt on that belief.
- Groupthink, which is a tendency for a group of individuals to discourage individual creativity and responsibility and as a result reach a decision without critical reasoning or consideration of alternatives.
- Overconfidence bias, which is a tendency to overestimate one's own ability to make accurate assessments of risk or other judgements or decisions.
- Representation bias, which is a tendency to base an understanding on a pattern of experiences, events or beliefs that is assumed to be representative.
- Selective perception, which is a tendency for a person's expectations to influence how the person views a particular matter or person.

120.12 A3 Actions that *might* mitigate the effect of bias include:

- Seeking advice from experts to provide additional input.
- Consulting with others to ensure appropriate challenge as part of the evaluation process.
- Receiving training related to the identification of bias as part of professional development.

### *Organisational Culture*

120.13 A1 The effective application of the *conceptual framework* by a *member* is enhanced when the importance of ethical values that align with the *fundamental principles* and other provisions set out in the Code is promoted through the internal culture of the *member's* organisation.

120.13 A2 The promotion of an ethical culture within an organisation is most effective when:

- (a) Leaders and those in management roles promote the importance of, and hold themselves and others accountable for demonstrating the ethical values of the organisation;
- (b) Appropriate education and training programs, management processes, and performance evaluation and reward criteria that promote an ethical culture are in place;

- (c) Effective policies and procedures are in place to encourage and protect those who report actual or suspected illegal or unethical behaviour, including whistle-blowers; and
- (d) The organisation adheres to ethical values in its dealings with third parties.

120.13 A3 *Members* are expected to:

- (a) Encourage and promote an ethics-based culture in their organisation, taking into account their position and seniority; and
- (b) Exhibit ethical behavior in dealings with individuals with whom, and entities with which, the *members*, the *firm* or the *employing organisation* has a professional or business relationship.

## Considerations for Audits, Reviews, Other Assurance and Related Services Engagements

### *Firm Culture*

120.14.A1 Professional and Ethical Standard 3 (*PES 3*) *Quality Management for Firms that Perform Audits or Reviews of Financial Statements, or Other Assurance or Related Services Engagements* issued by the NZAuASB sets out requirements and application material relating to *firm* culture in the context of a *firm's* responsibilities to design, implement and operate a system of quality management for *audits* or *reviews* of *financial statements*, or other *assurance* or *related services* engagements.

### *Independence*

120.15 A1 *Members in public practice* are required by *International Independence Standards (New Zealand)* (refer *PES 1*) to be independent when performing *audits*, *reviews*, or other *assurance engagements*. *Independence* is linked to the *fundamental principles* of objectivity and integrity. It comprises:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise *professional judgment*, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a *reasonable and informed third party* would be likely to conclude that a *firm's* or an *audit, review* or *assurance team* member's integrity, objectivity or professional scepticism has been compromised.

120.15 A2 *International Independence Standards (New Zealand)* (refer *PES 1*) set out requirements and application material on how to apply the *conceptual framework* to maintain *independence* when performing *audits, reviews* or other *assurance engagements*. *Members* and *firms* are required to comply with these standards in order to be independent when conducting such engagements. The *conceptual framework* to identify, evaluate and address *threats* to compliance with the *fundamental principles* applies in the same way to compliance with *independence* requirements. The categories of *threats* to compliance with the *fundamental principles* described in paragraph 120.6 A3 are also the categories of *threats* to compliance with *independence* requirements.

120.15 A3 Conditions, policies and procedures described in paragraphs 120.6 A1 and 120.8 A2 that *might* assist in identifying and evaluating *threats* to compliance with the *fundamental principles* *might* also be factors relevant to identifying and evaluating threats to *independence*. In the context

of *audits, reviews* and other *assurance engagements*, a system of quality management designed, implemented and operated by a *firm* in accordance with the quality management standards issued by the NZAuASB is an example of such conditions, policies and procedures.

*Professional Scepticism*

120.16 A1 Under auditing, review and other assurance standards, including those issued by the New Zealand Auditing and Assurance Standards Board, *members in public practice* are required to exercise professional scepticism when planning and performing *audits, reviews* and other *assurance engagements*. Professional scepticism and the *fundamental principles* that are described in Section 110 are inter-related concepts.

120.16 A2 In an audit of *financial statements*, compliance with the *fundamental principles*, individually and collectively, supports the exercise of professional scepticism, as shown in the following examples:

- *Integrity* requires the *member* to be straightforward and honest. For example, the *member* complies with the principle of integrity by:
  - Being straightforward and honest when raising concerns about a position taken by a client
  - Pursuing inquiries about inconsistent information and seeking further audit evidence to address concerns about statements that *might* be materially false or misleading in order to make informed decisions about the appropriate course of action in the circumstances.
  - Having strength of character to act appropriately, even when facing pressure to do otherwise or when doing so *might* create potential adverse personal or organisational consequences. Acting appropriately involves:
    - (a) Standing one's ground when confronted by dilemmas and difficult situations; or
    - (b) Challenging others as and when circumstances warrant, in a manner appropriate to the circumstances.

In doing so, the *member* demonstrates the critical assessment of audit evidence that contributes to the exercise of professional scepticism.

- *Objectivity* requires the *member* to exercise professional or business judgment without being compromised by:
  - (a) Bias:
  - (b) Conflict of interest; or
  - (c) Undue influence of, or undue reliance on, individuals, organisations, technology or other factors.
- For example, the *member* complies with the principle of objectivity by:
  - (a) Recognising circumstances or relationships such as familiarity with the client, that *might* compromise the *member's* professional or business judgment; and
  - (b) Considering the impact of such circumstances and relationships on the *member's*

judgment when evaluating the sufficiency and appropriateness of audit evidence related to a matter material to the client's *financial statements*.

In doing so, the *member* behaves in a manner that contributes to the exercise of professional scepticism.

- *Professional competence and due care* requires the *member* to have professional knowledge and skill at the level required to ensure the provision of competent professional service, and to act diligently in accordance with applicable standards, laws and regulations. For example, the *member* complies with the principle of professional competence and due care by:
  - (a) Applying knowledge that is relevant to a particular client's industry and business activities in order to properly identify risks of material misstatement;
  - (b) Designing and performing appropriate audit procedures; and
  - (c) Applying relevant knowledge when critically assessing whether audit evidence is sufficient and appropriate in the circumstances.

In doing so, the *member* behaves in a manner that contributes to the exercise of professional scepticism.

### Considerations for Other Engagements

#### *Firm Culture*

NZ 120.17 A1 Professional Standard 1 (*PS-1 Quality Management*) issued by NZICA sets out requirements and application material relating to *firm* culture in the context of a *firm's* responsibilities to design, implement and operate a system of quality management for engagements, other than *audit, review* or other *assurance* or *related services* engagements.

#### *Independence*

**NZ R120.18A *firm* performing *professional services, other than audit, review* or other *assurance* or *related services* engagements, shall be *independent* where required by applicable *technical and professional standards* and relevant laws and regulations, or when it is otherwise appropriate to the engagement.**

NZ120.18 A1 *Independence* is also important for certain other *professional services*, including (but not limited to) certain insolvency engagements, independent business valuations, appraisal reports under New Zealand Stock Exchange Listing Rules, and expert witness engagements.

NZ120.18 A2 The *fundamental principles* that the concept of *independence* is linked to and a description of what *independence* comprises are set out at 120.15 A1.

**NZ R120.19A *firm* shall apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats* to *independence* in relation to professional engagements, other than *audits, reviews, other assurance* and *related services* engagements, where required by applicable *technical and professional standards* and relevant laws and regulations, or when it is otherwise appropriate to the engagement.**

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## PART 2 – MEMBERS IN BUSINESS

### SECTION 200

#### APPLYING THE CONCEPTUAL FRAMEWORK – MEMBERS IN BUSINESS

##### Introduction

- 200.1 This Part of the Code sets out requirements and application material for *members in business* when applying the *conceptual framework* set out in Section 120. It does not describe all of the facts and circumstances, including *professional activities*, interests and relationships, that could be encountered by *members in business*, which create or *might* create *threats* to compliance with the *fundamental principles*. Therefore, the *conceptual framework* requires *members in business* to be alert for such facts and circumstances.
- 200.2 Investors, creditors, *employing organisations* and other sectors of the business community, as well as governments and the general public, *might* rely on the work of *members in business*. *members in business* *might* be solely or jointly responsible for the preparation and reporting of financial and other information, on which both their *employing organisations* and third parties *might* rely. They *might* also be responsible for providing effective financial management and competent advice on a variety of business-related matters.
- 200.3 A *member in business* *might* be an employee, contractor, partner, director (executive or non-executive), owner-manager, or volunteer of an *employing organisation*. The legal form of the relationship of the *member* with the *employing organisation* has no bearing on the ethical responsibilities placed on the *member*.
- 200.4 In this Part, the term “*member*” refers to:
- (a) A *member in business*; and
  - (b) An individual who is a *member in public practice* when performing *professional activities* pursuant to the *member’s* relationship with the *member’s firm*, whether as a contractor, employee or owner. More information on when *Part 2* is applicable to *members in public practice* is set out in paragraphs R120.4, R300.5 and 300.5 A1.

##### Requirements and Application Material

###### General

- R200.5** A *member* shall comply with the *fundamental principles* set out in Section 110 and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats to compliance with the fundamental principles*.
- 200.5 A1 A *member* has a responsibility to further the legitimate objectives of the *member’s employing organisation*. The Code does not seek to hinder *members* from fulfilling that responsibility, but addresses circumstances in which compliance with the *fundamental principles* *might* be compromised.
- 200.5 A2 *Members* may promote the position of the *employing organisation* when furthering the legitimate goals and objectives of their *employing organisation*, provided that any statements made are neither false nor misleading. Such actions usually would not create an advocacy threat.

200.5 A3 The more senior the position of a *member*, the greater will be the ability and opportunity to access information, and to influence policies, decisions made and actions taken by others involved with the *employing organisation*. To the extent that they are able to do so, taking into account their position and seniority in the organisation, *members* are expected to encourage and promote an ethics-based culture in the organisation and exhibit ethical behavior in dealings with individuals with whom, and entities with which, the *member* or the *employing organisation* has a professional or business relationship in accordance with paragraph 120.13 A3. Examples of actions that *might* be taken include the introduction, implementation and oversight of:

- Ethics education and training programs.
- Management processes and performance evaluation and reward criteria that promote an ethical culture.
- Ethics and whistle-blowing policies.
- Policies and procedures designed to prevent *non-compliance with laws and regulations*.

### Identifying Threats

200.6 A1 *Threats* to compliance with the *fundamental principles* *might* be created by a broad range of facts and circumstances. The categories of *threats* are described in paragraph 120.6 A3. The following are examples of facts and circumstances within each of those categories that *might* create *threats* for a *member* when undertaking a *professional activity*:

(a) Self-interest Threats

- A *member* holding a *financial interest* in, or receiving a loan or guarantee from, the *employing organisation*.
- A *member* participating in incentive compensation arrangements offered by the *employing organisation*.
- A *member* having access to corporate assets for personal use.
- A *member* being offered a gift or special treatment from a supplier of the *employing organisation*.

(b) Self-review Threats

- A *member* determining the appropriate accounting treatment for a business combination after performing the feasibility study supporting the purchase decision.

(c) Advocacy Threats

- A *member* having the opportunity to manipulate information in a prospectus in order to obtain favorable financing.

(d) Familiarity Threats

- A *member* being responsible for the financial reporting of the *employing organisation* when an *immediate* or *close family* member employed by the

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organisation makes decisions that affect the financial reporting of the organisation.

- A *member* having a long association with individuals influencing business decisions.

(e) Intimidation Threats

- A *member* or *immediate* or *close family* member facing the threat of dismissal or replacement over a disagreement about:
  - The application of an accounting principle.
  - The way in which financial information is to be reported.
- An individual attempting to influence the decision-making process of the *member*, for example with regard to the awarding of contracts or the application of an accounting principle.

### *Identifying Threats Associated with the Use of Technology*

200.6 A2 The following are examples of facts and circumstances relating to the use of technology that *might* create *threats* for a *member* when undertaking a *professional activity*:

- Self-interest Threats
  - The data available *might* not be sufficient for the effective use of the technology.
  - The technology *might* not be appropriate for the purpose for which it is to be used.
  - The *member might* not have sufficient information and expertise, or access to an expert with sufficient understanding, to use and explain the technology and its appropriateness for the purpose intended.

(Ref: Para. 230.2).

- Self-review Threats
  - The technology was designed or developed using the knowledge, expertise or judgment of the *member* or *employing organisation*.

### **Evaluating Threats**

200.7 A1 The conditions, policies and procedures described in paragraphs 120.6 A1 and 120.8 A2 *might* impact the evaluation of whether a threat to compliance with the *fundamental principles* is at an *acceptable level*.

200.7 A2 The *member's* evaluation of the level of a threat is also impacted by the nature and scope of the *professional activity*.

200.7 A3 The *member's* evaluation of the level of a threat *might* be impacted by the work environment within the *employing organisation* and its operating environment. For example:

- Leadership that stresses the importance of ethical behaviour and the expectation that employees will act in an ethical manner.
- Policies and procedures to empower and encourage employees to communicate ethics issues that concern them to senior levels of management without fear of retribution.

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- Policies and procedures to implement and monitor the quality of employee performance.
- Systems of corporate oversight or other oversight structures and strong internal controls.
- Recruitment procedures emphasising the importance of employing high calibre competent personnel.
- Timely communication of policies and procedures, including any changes to them, to all employees, and appropriate training and education on such policies and procedures.
- Ethics and code of conduct policies.

200.7 A4 The *member's* evaluation of the level of a *threat* associated with the use of technology *might* also be impacted by the work environment within the *employing organisation* and its operating environment. For example:

- Level of corporate oversight and internal controls over the technology.
- Assessments of the quality and functionality of technology that are undertaken by a third-party.
- Training that is provided regularly to all relevant employees so they obtain and maintain the professional competence to sufficiently understand, use and explain the technology and its appropriateness for the purpose intended.

200.7 A5 *Members might* consider obtaining legal advice where they believe that unethical behaviour or actions by others have occurred, or will continue to occur, within the *employing organisation*.

### **Addressing Threats**

200.8 A1 Sections 210 to 270 describe certain *threats* that *might* arise during the course of performing *professional activities* and include examples of actions that *might* address such *threats*.

200.8 A2 In extreme situations, if the circumstances that created the *threats* cannot be eliminated and *safeguards* are not available or capable of being applied to reduce the threat to an *acceptable level*, it *might* be appropriate for a *member* to resign from the *employing organisation*.

### **Communicating with Those Charged with Governance**

*(after exhausting other appropriate actions that might address the threat - see sections 210 to 270 for examples)*

**R200.9** When communicating with *those charged with governance* in accordance with the Code, a *member* shall determine the appropriate individual(s) within the *employing organisation's* governance structure with whom to communicate. If the *member* communicates with a subgroup of *those charged with governance*, the *member* shall determine whether communication with all of *those charged with governance* is also necessary so that they are adequately informed.

200.9 A1 In determining with whom to communicate, a *member might* consider:

- (a) The nature and importance of the circumstances; and
- (b) The matter to be communicated.

200.9 A2 Examples of a subgroup of *those charged with governance* include an audit committee or an individual *member* of *those charged with governance*.

**R200.10** If a *member* communicates with individuals who have management responsibilities as well as governance responsibilities, the *member* shall be satisfied that communication with those individuals adequately informs all of those in a governance role with whom the *member* would otherwise communicate.

200.10 A1 In some circumstances, all of *those charged with governance* are involved in managing the *employing organisation*, for example, a small business where a single owner manages the organisation and no one else has a governance role. In these cases, if matters are communicated with individual(s) with management responsibilities, and those individual(s) also have governance responsibilities, the *member* has satisfied the requirement to communicate with *those charged with governance*.

## SECTION 210

### CONFLICTS OF INTEREST

#### Introduction

210.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.

210.2 A conflict of interest creates *threats* to compliance with the principle of objectivity and *might* create *threats* to compliance with the other *fundamental principles*. Such *threats might* be created when:

- (a) A *member* undertakes a *professional activity* related to a particular matter for two or more parties whose interests with respect to that matter are in conflict; or
- (b) The interest of a *member* with respect to a particular matter and the interests of a party for whom the *member* undertakes a *professional activity* related to that matter are in conflict.

A party *might* include an *employing organisation*, a vendor, a customer, a lender, a shareholder, or another party.

210.3 This section sets out specific requirements and application material relevant to applying the *conceptual framework* to conflicts of interest.

#### Requirements and Application Material

##### General

**R210.4** **A *member* shall not allow a conflict of interest to compromise professional or business judgment.**

210.4 A1 Examples of circumstances that *might* create a conflict of interest include:

- Serving in a management or governance position for two *employing organisations* and acquiring *confidential information* from one organisation that *might* be used by the *member* to the advantage or disadvantage of the other organisation.
- Undertaking a *professional activity* for each of two parties in a partnership, where both parties are employing the *member* to assist them to dissolve their partnership.
- Preparing financial information for certain *members* of management of the *member's employing organisation* who are seeking to undertake a management buy-out.
- Being responsible for selecting a vendor for the *employing organisation* when an *immediate family* member of the *member* *might* benefit financially from the transaction.
- Serving in a governance capacity in an *employing organisation* that is approving certain investments for the company where one of those investments will increase the value of the investment portfolio of the *member* or an *immediate family* member.

##### Conflict Identification

**R210.5** **A *member* shall take reasonable steps to identify circumstances that *might* create a conflict of interest, and therefore a threat to compliance with one or more of the *fundamental principles*. Such steps shall include identifying:**

- (a) The nature of the relevant interests and relationships between the parties involved; and
- (b) The activity and its implication for relevant parties.

**R210.6** A *member* shall remain alert to changes over time in the nature of the activities, interests and relationships that *might* create a conflict of interest while performing a *professional activity*.

### Threats Created by Conflicts of Interest

- 210.7 A1 In general, the more direct the connection between the *professional activity* and the matter on which the parties' interests conflict, the more likely the level of the threat is not at an *acceptable level*.
- 210.7 A2 An example of an action that *might* eliminate *threats* created by conflicts of interest is withdrawing from the decision-making process related to the matter giving rise to the conflict of interest.
- 210.7 A3 Examples of actions that *might* be *safeguards* to address *threats* created by conflicts of interest include:
- Restructuring or segregating certain responsibilities and duties.
  - Obtaining appropriate oversight, for example, acting under the supervision of an executive or non-executive director.

### Disclosure and Consent

#### General

210.8 A1 [Amended. Refer to NZ210.8 A1]

NZ210.8 A1 It is generally necessary to:

- (a) Disclose in writing the nature of the conflict of interest and how any *threats* created were addressed to the relevant parties, including to the appropriate levels within the *employing organisation* affected by a conflict; and
- (b) Obtain consent in writing from the relevant parties for the *member* to undertake the *professional activity* when *safeguards* are applied to address the threat.

210.8 A2 Consent *might* be implied by a party's conduct in circumstances where the *member* has sufficient evidence to conclude that the parties know the circumstances at the outset and have accepted the conflict of interest if they do not raise an objection to the existence of the conflict.

210.8 A3 If such disclosure or consent is not in writing, the *member* is encouraged to document:

- (a) The nature of the circumstances giving rise to the conflict of interest;
- (b) The *safeguards* applied to address the *threats* when applicable; and
- (c) The consent obtained.

NZ210.8 A4 The *member* is encouraged to document all matters set-out in this section.

*Other Considerations*

210.9 A1 When addressing a conflict of interest, the *member* is encouraged to seek guidance from within the *employing organisation* or from others, such as a *professional body*, legal counsel or another *member*. When making such disclosures or sharing information within the *employing organisation* and seeking guidance of third parties, the principle of confidentiality applies.

## SECTION 220

### PREPARATION AND PRESENTATION OF INFORMATION

#### Introduction

- 220.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 220.2 Preparing or presenting information *might* create a self-interest, intimidation or other *threats* to compliance with one or more of the *fundamental principles*. This section sets out specific requirements and application material relevant to applying the *conceptual framework* in such circumstances.

#### Requirements and Application Material

##### General

- 220.3 A1 *Members* at all levels in an *employing organisation* are involved in the preparation or presentation of information both within and outside the organisation.
- 220.3 A2 Stakeholders to whom, or for whom, such information is prepared or presented, include:
- Management and *those charged with governance*.
  - Investors and lenders or other creditors.
  - Regulatory bodies.

This information *might* assist stakeholders in understanding and evaluating aspects of the *employing organisation's* state of affairs and in making decisions concerning the organisation. Information can include financial and non-financial information that *might* be made public or used for internal purposes.

Examples include:

- Operating and performance reports.
  - Decision support analyses.
  - Budgets and forecasts.
  - Information provided to the internal and external auditors.
  - Risk analyses.
  - General and *special purpose financial statements*.
  - Tax returns.
  - Reports filed with regulatory bodies for legal and compliance purposes.
- 220.3 A3 For the purposes of this section, preparing or presenting information includes recording, maintaining and approving information.

#### R220.4 When preparing or presenting information, a *member* shall:

- (a) **Prepare or present the information in accordance with a relevant reporting framework, where applicable;**

- (b) Prepare or present the information in a manner that is intended neither to mislead nor to influence contractual or regulatory outcomes inappropriately;
- (c) Exercise *professional judgment* to:
  - (i) Represent the facts accurately and completely in all material respects;
  - (ii) Describe clearly the true nature of business transactions or activities; and
  - (iii) Classify and record information in a timely and proper manner;
- (d) Not omit anything with the intention of rendering the information misleading or of influencing contractual or regulatory outcomes inappropriately;
- (e) Avoid undue influence of, or undue reliance on, individuals, organisations or technology; and
- (f) Be aware of the risk of bias.

220.4 A1 An example of influencing a contractual or regulatory outcome inappropriately is using an unrealistic estimate with the intention of avoiding violation of a contractual requirement such as a debt covenant or of a regulatory requirement such as a capital requirement for a financial institution.

#### Use of Discretion in Preparing or Presenting Information

**R220.5** Preparing or presenting information *might* require the exercise of discretion in making *professional judgments*. The *member* shall not exercise such discretion with the intention of misleading others or influencing contractual or regulatory outcomes inappropriately.

220.5 A1 Examples of ways in which discretion *might* be misused to achieve inappropriate outcomes include:

- Determining estimates, for example, determining fair value estimates in order to misrepresent profit or loss.
- Selecting or changing an accounting policy or method among two or more alternatives permitted under the applicable financial reporting framework, for example, selecting a policy for accounting for long-term contracts in order to misrepresent profit or loss.
- Determining the timing of transactions, for example, timing the sale of an asset near the end of the fiscal year in order to mislead.
- Determining the structuring of transactions, for example, structuring financing transactions in order to misrepresent assets and liabilities or classification of cash flows.
- Selecting disclosures, for example, omitting or obscuring information relating to financial or operating risk in order to mislead.

**R220.6** When performing *professional activities*, especially those that do not require compliance with a relevant reporting framework, the *member* shall exercise *professional judgment* to identify and consider:

- (a) The purpose for which the information is to be used;
- (b) The context within which it is given; and

**(c) The audience to whom it is addressed.**

- 220.6 A1 For example, when preparing or presenting pro forma reports, budgets or forecasts, the inclusion of relevant estimates, approximations and assumptions, where appropriate, would enable those who *might* rely on such information to form their own judgments.
- 220.6 A2 The *member might* also consider clarifying the intended audience, context and purpose of the information to be presented.

**Using the Work of Others**

**R220.7 A *member* who intends to use the work of others whether internal or external to the employing organisation, or other organisations shall exercise professional judgment to determine the appropriate steps to take, if any, in order to fulfill the responsibilities set out in paragraph R220.4.**

220.7 A1 Factors to consider when a *member* intends to use the work of others include:

- The reputation and expertise of, and resources available to, the other individual or organisation.
- Whether the other individual is subject to applicable professional and ethics standards.

Such information *might* be gained from prior association with, or from consulting others about, the other individual or organisation.

**Using the Output of Technology**

**R220.8 A *member* who intends to use the output of technology, whether that technology was developed internally or provided by third parties, shall exercise professional judgment to determine the appropriate steps to take, if any, in order to fulfill the responsibilities set out in paragraph R220.4.**

220.8 A1 Factors to consider when a *member* intends to use the output of technology include:

- The nature of the activity to be performed by the technology.
- The expected use of, or extent of reliance on, the output of the technology.
- Whether the *member* has the ability, or has access to an expert with the ability, to understand, use and explain the technology and its appropriateness for the purpose intended.
- Whether the technology used has been appropriately tested and evaluated for the purpose intended.
- Prior experience with the technology and whether its use for specific purposes is generally accepted.
- The *employing organisation's* oversight of the design, development, implementation, operation, maintenance, monitoring, updating or upgrading of the technology.
- The controls relating to the use of the technology, including procedures for authorising user access to the technology and overseeing such use.
- The appropriateness of the inputs to the technology, including data and any related decisions, and decisions made by individuals in the course of using the technology.

## Addressing Information that Is or Might be Misleading

**R220.9** When the *member* knows or has reason to believe that the information with which the *member* is associated is misleading, the *member* shall take appropriate actions to seek to resolve the matter.

220.9 A1 Actions that *might* be appropriate include:

- Discussing concerns that the information is misleading with the *member's* superior and/or the appropriate level(s) of management within the *member's employing organisation* or *those charged with governance*, and requesting such individuals to take appropriate action to resolve the matter. Such action *might* include:
  - Having the information corrected.
  - If the information has already been disclosed to the intended users, informing them of the correct information.
- Consulting the policies and procedures of the *employing organisation* (for example, an ethics or whistle-blowing policy) regarding how to address such matters internally.

220.9 A2 The *member might* determine that the *employing organisation* has not taken appropriate action. If the *member* continues to have reason to believe that the information is misleading, the following further actions *might* be appropriate provided that the *member* remains alert to the principle of confidentiality:

- Consulting with:
  - A relevant *professional body*.
  - The internal or external auditor of the *employing organisation*.
  - Legal counsel.
- Determining whether any requirements exist to communicate to:
  - Third parties, including users of the information.
  - Regulatory and oversight authorities.

**R220.10** If after exhausting all feasible options, the *member* determines that appropriate action has not been taken and there is reason to believe that the information is still misleading, the *member* shall refuse to be or to remain associated with the information.

220.10 A1 In such circumstances, it *might* be appropriate for a *member* to resign from the *employing organisation*.

## Documentation

220.11 A1 [Amended. Refer to NZ220.10 A1]

NZ220.11 A1 The *member* is encouraged to document:

- The facts.
- The accounting principles or other relevant *technical and professional standards* involved.
- The communications and parties with whom matters were discussed.

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- The courses of action considered.
- How the *member* attempted to address the matter(s).

### **Other Considerations**

220.12 A1 Where *threats* to compliance with the *fundamental principles* relating to the preparation or presentation of information arise from a *financial interest*, including compensation and incentives linked to financial reporting and decision making, the requirements and application material set out in Section 240 apply.

220.12 A2 Where the misleading information *might* involve *non-compliance with laws and regulations*, the requirements and application material set out in Section 260 apply.

220.12 A3 Where *threats* to compliance with the *fundamental principles* relating to the preparation or presentation of information arise from pressure, the requirements and application material set out in Section 270 apply.

220.12 A4 When a *member* is considering using the work of others or the output of technology, a consideration is whether the *member* is in a position within the *employing organisation* to obtain information in relation to the factors necessary to determine whether such use is appropriate.

## SECTION 230

### ACTING WITH SUFFICIENT EXPERTISE

#### Introduction

230.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.

230.2 Acting without sufficient expertise creates a self-interest threat to compliance with the principle of professional competence and due care. This section sets out specific requirements and application material relevant to applying the *conceptual framework* in such circumstances.

#### Requirements and Application Material

##### General

**R230.3** A *member* shall not intentionally mislead an *employing organisation* as to the level of expertise or experience possessed.

230.3 A1 The principle of professional competence and due care requires that a *member* only undertake significant tasks for which the *member* has, or can obtain, sufficient training or experience.

230.3 A2 A self-interest threat to compliance with the principle of professional competence and due care *might* be created if a *member* has:

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

230.3 A3 Factors that are relevant in evaluating the level of such a threat include:

- The extent to which the *member* is working with others.
- The relative seniority of the *member* in the business.
- The level of supervision and review applied to the work.

230.3 A4 Examples of actions that *might* be *safeguards* to address such a self-interest threat include:

- Obtaining assistance or training from someone with the necessary expertise.
- Ensuring that there is adequate time available for performing the relevant duties.

**R230.4** If a threat to compliance with the principle of professional competence and due care cannot be addressed, a *member* shall determine whether to decline to perform the duties in question. If the *member* determines that declining is appropriate, the *member* shall communicate the reasons.

##### Other Considerations

230.5 A1 The requirements and application material in Section 270 apply when a *member* is pressured to act in a manner that *might* lead to a breach of the principle of professional competence and due care.

## SECTION 240

### FINANCIAL INTERESTS, COMPENSATION AND INCENTIVES LINKED TO FINANCIAL REPORTING AND DECISION MAKING

#### Introduction

- 240.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 240.2 Having a *financial interest*, or knowing of a *financial interest* held by an *immediate* or *close family member* *might* create a self-interest threat to compliance with the principles of objectivity or confidentiality. This section sets out specific requirements and application material relevant to applying the *conceptual framework* in such circumstances.

#### Requirements and Application Material

##### General

**R240.3** **A member shall not manipulate information or use *confidential information* for personal gain or for the financial gain of others.**

240.3 A1 *Members might* have *financial interests* or *might* know of *financial interests* of *immediate* or *close family members* that, in certain circumstances, *might* create *threats* to compliance with the *fundamental principles*. *Financial interests* include those arising from compensation or incentive arrangements linked to financial reporting and decision making.

240.3 A2 Examples of circumstances that *might* create a self-interest threat include situations in which the *member* or an *immediate* or *close family member*:

- Has a motive and opportunity to manipulate price-sensitive information in order to gain financially.
- Holds a *direct* or *indirect financial interest* in the *employing organisation* and the value of that *financial interest* *might* be directly affected by decisions made by the *member*.
- Is eligible for a profit-related bonus and the value of that bonus *might* be directly affected by decisions made by the *member*.
- Holds, directly or indirectly, deferred bonus share rights or share options in the *employing organisation*, the value of which *might* be affected by decisions made by the *member*.
- Participates in compensation arrangements which provide incentives to achieve targets or to support efforts to maximise the value of the *employing organisation's* shares. An example of such an arrangement *might* be through participation in incentive plans which are linked to certain performance conditions being met.

240.3 A3 Factors that are relevant in evaluating the level of such a threat include:

- The significance of the *financial interest*. What constitutes a significant *financial interest* will depend on personal circumstances and the materiality of the *financial interest* to the individual.
- Policies and procedures for a committee independent of management to determine the level or form of senior management remuneration.
- In accordance with any internal policies, disclosure to *those charged with governance*

of:

- All relevant interests.
- Any plans to exercise entitlements or trade in relevant shares.
- Internal and external audit procedures that are specific to address issues that give rise to the *financial interest*.

240.3 A4 *Threats* created by compensation or incentive arrangements *might* be compounded by explicit or implicit pressure from superiors or colleagues. See Section 270, *Pressure to Breach the Fundamental Principles*.

## SECTION 250

### INDUCEMENTS, INCLUDING GIFTS AND HOSPITALITY

#### Introduction

- 250.1 *Members* 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 Offering or accepting *inducements* might create a self-interest, familiarity or intimidation threat to compliance with the *fundamental principles*, particularly the principles of integrity, objectivity and professional behaviour.
- 250.3 This section sets out requirements and application material relevant to applying the *conceptual framework* in relation to the offering and accepting of *inducements* when undertaking *professional activities* that does not constitute *non-compliance with laws and regulations*. This section also requires a *member* to comply with relevant laws and regulations when offering or accepting *inducements*.

#### Requirements and Application Material

##### General

- 250.4 A1 An *inducement* is an object, situation, or action that is used as a means to influence another individual's behaviour, but not necessarily with the intent to improperly influence that individual's behaviour. *Inducements* can range from minor acts of hospitality between business colleagues to acts that result in *non-compliance with laws and regulations*. An *inducement* can take many different forms, for example:
- Gifts.
  - Hospitality.
  - Entertainment.
  - Political or charitable donations.
  - Appeals to friendship and loyalty.
  - Employment or other commercial opportunities.
  - Preferential treatment, rights or privileges.

##### Inducements Prohibited by Laws and Regulations

- R250.5** In many jurisdictions, there are laws and regulations, such as those related to bribery and corruption, that prohibit the offering or accepting of *inducements* in certain circumstances. The *member* shall obtain an understanding of relevant laws and regulations and comply with them when the *member* encounters such circumstances.

##### Inducements Not Prohibited by Laws and Regulations

- 250.6 A1 The offering or accepting of *inducements* that is not prohibited by laws and regulations *might* still create *threats* to compliance with the *fundamental principles*.

*Inducements with Intent to Improperly Influence Behaviour*

**R250.7** A *member* shall not offer, or encourage others to offer, any *inducement* that is made, or which the *member* considers a *reasonable and informed third party* would be likely to conclude is made, with the intent to improperly influence the behaviour of the recipient or of another individual.

**R250.8** A *member* shall not accept, or encourage others to accept, any *inducement* that the *member* concludes is made, or considers a *reasonable and informed third party* would be likely to conclude is made, with the intent to improperly influence the behaviour of the recipient or of another individual.

250.9 A1 An *inducement* is considered as improperly influencing an individual's behaviour if it causes the individual to act in an unethical manner. Such improper influence can be directed either towards the recipient or towards another individual who has some relationship with the recipient. The *fundamental principles* are an appropriate frame of reference for a *member* in considering what constitutes unethical behaviour on the part of the *member* and, if necessary by analogy, other individuals.

250.9 A2 A breach of the fundamental principle of integrity arises when a *member* offers or accepts, or encourages others to offer or accept, an *inducement* where the intent is to improperly influence the behaviour of the recipient or of another individual.

250.9 A3 The determination of whether there is actual or perceived intent to improperly influence behaviour requires the exercise of *professional judgment*. Relevant factors to consider *might* include:

- The nature, frequency, value and cumulative effect of the *inducement*.
- Timing of when the *inducement* is offered relative to any action or decision that it *might* influence.
- Whether the *inducement* is a customary or cultural practice in the circumstances, for example, offering a gift on the occasion of a religious holiday or wedding.
- Whether the *inducement* is an ancillary part of a *professional activity*, for example, offering or accepting lunch in connection with a business meeting.
- Whether the offer of the *inducement* is limited to an individual recipient or available to a broader group. The broader group *might* be internal or external to the *employing organisation*, such as other customers or vendors.
- The roles and positions of the individuals offering or being offered the *inducement*.
- Whether the *member* knows, or has reason to believe, that accepting the *inducement* would breach the policies and procedures of the counterparty's *employing organisation*.
- The degree of transparency with which the *inducement* is offered.
- Whether the *inducement* was required or requested by the recipient.
- The known previous behaviour or reputation of the offeror.

## Consideration of Further Actions

250.10 A1 If the *member* becomes aware of an *inducement* offered with actual or perceived intent to improperly influence behaviour, *threats* to compliance with the *fundamental principles* might still be created even if the requirements in paragraphs *R250.7* and *R250.8* are met.

250.10 A2 Examples of actions that *might* be *safeguards* to address such *threats* include:

- Informing senior management or *those charged with governance* of the *employing organisation* of the *member* or the offeror regarding the offer.
- Amending or terminating the business relationship with the offeror.

## *Inducements with No Intent to Improperly Influence Behaviour*

250.11 A1 The requirements and application material set out in the *conceptual framework* apply when a *member* has concluded there is no actual or perceived intent to improperly influence the behaviour of the recipient or of another individual.

250.11 A2 If such an *inducement* is trivial and inconsequential, any *threats* created will be at an *acceptable level*.

250.11 A3 Examples of circumstances where offering or accepting such an *inducement* *might* create *threats* even if the *member* has concluded there is no actual or perceived intent to improperly influence behaviour include:

- Self-interest threats
  - A *member* is offered part-time employment by a vendor.
- Familiarity threats
  - A *member* regularly takes a customer or supplier to sporting events.
- Intimidation threats
  - A *member* accepts hospitality, the nature of which could be perceived to be inappropriate were it to be publicly disclosed.

250.11 A4 Relevant factors in evaluating the level of such *threats* created by offering or accepting such an *inducement* include the same factors set out in paragraph *250.9 A3* for determining intent.

250.11 A5 Examples of actions that *might* eliminate *threats* created by offering or accepting such an *inducement* include:

- Declining or not offering the *inducement*.
- Transferring responsibility for any business-related decision involving the counterparty to another individual who the *member* has no reason to believe would be, or would be perceived to be, improperly influenced in making the decision.

250.11 A6 Examples of actions that *might* be *safeguards* to address such *threats* created by offering or accepting such an *inducement* include:

- Being transparent with senior management or *those charged with governance* of the *employing organisation* of the *member* or of the counterparty about offering or accepting an *inducement*.

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- Registering the *inducement* in a log maintained by the *employing organisation* of the *member* or the counterparty.
- Having an *appropriate reviewer*, who is not otherwise involved in undertaking the *professional activity*, review any work performed or decisions made by the *member* with respect to the individual or organisation from which the *member* accepted the *inducement*.
- Donating the *inducement* to charity after receipt and appropriately disclosing the donation, for example, to *those charged with governance* or the individual who offered the *inducement*.
- Reimbursing the cost of the *inducement*, such as hospitality, received.
- As soon as possible, returning the *inducement*, such as a gift, after it was initially accepted.

### **Immediate or Close Family Members**

**R250.12** A *member* shall remain alert to potential *threats* to the *member's* compliance with the *fundamental principles* created by the offering of an *inducement*:

- (a) By an *immediate* or *close family* member of the *member* to a counterparty with whom the *member* has a professional relationship; or
- (b) To an *immediate* or *close family* member of the *member* by a counterparty with whom the *member* has a professional relationship.

**R250.13** Where the *member* becomes aware of an *inducement* being offered to or made by an *immediate* or *close family* member and concludes there is intent to improperly influence the behaviour of the *member* or of the counterparty, or considers a *reasonable and informed third party* would be likely to conclude such intent exists, the *member* shall advise the *immediate* or *close family* member not to offer or accept the *inducement*.

250.13 A1 The factors set out in paragraph 250.9 A3 are relevant in determining whether there is actual or perceived intent to improperly influence the behaviour of the *member* or of the counterparty. Another factor that is relevant is the nature or closeness of the relationship, between:

- (a) The *member* and the *immediate* or *close family* member;
- (b) The *immediate* or *close family* member and the counterparty; and
- (c) The *member* and the counterparty.

For example, the offer of employment, outside of the normal recruitment process, to the spouse of the *member* by a counterparty with whom the *member* is negotiating a significant contract *might* indicate such intent.

250.13 A2 The application material in paragraph 250.10 A2 is also relevant in addressing *threats* that *might* be created when there is actual or perceived intent to improperly influence the behaviour of the *member* or of the counterparty even if the *immediate* or *close family* member has followed the advice given pursuant to paragraph R250.13.

*Application of the Conceptual Framework*

- 250.14 A1 Where the *member* becomes aware of an *inducement* offered in the circumstances addressed in paragraph *R250.12*, *threats* to compliance with the *fundamental principles* might be created where:
- (a) The *immediate* or *close family* member offers or accepts the *inducement* contrary to the advice of the *member* pursuant to paragraph *R250.13*; or
  - (b) The *member* does not have reason to believe an actual or perceived intent to improperly influence the behaviour of the *member* or of the counterparty exists.
- 250.14 A2 The application material in paragraphs *250.11 A1* to *250.11 A6* is relevant for the purposes of identifying, evaluating and addressing such *threats*. Factors that are relevant in evaluating the level of *threats* in these circumstances also include the nature or closeness of the relationships set out in paragraph *250.13 A1*.

**Other Considerations**

- 250.15 A1 If a *member* is offered an *inducement* by the *employing organisation* relating to *financial interests*, compensation and incentives linked to performance, the requirements and application material set out in Section *240* apply.
- 250.15 A2 If a *member* 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 direction of the *employing organisation*, the requirements and application material set out in Section *260* apply.
- 250.15 A3 If a *member* faces pressure to offer or accept *inducements* that *might* create *threats* to compliance with the *fundamental principles*, the requirements and application material set out in Section *270* apply.

## SECTION 260

### RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS

#### Introduction

- 260.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 260.2 A self-interest or intimidation threat to compliance with the principles of integrity and professional behaviour is created when a *member* becomes aware of non-compliance or suspected *non-compliance with laws and regulations*.
- 260.3 A *member might* encounter or be made aware of non-compliance or suspected non-compliance in the course of carrying out *professional activities*. This section guides the *member* in assessing the implications of the matter and the possible courses of action when responding to non-compliance or suspected non-compliance with:
- (a) Laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the *employing organisation's financial statements*; and
  - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the *employing organisation's financial statements*, but compliance with which *might* be fundamental to the operating aspects of the *employing organisation's* business, to its ability to continue its business, or to avoid material penalties.

#### Objectives of the Member in Relation to Non-compliance with Laws and Regulations

- 260.4 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the *public interest*. When responding to non-compliance or suspected non-compliance, the objectives of the *member* are:
- (a) To comply with the principles of integrity and professional behaviour;
  - (b) By alerting management or, where appropriate, *those charged with governance* of the *employing organisation*, to seek to:
    - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
    - (ii) Deter the non-compliance where it has not yet occurred; and
  - (c) To take such further action as appropriate in the *public interest*.

## Requirements and Application Material

### General

260.5 A1 *Non-compliance with laws and regulations* (“non-compliance”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

- (a) The member’s *employing organisation*;
- (b) *Those charged with governance* of the *employing organisation*;
- (c) Management of the *employing organisation*; or
- (d) Other individuals working for or under the direction of the *employing organisation*.

260.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

260.5 A3 Non-compliance *might* result in fines, litigation or other consequences for the *employing organisation*, potentially materially affecting its *financial statements*. Importantly, such non-compliance *might* have wider *public interest* implications in terms of potentially *substantial harm* to investors, creditors, employees or the general public. For the purposes of this section, non-compliance that causes *substantial harm* is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

**R260.6 In some jurisdictions, there are legal or regulatory provisions governing how *members* are required to address non-compliance or suspected non-compliance. These legal or regulatory provisions *might* differ from or go beyond the provisions in this section. When encountering such non-compliance or suspected non-compliance, the *member* shall obtain an understanding of those legal or regulatory provisions and comply with them, including:**

- (a) Any requirement to report the matter to an appropriate authority; and**
- (b) Any prohibition on alerting the relevant party.**

260.6 A1 A prohibition on alerting the relevant party *might* arise, for example, pursuant to anti-money laundering legislation.

- 260.7 A1 This section applies regardless of the nature of the *employing organisation*, including whether or not it is a *public interest entity*.
- 260.7 A2 A *member* who encounters or is made aware of matters that are clearly inconsequential is not required to comply with this section. Whether a matter is clearly inconsequential is to be judged with respect to its nature and its impact, financial or otherwise, on the *employing organisation*, its stakeholders and the general public.
- 260.7 A3 This section does not address:
- (a) Personal misconduct unrelated to the business activities of the *employing organisation*; and
  - (b) Non-compliance by parties other than those specified in paragraph 260.5 A1.
- The *member might* nevertheless find the guidance in this section helpful in considering how to respond in these situations.

### Responsibilities of the Employing Organisation’s Management and Those Charged with Governance

- 260.8 A1 The *employing organisation’s* management, with the oversight of *those charged with governance*, is responsible for ensuring that the *employing organisation’s* business activities are conducted in accordance with laws and regulations. Management and *those charged with governance* are also responsible for identifying and addressing any non-compliance by:
- (a) The *employing organisation*;
  - (b) An individual charged with governance of the *employing organisation*;
  - (c) A member of management; or
  - (d) Other individuals working for or under the direction of the *employing organisation*.

### Responsibilities of All Members

- R260.9 If protocols and procedures exist within the member’s *employing organisation* to address non-compliance or suspected non-compliance, the *member* shall consider them in determining how to respond to such non-compliance.**
- 260.9 A1 Many *employing organisations* have established protocols and procedures regarding how to raise non-compliance or suspected non-compliance internally. These protocols and procedures include, for example, an ethics policy or internal whistle-blowing mechanism. Such protocols and procedures *might* allow matters to be reported anonymously through designated channels.
- R260.10 Where a *member* becomes aware of a matter to which this section applies, the steps that the *member* takes to comply with this section shall be taken on a timely basis. For the purpose of taking timely steps, the *member* shall have regard to the nature of the matter and the potential harm to the interests of the *employing organisation*, investors, creditors, employees or the general public.**

### Responsibilities of Senior Members in Business

- 260.11 A1 *Senior members in business* (“senior members”) are directors, officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition,

deployment and control of the *employing organisation's* human, financial, technological, physical and intangible resources. There is a greater expectation for such individuals to take whatever action is appropriate in the *public interest* to respond to non-compliance or suspected non-compliance than other *members* within the *employing organisation*. This is because of senior members' roles, positions and spheres of influence within the *employing organisation*.

*Obtaining an Understanding of the Matter*

**R260.12** If, in the course of carrying out *professional activities*, a *senior member* becomes aware of information concerning non-compliance or suspected non-compliance, the *member* shall obtain an understanding of the matter. This understanding shall include:

- (a) The nature of the non-compliance or suspected non-compliance and the circumstances in which it has occurred or *might* occur;
- (b) The application of the relevant laws and regulations to the circumstances; and
- (c) An assessment of the potential consequences to the *employing organisation*, investors, creditors, employees or the wider public.

260.12 A1 A *senior member* is expected to apply knowledge and expertise, and exercise *professional judgment*. However, the *member* is not expected to have a level of understanding of laws and regulations greater than that which is required for the *member's* role within the *employing organisation*. Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.

260.12 A2 Depending on the nature and significance of the matter, the *senior member might* cause, or take appropriate steps to cause, the matter to be investigated internally. The *member might* also consult on a confidential basis with others within the *employing organisation* or a *professional body*, or with legal counsel.

*Addressing the Matter*

**R260.13** If the *senior member* identifies or suspects that non-compliance has occurred or *might* occur, the *member* shall, subject to paragraph R260.9, discuss the matter with the *member's* immediate superior, if any. If the *member's* immediate superior appears to be involved in the matter, the *member* shall discuss the matter with the next higher level of authority within the *employing organisation*.

260.13 A1 The purpose of the discussion is to enable a determination to be made as to how to address the matter.

**R260.14** The *senior member* shall also take appropriate steps to:

- (a) Have the matter communicated to *those charged with governance*;
- (b) Comply with applicable laws and regulations, including legal or regulatory provisions governing the reporting of non-compliance or suspected non-compliance to an appropriate authority;
- (c) Have the consequences of the non-compliance or suspected non-compliance rectified, remediated or mitigated;
- (d) Reduce the risk of re-occurrence; and

**(e) Seek to deter the commission of the non-compliance if it has not yet occurred.**

260.14 A1 The purpose of communicating the matter to *those charged with governance* is to obtain their concurrence regarding appropriate actions to take to respond to the matter and to enable them to fulfill their responsibilities.

260.14 A2 Some laws and regulations *might* stipulate a period within which reports of non-compliance or suspected non-compliance are to be made to an appropriate authority.

**R260.15 In addition to responding to the matter in accordance with the provisions of this section, the *senior member* shall determine whether disclosure of the matter to the *employing organisation's external auditor, if any, is needed.***

260.15 A1 Such disclosure would be pursuant to the *senior member's* duty or legal obligation to provide all information necessary to enable the auditor to perform the audit.

*Determining Whether Further Action Is Needed*

**R260.16 The *senior member* shall assess the appropriateness of the response of the *member's* superiors, if any, and *those charged with governance*.**

260.16 A1 Relevant factors to consider in assessing the appropriateness of the response of the *senior member's* superiors, if any, and *those charged with governance* include whether:

- The response is timely.
- They have taken or authorised appropriate action to seek to rectify, remediate or mitigate the consequences of the non-compliance, or to avert the non-compliance if it has not yet occurred.
- The matter has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

**R260.17 In light of the response of the *senior member's* superiors, if any, and *those charged with governance*, the *member* shall determine if further action is needed in the *public interest*.**

260.17 A1 The determination of whether further action is needed, and the nature and extent of it, will depend on various factors, including:

- The legal and regulatory framework.
- The urgency of the situation.
- The pervasiveness of the matter throughout the *employing organisation*.
- Whether the *senior member* continues to have confidence in the integrity of the *member's* superiors and *those charged with governance*.
- Whether the non-compliance or suspected non-compliance is likely to recur.
- Whether there is credible evidence of actual or potential *substantial harm* to the interests of the *employing organisation*, investors, creditors, employees or the general public.

260.17 A2 Examples of circumstances that *might* cause the *senior member* no longer to have confidence in the integrity of the *member's* superiors and *those charged with governance* include situations where:

- The *member* suspects or has evidence of their involvement or intended involvement in any non-compliance.
- Contrary to legal or regulatory requirements, they have not reported, or authorised the reporting of, the matter to an appropriate authority within a reasonable period.

**R260.18** The *senior member* shall exercise *professional judgment* in determining the need for, and nature and extent of, further action. In making this determination, the *member* shall take into account whether a *reasonable and informed third party* would be likely to conclude that the *member* has acted appropriately in the *public interest*.

260.18 A1 Further action that the *senior member* might take includes:

- Informing the management of the parent entity of the matter if the *employing organisation* is a *member* of a group.
- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Resigning from the *employing organisation*.

260.18 A2 Resigning from the *employing organisation* is not a substitute for taking other actions that *might* be needed to achieve the *senior member's* objectives under this section. In some jurisdictions, however, there *might* be limitations as to the further actions available to the *member*. In such circumstances, resignation *might* be the only available course of action.

#### Seeking Advice

260.19 A1 As assessment of the matter *might* involve complex analysis and judgments, the *senior member* might consider:

- Consulting internally.
- Obtaining legal advice to understand the *member's* options and the professional or legal implications of taking any particular course of action.
- Consulting on a confidential basis with a regulatory or *professional body*.

#### Determining Whether to Disclose the Matter to an Appropriate Authority

260.20 A1 Disclosure of the matter to an appropriate authority would be precluded if doing so would be contrary to law or regulation. Otherwise, the purpose of making disclosure is to enable an appropriate authority to cause the matter to be investigated and action to be taken in the *public interest*.

260.20 A2 The determination of whether to make such a disclosure depends in particular on the nature and extent of the actual or potential harm that is or *might* be caused by the matter to investors, creditors, employees or the general public. For example, the *senior member* might determine that disclosure of the matter to an appropriate authority is an appropriate course of action if:

- The *employing organisation* is engaged in bribery (for example, of local or foreign government officials for purposes of securing large contracts).
- The *employing organisation* is regulated and the matter is of such significance as to threaten its license to operate.

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- The *employing organisation* is listed on a securities exchange and the matter *might* result in adverse consequences to the fair and orderly market in the *employing organisation's* securities or pose a systemic risk to the financial markets.
- It is likely that the *employing organisation* would sell products that are harmful to public health or safety.
- The *employing organisation* is promoting a scheme to its clients to assist them in evading taxes.

260.20 A3 The determination of whether to make such a disclosure will also depend on external factors such as:

- Whether there is an appropriate authority that is able to receive the information, and cause the matter to be investigated and action to be taken. The appropriate authority will depend upon the nature of the matter. For example, the appropriate authority would be a securities regulator in the case of fraudulent financial reporting or an environmental protection agency in the case of a breach of environmental laws and regulations.
- Whether there exists robust and credible protection from civil, criminal or professional liability or retaliation afforded by legislation or regulation, such as under whistle-blowing legislation or regulation.
- Whether there are actual or potential *threats* to the physical safety of the *senior member* or other individuals.

**R260.21** If the *senior member* determines that disclosure of the matter to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to paragraph NZ *R114.3* of the Code. When making such disclosure, the *member* shall act in good faith and exercise caution when making statements and assertions.

### *Imminent Breach*

**R260.22** In exceptional circumstances, the *senior member might* become aware of actual or intended conduct that the *member* has reason to believe would constitute an imminent breach of a law or regulation that would cause *substantial harm* to investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or *those charged with governance* of the *employing organisation*, the *member* shall exercise *professional judgment* and determine whether to disclose the matter immediately to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach. If disclosure is made, that disclosure is permitted pursuant to paragraph NZ *R114.3* of the Code.

### *Documentation*

260.23 A1 In relation to non-compliance or suspected non-compliance that falls within the scope of this section, the *senior member* is encouraged to have the following matters documented:

- The matter.
- The results of discussions with the *member's* superiors, if any, and *those charged with governance* and other parties.

- How the *member's* superiors, if any, and *those charged with governance* have responded to the matter.
- The courses of action the *member* considered, the judgments made and the decisions that were taken.
- How the *member* is satisfied that the *member* has fulfilled the responsibility set out in paragraph R260.17.

### Responsibilities of Members Other than Senior Members

**R260.24** If, in the course of carrying out *professional activities*, a *member* becomes aware of information concerning non-compliance or suspected non-compliance, the *member* shall seek to obtain an understanding of the matter. This understanding shall include the nature of the non-compliance or suspected non-compliance and the circumstances in which it has occurred or *might* occur.

260.24 A1 The *member* is expected to apply knowledge and expertise, and exercise *professional judgment*. However, the *member* is not expected to have a level of understanding of laws and regulations greater than that which is required for the *member's* role within the *employing organisation*. Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.

260.24 A2 Depending on the nature and significance of the matter, the *member might* consult on a confidential basis with others within the *employing organisation* or a *professional body*, or with legal counsel.

**R260.25** If the *member* identifies or suspects that non-compliance has occurred or *might* occur, the *member* shall, subject to paragraph R260.9, inform an immediate superior to enable the superior to take appropriate action. If the *member's* immediate superior appears to be involved in the matter, the *member* shall inform the next higher level of authority within the *employing organisation*.

**R260.26** In exceptional circumstances, the *member may* determine that disclosure of the matter to an appropriate authority is an appropriate course of action. If the *member* does so pursuant to paragraphs 260.20 A2 and A3, that disclosure is permitted pursuant to paragraph NZ R114.3 of the Code. When making such disclosure, the *member* shall act in good faith and exercise caution when making statements and assertions.

### Documentation

260.27 A1 In relation to non-compliance or suspected non-compliance that falls within the scope of this section, the *member* is encouraged to have the following matters documented:

- The matter.
- The results of discussions with the *member's* superior, management and, where applicable, *those charged with governance* and other parties.
- How the *member's* superior has responded to the matter.
- The courses of action the *member* considered, the judgments made and the decisions that were taken.

## SECTION 270

### PRESSURE TO BREACH THE FUNDAMENTAL PRINCIPLES

#### Introduction

270.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.

270.2 Pressure exerted on, or by, a *member might* create an intimidation or other threat to compliance with one or more of the *fundamental principles*. This section sets out specific requirements and application material relevant to applying the *conceptual framework* in such circumstances.

#### Requirements and Application Material

##### General

**R270.3** A *member shall not*:

- (a) **Allow pressure from others to result in a breach of compliance with the *fundamental principles*; or**
- (b) **Place pressure on others that the *member knows*, or has reason to believe, would result in the other individuals breaching the *fundamental principles*.**

270.3 A1 A *member might* face pressure that creates *threats* to compliance with the *fundamental principles*, for example an intimidation threat, when undertaking a *professional activity*. Pressure *might* be explicit or implicit and *might* come from:

- Within the *employing organisation*, for example, from a colleague or superior.
- An external individual or organisation such as a vendor, customer or lender.
- Internal or external targets and expectations.

270.3 A2 [Amended. Refer to NZ270.3 A2]

NZ270.3 A2 Examples of pressure that *might* result in *threats* to compliance with the *fundamental principles* include:

- Pressure related to conflicts of interest:
  - Pressure from a family member bidding to act as a vendor to the *member's employing organisation* to select the family member over another prospective vendor.

See also Section 210, *Conflicts of Interest*.

- Pressure to influence preparation or presentation of information:
  - Pressure to report misleading financial results to meet investor, analyst or lender expectations.
  - 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.

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- Pressure from superiors to approve or process expenditures that are not legitimate business expenses.
- Pressure to suppress internal audit reports containing adverse findings.

See also Section 220, *Preparation and Presentation of Information*.

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

See also Section 230, *Acting with Sufficient Expertise*.

- Pressure related to *financial interests*:
  - Pressure from superiors, colleagues or others, for example, those who *might* benefit from participation in compensation or incentive arrangements to manipulate performance indicators.

See also Section 240, *Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making*.

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

See also Section 250, *Inducements, Including Gifts and Hospitality*.

- Pressure related to *non-compliance with laws and regulations*:
  - Pressure to structure a transaction to evade tax.

See also Section 260, *Responding to Non-compliance with Laws and Regulations*.

- Pressure related to level of fees
  - Pressure exerted by a *member* on another *member* to provide *professional services* at a fee level that does not allow for sufficient and appropriate resources (including human, technological and intellectual resources) to perform the services in accordance with applicable *technical and professional standards* and laws and regulations.

See also Section 330, *Fees and Other Types of Remuneration*

270.3 A3 [Amended. Refer to NZ270.3 A3]

NZ270.3 A3 Factors that are relevant in evaluating the level of *threats* created by pressure include:

- The intent of the individual who is exerting the pressure and the nature and extent of the pressure.

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- The application of laws, regulations, and *technical and professional standards* to the circumstances.
- The culture and leadership of the *employing organisation* including the extent to which they reflect or emphasise the importance of ethical behaviour and the expectation that employees will act ethically. For example, a corporate culture that tolerates unethical behaviour *might* increase the likelihood that the pressure would result in a threat to compliance with the *fundamental principles*.
- Policies and procedures, if any, that the *employing organisation* has established, such as ethics or human resources policies that address pressure.

270.3 A4 Discussing the circumstances creating the pressure and consulting with others about those circumstances *might* assist the *member* to evaluate the level of the threat. Such discussion and consultation, which requires being alert to the principle of confidentiality, *might* include:

- Discussing the matter with the individual who is exerting the pressure to seek to resolve it.
- Discussing the matter with the *member's* superior, if the superior is not the individual exerting the pressure.
- Escalating the matter within the *employing organisation*, including when appropriate, explaining any consequential risks to the organisation, for example with:
  - Higher levels of management.
  - Internal or external auditors.
  - *Those charged with governance*.
- Disclosing the matter in line with the *employing organisation's* policies, including ethics and whistleblowing policies, using any established mechanism, such as a confidential ethics hotline.
- Consulting with:
  - A colleague, superior, human resources personnel, or another *member*;
  - Relevant *professional* or regulatory bodies or industry associations; or
  - Legal counsel.

270.3 A5 An example of an action that *might* eliminate *threats* created by pressure is the *member's* request for a restructure of, or segregation of, certain responsibilities and duties so that the *member* is no longer involved with the individual or entity exerting the pressure.

### **Documentation**

270.4 A1 The *member* is encouraged to document:

- The facts.
- The communications and parties with whom these matters were discussed.
- The courses of action considered.

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- How the matter was addressed.

## SECTION 280

### TAX PLANNING ACTIVITIES

#### Introduction

- 280.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 280.2 Performing tax planning activities *might* create self-interest, self-review, advocacy or intimidation *threats* to compliance with the *fundamental principles*.
- 280.3 This section sets out requirements and application material relevant to applying the *conceptual framework* in relation to the performance of tax planning activities. This section also requires a *member* to comply with relevant tax laws and regulations when performing such activities.

#### Requirements and Application Material

##### General

##### *Professional Accountants' Public Interest Role in Relation to Tax Planning Activities*

- 280.4 A1 *Members* play an important role in tax planning by contributing their expertise and experience to assist *employing organisations* in meeting their tax planning goals while complying with tax laws and regulations. In doing so, *members* help to facilitate a more efficient and effective operation of a jurisdiction's tax system, which is in the *public interest*.
- 280.4 A2 *Employing organisations* are entitled to organise their affairs for tax planning purposes. While there are a variety of ways to achieve such purposes, *employing organisations* have a responsibility to pay taxes as determined by the relevant tax laws and regulations. In this regard, *members'* role is to use their expertise and experience to assist their *employing organisations* in achieving their tax planning goals and meeting their tax obligations. However, when *members* provide such assistance, it *might* involve certain tax minimisation arrangements that, although not prohibited by tax laws and regulations, *might* create *threats* to compliance with the *fundamental principles*.
- 280.4 A3 It is ultimately for a tribunal, court or other appropriate adjudicative body to determine whether a *tax planning arrangement* complies with the relevant tax laws and regulations.

##### *Description of Tax Planning Activities*

- 280.5 A1 Tax planning activities are advisory activities designed to assist an *employing organisation* in planning or structuring its affairs in a tax-efficient manner.
- 280.5 A2 Tax planning activities cover a broad range of topics or areas. Examples of such activities include:
- Advising management on structuring the *employing organisation's* international operations to minimise its overall taxes.
  - Advising on the structuring of transfer pricing arrangements, taking into account tax related transfer pricing guidelines.
  - Advising management on the utilisation of losses in a tax-efficient manner for the *employing organisation*.

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- Advising the *employing organisation* on the structuring of its capital distribution strategy in a tax-efficient manner.
- Advising management on structuring the *employing organisation's* compensation strategy for senior executives to optimise the tax benefits for the *employing organisation*.
- Advising a non-profit *employing organisation* on how to structure its business to avoid breaching its non-profit status.
- Advising management on structuring the *employing organisation's* investments to take advantage of tax incentives offered by jurisdictions or localities.

280.5 A3 Tax planning activities do not include activities that are generally referred to as tax compliance or tax preparation, which are activities to assist the *employing organisation* in fulfilling its filing, reporting, payment and other obligations under tax laws and regulations. However, if a tax activity comprises both tax planning and tax compliance, the portion that relates to tax planning is covered by this section.

280.5 A4 This section applies regardless of the nature of the *employing organisation*, including whether it is a *public interest entity*.

### **Related Activities**

280.6 A1 There *might* be circumstances where a *member* is involved in performing a related activity for an *employing organisation* that is based on or linked to a *tax planning arrangement* developed by a third-party provider. In such circumstances, the provisions of this section apply to the underlying *tax planning arrangement*.

280.6 A2 Examples of such related activities include:

- Assisting the *employing organisation* in resolving a dispute with the tax authority on the *tax planning arrangement*.
- Representing the *employing organisation* in administrative or court proceedings regarding the *tax planning arrangement*.
- Implementing the *tax planning arrangement* for the *employing organisation*.
- Advising the *employing organisation* on an acquisition where the valuation depends on the *tax planning arrangement* established by the target.

### **Compliance with Laws and Regulations**

280.7 A1 This section does not address tax evasion, which is illegal.

#### *Anti-avoidance Laws and Regulations*

**R280.8** Where there are laws and regulations, including those that *might* be referred to as anti-avoidance rules, that limit or prohibit certain *tax planning arrangements*, a *member* shall obtain an understanding of those laws and regulations and advise the *employing organisation* to comply with them when performing tax planning activities.

#### *Non-compliance with Tax Laws and Regulations*

280.8A1 If, in the course of performing a tax planning activity, a *member* becomes aware of tax evasion or suspected tax evasion, or other non-compliance or suspected *non-compliance with tax laws and regulations* by an *employing organisation*, management, *those charged with governance*

or other individuals working for or under the direction of the *employing organisation*, the requirements and application material set out in Section 260 apply.

### **Responsibilities of Management and Those Charged with Governance of the Employing Organisation**

- 280.9 A1 In relation to tax planning, management, with the oversight of *those charged with governance*, has a number of responsibilities, including:
- Ensuring that the *employing organisation's* tax affairs are conducted in accordance with the relevant tax laws and regulations.
  - Maintaining all the books and records and implementing the systems of internal control necessary to enable the *employing organisation* to fulfill its tax compliance obligations.
  - Engaging experts to advise on relevant aspects of the *tax planning arrangement*.
  - Deciding whether to accept and implement the *member's* recommendation or advice on a *tax planning arrangement*.
  - Authorising the submission of the *employing organisation's* tax returns and dealing with the relevant tax authorities in a timely manner.
  - Making such disclosures to the relevant tax authorities as *might* be required by tax laws and regulations or as *might* be necessary to support a tax position, including details of any *tax planning arrangements*.
  - Making appropriate disclosure of tax strategy, policies or other tax-related matters in the *financial statements* or other relevant public documents in accordance with applicable reporting requirements.
  - Ensuring that the *employing organisation's tax planning arrangements* are consistent with any publicly disclosed tax strategy or policies.

### **Responsibilities of All Members**

- R280.10 As part of performing a tax planning activity for an *employing organisation*, the *member* shall obtain an understanding of the nature of the tax planning activity, including:**
- (a) The purpose, facts and circumstances of the *tax planning arrangement*; and**
  - (b) The relevant tax laws and regulations.**

280.11 A1 A *member* is expected to apply professional competence and due care in accordance with Subsection 113 when performing a tax planning activity. The *member* is also expected to have an inquiring mind and exercise *professional judgment* in accordance with Section 120 when considering the specific facts and circumstances relating to the tax planning activity.

### **Basis for Recommending or Otherwise Advising on a Tax Planning Arrangement**

- R280.12 A *member* shall recommend or otherwise advise on a *tax planning arrangement* for an *employing organisation* only if the *member* has determined that there is a *credible basis* in laws and regulations for the arrangement.**

280.12 A1 The determination of whether there is a *credible basis* involves the exercise of *professional judgment* by the *member*. This determination will vary from jurisdiction to jurisdiction based on the relevant laws and regulations at the time.

280.12 A2 If the *member* determines that the *tax planning arrangement* does not have a *credible basis* in laws and regulations, paragraph R280.12 does not preclude the *member* from explaining to the *member's* immediate superior or other responsible individual within the *employing organisation* the *member's* rationale for the determination or advising on an alternative arrangement that has a *credible basis*.

280.12 A3 Paragraph R280.12 also does not preclude the *member* from assisting the *employing organisation* to remediate or rectify a *tax planning arrangement* which lacks a *credible basis*. Such type of activity is a related activity as described in paragraphs 280.6 A1 and A2. This includes, for example:

- Assisting the *employing organisation* to restructure a *tax planning arrangement* to achieve a *credible basis* as part of a tax dispute resolution activity.
- Agreeing with the *employing organisation* appropriate changes to the *tax planning arrangement* to achieve a *credible basis* as part of representing the *employing organisation* in administrative or court proceedings.

280.12 A4 Examples of actions that a *member might* take to determine that there is a *credible basis* in relation to a particular *tax planning arrangement* include:

- Reviewing the relevant facts and circumstances, including the economic purpose and substance of the arrangement.
- Assessing the reasonableness of any assumptions.
- Reviewing the relevant tax legislation.
- Reviewing legislative proceedings that discuss the intent of the relevant tax legislation.
- Reviewing relevant literature such as court decisions, professional or industry journals, and tax authority rulings or guidance.
- Considering whether the basis used for the proposed arrangement is an established practice that has not been challenged by the relevant tax authorities.
- Considering how likely the proposed arrangement would be accepted by the relevant tax authorities if all the relevant facts and circumstances were disclosed.
- Consulting with legal counsel or other experts within or outside the *employing organisation* regarding what a reasonable interpretation of the relevant tax laws and regulations *might* be.
- Consulting with the relevant tax authorities, where applicable.

**R280.13 If the *member* becomes aware of circumstances that *might* impact the previous determination of the *credible basis*, the *member* shall re-assess the validity of that basis.**

*Consideration of the Overall Tax Planning Recommendation or Advice*

**R280.14 In addition to determining that there is a *credible basis* for the *tax planning arrangement*, the *member* shall exercise *professional judgment* and consider the reputational, commercial and wider economic consequences that could arise from the way stakeholders *might* view the arrangement.**

280.14 A1 The reputational and commercial consequences *might* relate to personal or business implications to the *employing organisation* or implications to the reputation of the *employing*

*organisation* and the profession from a prolonged dispute with the relevant tax or other authorities. The implications to the *employing organisation* might involve adverse publicity, costs, fines or penalties, loss of management time over a significant period, and potential adverse consequences for the *employing organisation*.

280.14 A2 An awareness of the wider economic consequences might take into account the *member's* general understanding of the current economic environment and the impact of the *tax planning arrangement* on the tax base of the jurisdiction, or the relative impacts of the arrangement on the tax bases of multiple jurisdictions, where the *employing organisation* operates.

**R280.15** If, having considered the matters set out in paragraph R280.14, the *member* decides not to recommend or otherwise advise on a *tax planning arrangement* that the *employing organisation* would like to pursue, the *member* shall inform management and, if appropriate, those charged with governance, of this and explain the basis for the *member's* conclusion.

#### *Tax Planning Arrangements Involving Multiple Jurisdictions*

280.16 A1 There *might* be circumstances where a *member* becomes aware that an *employing organisation* is obtaining a tax benefit from accounting for the same transaction in more than one jurisdiction, especially if there is no tax treaty between the jurisdictions. In such circumstances, while the *employing organisation* might be in compliance with the tax laws and regulations of each jurisdiction, the *member* might advise management to disclose to the relevant tax authorities the particular facts and circumstances and the tax benefits derived from the transaction in the different jurisdictions.

280.16 A2 Relevant factors the *member* might consider in determining whether to make such disclosure include:

- The significance of the tax benefits in the relevant jurisdictions.
- Stakeholders' perceptions of the *employing organisation* if the facts and circumstances were known to the stakeholders.
- Whether there are globally or nationally accepted principles or practices regarding disclosure of similar situations to the tax authorities in the relevant jurisdictions.

#### **Circumstances of Uncertainty**

280.17 A1 In determining whether there is a *credible basis* for the *tax planning arrangement*, a *member* might encounter circumstances giving rise to uncertainty as to whether a proposed *tax planning arrangement* will be in compliance with the relevant tax laws and regulations. Such uncertainty makes it more challenging for the *member* to determine that there is a *credible basis* in laws and regulations for the *tax planning arrangement* and *might*, therefore, create *threats* to compliance with the *fundamental principles*.

280.17 A2 Circumstances that *might* give rise to uncertainty include:

- Difficulty in establishing an adequate factual basis.
- Difficulty in establishing an adequate basis of assumptions.
- Lack of clarity in the tax laws and regulations and their interpretation, including:
  - Gaps in the tax laws and regulations.

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- Challenges to previous court rulings.
- Conflicting tax laws and regulations in different jurisdictions in circumstances involving cross-border transactions.
- Innovative business models not addressed by the current tax laws and regulations.
- Recent court or tax authority rulings or positions that cast doubt on similar *tax planning arrangements*.
- Complexity in interpreting or applying the tax laws and regulations from a technical or legal point of view.
- Lack of a legal precedent, ruling or position.
- Lack of clarity regarding the economic purpose and substance of the *tax planning arrangement*.
- Lack of clarity about the ultimate beneficiaries of the *tax planning arrangement*.

**R280.18 Where there is uncertainty as to whether a *tax planning arrangement* is or will be in compliance with the relevant tax laws and regulations, a *member* shall discuss the uncertainty with management and, if appropriate, *those charged with governance*.**

280.18 A1 The discussion serves a number of purposes, including:

- Explaining the *member's* assessment about how likely the relevant tax authorities are to have a view that supports the *tax planning arrangement* where there is a lack of clarity in the interpretation of the relevant tax laws and regulations.
- Considering any assumptions made when establishing the basis on which the tax planning advice is provided.
- Obtaining any additional information from management and, if appropriate, *those charged with governance* that *might* reduce the uncertainty.
- Discussing any reputational, commercial or wider economic consequences in pursuing the *tax planning arrangement*.
- Discussing potential courses of action to mitigate the possibility of adverse consequences for the *employing organisation*, including consideration of disclosure to the relevant tax authorities.

### **Potential Threats Arising from Performing a Tax Planning Activity**

280.19 A1 Performing a tax planning activity for an *employing organisation* *might* create a self-interest, self-review, advocacy or intimidation threat. For example:

- A self-review threat *might* be created when a *member* has recently performed a valuation activity for the *employing organisation* for tax purposes, the output of which is then relied upon or is a key input to a tax planning activity for the *employing organisation*.
- A self-interest threat *might* be created when a *member's* career advancement prospects depend on developing a creative *tax planning arrangement* for which the interpretation of the relevant tax laws and regulations is unclear.

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- A self-interest threat *might* be created when a *member* participates in an incentive compensation scheme impacted by the *member's* design of a *tax planning arrangement*.
- A self-interest threat *might* be created when a *member* is in possession of *confidential information* obtained from the *member's* involvement in formulating or drafting tax policy, laws or regulations for a government agency and the *confidential information* would be valuable in advising the *member's employing organisation* in its *tax planning arrangements*.
- Self-interest and advocacy threats *might* be created when a *member* advocates an *employing organisation's* position in a *tax planning arrangement* which the *member* previously advised on before a tax authority when there are indications that the arrangement *might* not have a *credible basis* in laws and regulations.
- Self-interest and intimidation threats *might* be created when a dominant owner or leader of the *employing organisation* exerts significant influence over the design of a particular tax arrangement, in a way that *might* influence the *member's* determination that there is a *credible basis* for the arrangement in laws and regulations.
- Self-interest and intimidation threats *might* be created when a *member* faces potential dismissal over the position the *employing organisation* is insisting on pursuing regarding a *tax planning arrangement*.

280.19 A2 Factors that are relevant in evaluating the level of such *threats* include:

- The degree of transparency regarding the underlying business transaction or circumstances, including, where applicable, the identity of the ultimate beneficiaries.
- Whether the *tax planning arrangement* has a clear economic purpose and substance based on the underlying business transaction or circumstances.
- The nature and complexity of the underlying business transaction or circumstances.
- The complexity or clarity of the relevant tax laws and regulations.
- Whether the *member* knows, or has reason to believe, that the *tax planning arrangement* would be contrary to the intent of the relevant tax legislation.
- The number of jurisdictions involved and the nature of their tax regimes.
- The extent of the *member's* expertise and experience in the relevant tax areas.
- The significance of the potential tax savings.
- The nature and significance of any incentives offered to the *member* to develop the arrangement.
- The extent to which the *member* is aware that the *tax planning arrangement* reflects an established practice that has not been challenged by the relevant tax authorities.
- Whether there is pressure being exerted on the *member*.
- The degree of urgency in implementing the *tax planning arrangement*.
- Whether it is a *tax planning arrangement* used for multiple clients with little modification for the *employing organisation's* specific circumstances.
- The organisational culture of the *employing organisation*.

280.19 A3 Examples of actions that *might* eliminate such *threats* include:

- Advising the *employing organisation* to structure the *tax planning arrangement* so that it is consistent with an existing interpretation or ruling issued by the relevant tax authorities.
- Obtaining an advance ruling from the relevant tax or other authorities, where possible.
- Advising management not to pursue the *tax planning arrangement*.

280.19 A4 Examples of actions that *might* be *safeguards* to address such *threats* include:

- Establishing the identity of the ultimate beneficiaries.
- Advising the *employing organisation* to structure the *tax planning arrangement* so that it better aligns with the underlying economic purpose and substance.
- Advising the *employing organisation* to structure the *tax planning arrangement* based on an established practice that is currently not subject to challenge by the relevant tax authorities or is known to have been accepted by the relevant tax authorities.
- Consulting with a legal counsel or other expert within or outside the *employing organisation* in the relevant tax areas.
- Obtaining an opinion from an appropriately qualified professional (such as legal counsel or another *member*) regarding the interpretation of the relevant tax laws and regulations as applied to the particular circumstances.
- Having a tax expert, who is not otherwise involved in the tax planning activity, review any work performed or conclusions reached by the *member* with respect to the *tax planning arrangement*.
- Having the *employing organisation* provide full transparency about the *tax planning arrangement* to the relevant tax authorities, including the goals, business and legal aspects, and ultimate beneficiaries of the *tax planning arrangement*.

280.19 A5 Examples of steps a *member might* take to establish the identity of the ultimate beneficiaries include:

- Making inquiries of management and others within or outside the *employing organisation*, having regard to the principle of confidentiality.
- Reviewing the *employing organisation's* tax records, financial statements and other relevant corporate records.
- Researching relevant public records.

#### **Communication of Basis of the Tax Planning Recommendation or Advice**

**R280.20** A *member* shall explain to management and, if appropriate, *those charged with governance* the basis on which the *member* recommended or otherwise advised on a *tax planning arrangement to the employing organisation*.

#### **Disagreement on the Tax Planning Arrangement**

**R280.21** If the *member* disagrees with the *member's* immediate superior or other responsible individual within the *employing organisation* that a *tax planning arrangement* that the *employing organisation* would like to pursue has a *credible basis*, the *member* shall:

- (a) Inform the immediate superior or other responsible individual within the *employing organisation*, and if appropriate, *those charged with governance*, of the *member's* assessment;
- (b) Communicate to them the potential consequences of pursuing the arrangement; and
- (c) Advise them not to pursue the arrangement.

**R280.22** If the immediate superior or other responsible individual within the *employing organisation* decides to pursue the *tax planning arrangement*, despite the *member's* advice to the contrary, the *member* shall consider:

- (a) Taking steps to have the details of the arrangement and the difference of views communicated with the next higher level of authority within the *employing organisation* and, if appropriate, *those charged with governance*;
- (b) Advising the *employing organisation* to make full disclosure of the arrangement to the relevant tax authorities; and
- (c) Communicating the details of the arrangement and the difference of views to the *employing organisation's* external auditor, if any.

280.22 A1 In light of the response of the immediate superior or other responsible individual within the *employing organisation* to the *member's* advice, the *member might* also consider whether there is a need to resign from the *employing organisation*.

280.22 A2 Many *employing organisation's* have established protocols and procedures regarding how to raise ethical or other concerns internally. These protocols and procedures include, for example, an ethics policy or internal whistle-blowing mechanism. Such protocols and procedures *might* allow matters to be reported anonymously through designated channels.

### Documentation

280.23 A1 When performing a tax planning activity, a *member* is encouraged to document on a timely basis:

- The purpose, circumstances and substance of the *tax planning arrangement*.
- The identity of the ultimate beneficiaries.
- The nature of any uncertainties.
- The *member's* analysis, the courses of action considered, the judgments made, and the conclusions reached in advising the *employing organisation* on developing the *tax planning arrangement*.
- The results of discussions with the *member's* immediate superior and appropriate levels of management, *those charged with governance* and other parties.
- The response of the *member's* immediate superior, management and, where applicable, *those charged with governance* to the *member's* advice.
- Any disagreement with the *member's* immediate superior, management and, where applicable, *those charged with governance*.

280.23 A2 Preparing such documentation assists the *member* to:

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- Consider the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the arrangement.
- Develop the *member's* analysis of the facts, circumstances, relevant tax laws and regulations and any assumptions made or changed.
- Record the basis of the *professional judgments* at the time they were made or changed.
- Support the position if the *tax planning arrangement* is challenged by the relevant tax authorities.
- Demonstrate that the *member* has complied with the provisions in this section.

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## PART 3 – MEMBERS IN PUBLIC PRACTICE

### SECTION 300

#### APPLYING THE CONCEPTUAL FRAMEWORK – MEMBERS IN PUBLIC PRACTICE

##### Introduction

- 300.1 This Part of the Code sets out requirements and application material for *members in public practice* when applying the *conceptual framework* set out in Section 120. It does not describe all of the facts and circumstances, including *professional activities*, interests and relationships, that could be encountered by *members in public practice*, which create or *might* create *threats* to compliance with the *fundamental principles*. Therefore, the *conceptual framework* requires *members in public practice* to be alert for such facts and circumstances.
- 300.2 The requirements and application material that apply to *members in public practice* are set out in:
- *Part 3 – Members in Public Practice*, Sections 300 to 399, which applies to all *members in public practice*, whether they provide *assurance services* or not.
  - *International Independence Standards (New Zealand)* (refer *PES 1*) as follows:
    - *Part 4A – Independence for Audit and Review Engagements*, Sections 400 to 899, which applies to *members in public practice* when performing *audit* and *review engagements*.
    - *Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements*, Sections 900 to 999, which applies to *members in public practice* when performing *assurance engagements* other than *audit* or *review engagements*.
- 300.3 In this Part, the term “*member*” refers to individual *members in public practice* and their *firms*.

##### Requirements and Application Material

###### General

- R300.4** **A *member* shall comply with the *fundamental principles* set out in Section 110 and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats to compliance with the fundamental principles*.**
- R300.5** **When dealing with an ethics issue, the *member* shall consider the context in which the issue has arisen or *might* arise. Where an individual who is a *member in public practice* is performing *professional activities* pursuant to the *member’s* relationship with the *firm*, whether as a contractor, employee or owner, the individual shall comply with the provisions in *Part 2* that apply to these circumstances.**
- 300.5 A1 Examples of situations in which the provisions in *Part 2* apply to a *member in public practice* include:
- Facing a conflict of interest when being responsible for selecting a vendor for the *firm* when an *immediate family* member of the *member* *might* benefit financially from the contract. The requirements and application material set out in Section 210 apply in these circumstances.

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- Preparing or presenting financial information for the *member's* client or *firm*. The requirements and application material set out in Section 220 apply in these circumstances.
- Being offered an *inducement* such as being regularly offered complimentary tickets to attend sporting events by a supplier of the *firm*. The requirements and application material set out in Section 250 apply in these circumstances.
- Facing pressure from an *engagement partner* to report chargeable hours inaccurately for a client engagement. The requirements and application material set out in Section 270 apply in these circumstances.

300.5 A2 The more senior the position of a *member*, the greater will be the ability and opportunity to access information, and to influence policies, decisions made and actions taken by others involved with the *firm*. To the extent that they are able to do so, taking into account their position and seniority in the *firm*, *members* are expected to encourage and promote an ethics-based culture in the *firm* and exhibit ethical behavior in dealings with individuals with whom, and entities with which, the *member* or the *firm* has a professional or business relationship in accordance with paragraph 120.13 A3. Examples of actions that *might* be taken include the introduction, implementation and oversight of:

- Ethics education and training programs.
- Firm processes and performance evaluation and reward criteria that promote an ethical culture.
- Ethics and whistle-blowing policies.
- Policies and procedures designed to prevent *non-compliance with laws and regulations*.

### Identifying Threats

300.6 A1 *Threats* to compliance with the *fundamental principles* *might* be created by a broad range of facts and circumstances. The categories of *threats* are described in paragraph 120.6 A3. The following are examples of facts and circumstances within each of those categories of *threats* that *might* create *threats* for a *member* when undertaking a *professional service*:

(a) Self-interest Threats

- A *member* having a *direct financial interest* in a client.
- A *member* quoting a low fee to obtain a new engagement and the fee is so low that it *might* be difficult to perform the *professional service* in accordance with applicable *technical and professional standards* for that price.
- A *member* having a close business relationship with a client.
- A *member* having access to *confidential information* that *might* be used for personal gain.
- A *member* discovering a significant error when evaluating the results of a previous *professional service* performed by a *member* of the *member's firm*.

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- (b) Self-review Threats
  - A *member* issuing an assurance report on the effectiveness of the operation of financial systems after implementing the systems.
  - A *member* having prepared the original data used to generate records that are the subject matter of the *assurance engagement*.
- (c) Advocacy Threats
  - A *member* promoting the interests of, or shares in, a client.
  - A *member* acting as an advocate on behalf of a client in litigation or disputes with third parties.
  - A *member* lobbying in favor of legislation on behalf of a client.
- (d) Familiarity Threats
  - A *member* having a *close* or *immediate family* member who is a *director or officer* of the client.
  - A *director or officer* of the client, or an employee in a position to exert significant influence over the subject matter of the engagement, having recently served as the *engagement partner*.
  - An *audit team* member having a long association with the *audit client*.
  - An individual who is being considered to serve as an *appropriate reviewer*, as a *safeguard* to address a threat, having a close relationship with an individual who performed the work.
- (e) Intimidation Threats
  - A *member* being threatened with dismissal from a client engagement or the *firm* because of a disagreement about a professional matter.
  - A *member* feeling pressured to agree with the judgment of a client because the client has more expertise on the matter in question.
  - A *member* being informed that a planned promotion will not occur unless the *member* agrees with an inappropriate accounting treatment.
  - A *member* having accepted a significant gift from a client and being threatened that acceptance of this gift will be made public.

### *Identifying Threats Associated with the Use of Technology*

300.6 A2 The following are examples of facts and circumstances relating to the use of technology that *might* create *threats* for a *member* when undertaking a *professional activity*:

- Self-interest Threats
  - The data available *might* not be sufficient for the effective use of the technology.
  - The technology *might* not be appropriate for the purpose for which it is to be used.

- The *member might* not have sufficient information and expertise, or access to an expert with sufficient understanding, to use and explain the technology and its appropriateness for the purpose intended.

(Ref: Para. 230.2).

- Self-review Threats
  - The technology was designed or developed using the knowledge, expertise or judgment of the *member* or the *firm*.

### Evaluating Threats

300.7 A1 The conditions, policies and procedures described in paragraph 120.6 A1 and 120.8 A2 *might* impact the evaluation of whether a threat to compliance with the *fundamental principles* is at an *acceptable level*. Such conditions, policies and procedures *might* relate to:

- (a) The client and its operating environment; and
- (b) The *firm* and its operating environment.

300.7 A2 The *member's* evaluation of the level of a threat is also impacted by the nature and scope of the *professional service*.

#### *The Client and its Operating Environment*

300.7 A3 The *member's* evaluation of the level of a threat *might* be impacted by whether the client is:

- (a) An *audit client* and whether the *audit client* is a *public interest entity*;
- (b) An *assurance client* that is not an *audit client*; or
- (c) A non-assurance client.

For example, providing a non-assurance service to an *audit client* that is a *public interest entity might* be perceived to result in a higher level of threat to compliance with the principle of objectivity with respect to the audit.

300.7 A4 The corporate governance structure, including the leadership of a client *might* promote compliance with the *fundamental principles*. Accordingly, a *member's* evaluation of the level of a threat *might* also be impacted by a client's operating environment. For example:

- The client requires appropriate individuals other than management to ratify or approve the appointment of a *firm* to perform an engagement.
- The client has competent employees with experience and seniority to make managerial decisions.
- The client has implemented internal procedures that facilitate objective choices in tendering non-assurance engagements.
- The client has a corporate governance structure that provides appropriate oversight and communications regarding the *firm's* services.

*The Firm and its Operating Environment*

300.7 A5 A *member's* evaluation of the level of a threat *might* be impacted by the work environment within the member's *firm* and its operating environment. For example:

- Leadership of the *firm* that promotes compliance with the *fundamental principles* and establishes the expectation that *assurance team* members will act in the *public interest*.
- Policies or procedures for establishing and monitoring compliance with the *fundamental principles* by all personnel.
- Compensation, performance appraisal and disciplinary policies and procedures that promote compliance with the *fundamental principles*.
- Management of the reliance on revenue received from a single client.
- The *engagement partner* having authority within the *firm* for decisions concerning compliance with the *fundamental principles*, including any decisions about accepting or providing services to a client.
- Educational, training and experience requirements.
- Processes to facilitate and address internal and external concerns or complaints.

300.7 A6 The *member's* evaluation of the level of a threat associated with the use of technology *might* also be impacted by the work environment within the *member's firm* and its operating environment. For example:

- Level of corporate oversight and internal controls over the technology.
- Assessments of the quality and functionality of technology that are undertaken by a third-party.
- Training that is provided regularly to all relevant employees so they obtain and maintain the professional competence to sufficiently understand, use and explain the technology and its appropriateness for the purpose intended.

*Consideration of New Information or Changes in Facts and Circumstances*

300.7 A7 New information or changes in facts and circumstances *might*:

- (a) Impact the level of a threat; or
- (b) Affect the *member's* conclusions about whether *safeguards* applied continue to address identified *threats* as intended.

In these situations, actions that were already implemented as *safeguards might* no longer be effective in addressing *threats*. Accordingly, the application of the *conceptual framework* requires that the *member* re-evaluate and address the *threats* accordingly. (Ref: Paras. R120.9 and R120.10).

300.7 A8 Examples of new information or changes in facts and circumstances that *might* impact the level of a threat include:

- When the scope of a *professional service* is expanded.
- When the client becomes a *FMC reporting entity considered to have a higher level of public accountability* or acquires another business unit.

- When the *firm* merges with another *firm*.
- When the *member* is jointly engaged by two clients and a dispute emerges between the two clients.
- When there is a change in the *member's* personal or *immediate family* relationships.

### Addressing Threats

300.8 A1 Paragraphs *R120.10* to *120.10 A2* set out requirements and application material for addressing *threats* that are not at an *acceptable level*.

### Examples of Safeguards

300.8 A2 *Safeguards* vary depending on the facts and circumstances. Examples of actions that in certain circumstances *might* be *safeguards* to address *threats* include:

- Assigning additional time and qualified personnel to required tasks when an engagement has been accepted *might* address a self-interest threat.
- Having an *appropriate reviewer* who was not a *member* of the team review the work performed or advise as necessary *might* address a self-review threat.
- Using different partners and teams with separate reporting lines for the provision of non-assurance services to an *assurance client* *might* address self-review, advocacy or familiarity *threats*.
- Involving another *firm* to perform or re-perform part of the engagement *might* address self-interest, self-review, advocacy, familiarity or intimidation *threats*.
- Disclosing to clients any referral fees or commission arrangements received for recommending services or products *might* address a self-interest threat.
- Separating teams when dealing with matters of a confidential nature *might* address a self-interest threat.

300.8 A3 The remaining sections of *Part 3* and *International Independence Standards (New Zealand)* (refer *PES 1*) describe certain *threats* that *might* arise during the course of performing *professional services* and include examples of actions that *might* address *threats*.

### Appropriate Reviewer

300.8 A4 An appropriate reviewer is a professional with the necessary knowledge, skills, experience and authority to review, in an objective manner, the relevant work performed or service provided. Such an individual *might* be a *member*.

### Communicating with Those Charged with Governance

(after exhausting other appropriate actions that *might* address the threat - see sections 310 to 360 for examples)

**R300.9** When communicating with *those charged with governance* in accordance with the Code, a *member* shall determine the appropriate individual(s) within the entity's governance structure with whom to communicate. If the *member* communicates with a subgroup of *those charged with governance*, the *member* shall determine whether communication

**with all of *those charged with governance* is also necessary so that they are adequately informed.**

300.9 A1 In determining with whom to communicate, a *member might* consider:

- (a) The nature and importance of the circumstances; and
- (b) The matter to be communicated.

300.9 A2 Examples of a subgroup of *those charged with governance* include an audit committee or an individual *member of those charged with governance*.

**R300.10 If a *member* communicates with individuals who have management responsibilities as well as governance responsibilities, the *member* shall be satisfied that communication with those individuals adequately informs all of those in a governance role with whom the *member* would otherwise communicate.**

300.10 A1 In some circumstances, all of *those charged with governance* are involved in managing the entity, for example, a small business where a single owner manages the entity and no one else has a governance role. In these cases, if matters are communicated to individual(s) with management responsibilities, and those individual(s) also have governance responsibilities, the *member* has satisfied the requirement to communicate with *those charged with governance*.

## SECTION 310

### CONFLICTS OF INTEREST

#### Introduction

- 310.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 310.2 A conflict of interest creates *threats* to compliance with the principle of objectivity and *might* create *threats* to compliance with the other *fundamental principles*. Such *threats might* be created when:
- (a) A *member* provides a *professional service* related to a particular matter for two or more clients whose interests with respect to that matter are in conflict; or
  - (b) The interests of a *member* with respect to a particular matter and the interests of the client for whom the *member* provides a *professional service* related to that matter are in conflict.
- 310.3 This section sets out specific requirements and application material relevant to applying the *conceptual framework* to conflicts of interest. When a *member* provides an audit, review or other *assurance service*, *independence* is also required in accordance with *International Independence Standards (New Zealand)* (refer *PES 1*).

#### Requirements and Application Material

##### General

**R310.4** **A *member* shall not allow a conflict of interest to compromise professional or business judgment.**

310.4 A1 Examples of circumstances that *might* create a conflict of interest include:

- Providing a transaction advisory service to a client seeking to acquire an *audit client*, where the *firm* has obtained *confidential information* during the course of the audit that *might* be relevant to the transaction.
- Providing advice to two clients at the same time where the clients are competing to acquire the same company and the advice *might* be relevant to the parties' competitive positions.
- Providing services to a seller and a buyer in relation to the same transaction.
- Preparing valuations of assets for two parties who are in an adversarial position with respect to the assets.
- Representing two clients in the same matter who are in a legal dispute with each other, such as during divorce proceedings, or the dissolution of a partnership.
- In relation to a license agreement, providing an assurance report for a licensor on the royalties due while advising the licensee on the amounts payable.
- Advising a client to invest in a business in which, for example, the spouse of the *member* has a *financial interest*.
- Providing strategic advice to a client on its competitive position while having a joint

venture or similar interest with a major competitor of the client.

- Advising a client on acquiring a business which the *firm* is also interested in acquiring.
- Advising a client on buying a product or service while having a royalty or commission agreement with a potential seller of that product or service.

## Conflict Identification

### General

**R310.5** Before accepting a new client relationship, engagement, or business relationship, a *member* shall take reasonable steps to identify circumstances that *might* create a conflict of interest, and therefore a threat to compliance with one or more of the *fundamental principles*. Such steps shall include identifying:

- (a) The nature of the relevant interests and relationships between the parties involved; and
- (b) The service and its implication for relevant parties.

310.5 A1 An effective conflict identification process assists a *member* when taking reasonable steps to identify interests and relationships that *might* create an actual or potential conflict of interest, both before determining whether to accept an engagement and throughout the engagement. Such a process includes considering matters identified by external parties, for example clients or potential clients. The earlier an actual or potential conflict of interest is identified, the greater the likelihood of the *member* being able to address *threats* created by the conflict of interest.

310.5 A2 An effective process to identify actual or potential conflicts of interest will take into account factors such as:

- The nature of the *professional services* provided.
- The size of the *firm*.
- The size and nature of the client base.
- The structure of the *firm*, for example, the number and geographic location of *offices*.

310.5 A3 More information on client acceptance is set out in Section 320, *Professional Appointments*.

### Changes in Circumstances

**R310.6** A *member* shall remain alert to changes over time in the nature of services, interests and relationships that *might* create a conflict of interest while performing an engagement.

310.6 A1 The nature of services, interests and relationships *might* change during the engagement. This is particularly true when a *member* is asked to conduct an engagement in a situation that *might* become adversarial, even though the parties who engage the *member* initially *might* not be involved in a dispute.

### Network Firms

**R310.7** If the *firm* is a *member* of a *network*, a *member* shall consider conflicts of interest that the *member* has reason to believe *might* exist or arise due to interests and relationships

of a *network firm*.

- 310.7 A1 Factors to consider when identifying interests and relationships involving a *network firm* include:
- The nature of the *professional services* provided.
  - The clients served by the *network*.
  - The geographic locations of all relevant parties.

### Threats Created by Conflicts of Interest

- 310.8 A1 In general, the more direct the connection between the *professional service* and the matter on which the parties' interests conflict, the more likely the level of the threat is not at an *acceptable level*.
- 310.8 A2 Factors that are relevant in evaluating the level of a threat created by a conflict of interest include measures that prevent unauthorised disclosure of *confidential information* when performing *professional services* related to a particular matter for two or more clients whose interests with respect to that matter are in conflict. These measures include:
- The existence of separate practice areas for specialty functions within the *firm*, which *might* act as a barrier to the passing of confidential client information between practice areas.
  - Policies and procedures to limit access to client files.
  - Confidentiality agreements signed by personnel and partners of the *firm*.
  - Separation of *confidential information* physically and electronically.
  - Specific and dedicated training and communication.
- 310.8 A3 Examples of actions that *might* be *safeguards* to address *threats* created by a conflict of interest include:
- Having separate teams who are provided with clear policies and procedures on maintaining confidentiality.
  - Having an *appropriate reviewer*, who is not involved in providing the service or otherwise affected by the conflict, review the work performed to assess whether the key judgments and conclusions are appropriate.

### Disclosure and Consent

#### *General*

- R310.9** A *member* shall exercise *professional judgment* to determine whether the nature and significance of a conflict of interest are such that specific disclosure and explicit consent are necessary when addressing the threat created by the conflict of interest.
- NZ R310.9.1** Where a *member* has a conflict of interest but can apply *safeguards* to eliminate the threat or reduce it to an *acceptable level*, the *member* shall disclose, in writing, the nature of the conflict of interest and the related *safeguards*, if any, to all clients or potential clients affected by the conflict.

**NZ R310.9.2** When *safeguards* are required to reduce the threat to an *acceptable level*, the *member* shall obtain, in writing, the client's consent to the *member* performing the *professional services*.

310.9 A1 Factors to consider when determining whether specific disclosure and explicit consent are necessary include:

- The circumstances creating the conflict of interest.
- The parties that *might* be affected.
- The nature of the issues that *might* arise.
- The potential for the particular matter to develop in an unexpected manner.

310.9 A2 Disclosure and consent *might* take different forms, for example:

- General disclosure to clients of circumstances where, as is common commercial practice, the *member* does not provide *professional services* exclusively to any one client (for example, in a particular *professional service* and market sector). This enables the client to provide general consent accordingly. For example, a *member* *might* make general disclosure in the standard terms and conditions for the engagement.
- Specific disclosure to affected clients of the circumstances of the particular conflict in sufficient detail to enable the client to make an informed decision about the matter and to provide explicit consent accordingly. Such disclosure *might* include a detailed presentation of the circumstances and a comprehensive explanation of any planned *safeguards* and the risks involved.
- [Deleted. Refer NZ R310.9.2]

310.9 A3 [Deleted. Refer NZ R310.9.1 and NZ R 310.9.2]

310.9 A4 [Deleted. Refer NZ R310.9.1 and NZ R310.9.2]

#### *When Explicit Consent is Refused*

**R310.10** If a *member* has determined that explicit consent is necessary in accordance with paragraph **R310.9** and the client has refused to provide consent, the *member* shall either:

- (a) End or decline to perform *professional services* that would result in the conflict of interest; or
- (b) End relevant relationships or dispose of relevant interests to eliminate the threat or reduce it to an *acceptable level*.

#### **Confidentiality**

##### *General*

**R310.11** A *member* shall remain alert to the principle of confidentiality, including when making disclosures or sharing information within the *firm* or *network* and seeking guidance from third parties.

310.11 A1 Subsection 114 sets out requirements and application material relevant to situations that *might* create a threat to compliance with the principle of confidentiality.

*When Disclosure to Obtain Consent would Breach Confidentiality*

**R310.12** [Deleted. Refer to NZ R310.12.1]

**NZ R310.12.1** In those circumstances where adequate disclosure is not possible by reason of constraints of confidentiality, the *member* shall end or decline from the relevant engagement.

310.12 A1 [Deleted. Refer to NZ R310.12.1]

**Documentation**

**R310.13** [Deleted. Refer to NZ310.14 A1]

NZ310.14 A1 The *member* is encouraged to document all matters set out in this section.

## SECTION 320

### PROFESSIONAL APPOINTMENTS

#### Introduction

- 320.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 320.2 Acceptance of a new client relationship or changes in an existing engagement *might* create a threat to compliance with one or more of the *fundamental principles*. This section sets out specific requirements and application material relevant to applying the *conceptual framework* in such circumstances.

#### Requirements and Application Material

##### Client and Engagement Acceptance

###### *General*

- 320.3 A1 *Threats* to compliance with the principles of integrity or professional behaviour *might* be created, for example, from questionable issues associated with the client (its owners, management or activities). Issues that, if known, *might* create such a threat include client involvement in illegal activities, dishonesty, questionable financial reporting practices or other unethical behaviour.
- 320.3 A2 Factors that are relevant in evaluating the level of such a threat include:
- Knowledge and understanding of the client, its owners, management and *those charged with governance* and business activities.
  - The client's commitment to address the questionable issues, for example, through improving corporate governance practices or internal controls.
- 320.3 A3 A self-interest threat to compliance with the principle of professional competence and due care is created if the team does not possess, or cannot acquire, the competencies to perform the *professional services*.
- 320.3 A4 [Amended. Refer to NZ320.3 A4]

NZ320.3 A4 Factors that are relevant in evaluating the level of such a threat include:

- An appropriate understanding of:
  - The nature of the client's business;
  - The complexity of its operations;
  - The requirements of the engagement; and
  - The purpose, nature and scope of the work to be performed.
- Knowledge of relevant industries or subject matter.
- Experience with relevant regulatory or reporting requirements.
- Policies and procedures that the firm has implemented, as part of a system of quality management in accordance with *PES 3* or *PS-1*, as applicable, that respond to quality

risks relating to the *firm's* ability to perform the engagement in accordance with *technical and professional standards* and applicable laws and regulations.

- The level of fees and the extent to which they have regard to the resources required, taking into account the *member's* commercial and market priorities.

320.3 A5 Examples of actions that *might* be *safeguards* to address a self-interest threat include:

- Assigning sufficient engagement personnel with the necessary competencies.
- Agreeing on a realistic time frame for the performance of the engagement.
- Using experts where necessary.

## Changes in a Professional Appointment

### General

**R320.4** A *member* shall determine whether there are any reasons for not accepting an engagement when the *member*:

- (a) Is asked by a potential client to replace another accountant;
- (b) Considers tendering for an engagement held by another accountant; or
- (c) Considers undertaking work that is complementary or additional to that of another accountant.

320.4 A1 There *might* be reasons for not accepting an engagement. One such reason *might* be if a threat created by the facts and circumstances cannot be addressed by applying *safeguards*. For example, there *might* be a self-interest threat to compliance with the principle of professional competence and due care if a *member* accepts the engagement before knowing all the relevant facts.

320.4 A2 If a *member* is asked to undertake work that is complementary or additional to the work of an *existing* or *predecessor accountant*, a self-interest threat to compliance with the principle of professional competence and due care *might* be created, for example, as a result of incomplete information.

320.4 A3 A factor that is relevant in evaluating the level of such a threat is whether tenders state that, before accepting the engagement, contact with the *existing* or *predecessor accountant* will be requested. This contact gives the *proposed accountant* the opportunity to inquire whether there are any reasons why the engagement should not be accepted.

320.4 A4 Examples of actions that *might* be *safeguards* to address such a self-interest threat include:

- Asking the *existing* or *predecessor accountant* to provide any known information of which, in the *existing* or *predecessor accountant's* opinion, the *proposed accountant* needs to be aware before deciding whether to accept the engagement. For example, inquiry *might* reveal previously undisclosed pertinent facts and *might* indicate disagreements with the *existing* or *predecessor accountant* that *might* influence the decision to accept the appointment.
- Obtaining information from other sources such as through inquiries of third parties or background investigations regarding senior management or *those charged with governance* of the client.

*Communicating with the Existing or Predecessor Accountant*

**NZ R320.5** A *proposed accountant* shall obtain the client's permission, preferably in writing, to initiate discussions with the *existing or predecessor accountant*.

320.5 A1 [Amended. Refer to NZ R320.5]

**R320.6** If unable to communicate with the *existing or predecessor accountant*, the *proposed accountant* shall take other reasonable steps to obtain information about any possible threats.

*Communicating with the Proposed Accountant*

**R320.7** When an *existing or predecessor accountant* is asked to respond to a communication from a *proposed accountant*, the *existing or predecessor accountant* shall:

- (a) Comply with relevant laws and regulations governing the request; and
- (a) Provide any information honestly and unambiguously.

**NZ R320.7.1** The *existing accountant*, on receipt of the communication enquiring about the matter referred to in paragraph *R320.4*, shall promptly reply, preferably in writing, advising whether there are professional reasons why the *proposed accountant* should not accept the appointment.

**NZ R320.7.2** The *existing accountant* shall promptly transfer the documents belonging to the client whenever or however obtained, to the client or, where the client so instructs, to the *proposed accountant*, and should advise the client accordingly, unless the *existing accountant* has a legal right to withhold them, for example, when a valid lien for unpaid fees exists.

320.7 A1 An *existing or predecessor accountant* is bound by confidentiality. Whether the *existing or predecessor accountant* is permitted or required to discuss the affairs of a client with a *proposed accountant* will depend on the nature of the engagement and:

- (a) Whether the *existing or predecessor accountant* has permission from the client for the discussion; and
- (b) The legal and ethics requirements relating to such communications and disclosure, which *might* vary by jurisdiction.

320.7 A2 Circumstances where a *member* is or *might* be required to disclose *confidential information*, or when disclosure *might* be appropriate, are set out in paragraph *114.3 A1* of the Code.

*Changes in Audit or Review Appointments*

**R320.8** In the case of an audit or review of *financial statements*, a *member* shall request the *existing or predecessor accountant* to provide known information regarding any facts or other information of which, in the *existing or predecessor accountant's* opinion, the *proposed accountant* needs to be aware before deciding whether to accept the engagement. Except for the circumstances involving non-compliance or suspected *non-compliance with laws and regulations* set out in paragraphs *R360.21* and *R360.22*:

- (a) If the client consents to the *existing* or *predecessor accountant* disclosing any such facts or other information, the *existing* or *predecessor accountant* shall provide the information honestly and unambiguously; and
- (b) If the client fails or refuses to grant the *existing* or *predecessor accountant* permission to discuss the client's affairs with the *predecessor accountant*, the *existing* or *predecessor accountant* shall disclose this fact to the *proposed accountant*, who shall carefully consider such failure or refusal when determining whether to accept the appointment.

#### Client and Engagement Continuance

**R320.9** For a recurring client engagement, a *member* shall periodically review whether to continue with the engagement.

320.9 A1 Potential *threats* to compliance with the *fundamental principles* might be created after acceptance which, had they been known earlier, would have caused the *member* to decline the engagement. For example, a self-interest threat to compliance with the principle of integrity might be created by improper earnings management or balance sheet valuations.

#### Using the Work of an Expert

**R320.10** When a *member* intends to use the work of an expert in the course of undertaking a *professional activity*, the *member* shall determine whether the use is appropriate for the intended purpose.

320.10 A1 Factors to consider when a *member* intends to use the work of an expert include:

- The reputation and expertise of, and the resources available, to the expert.
- Whether the expert is subject to applicable professional and ethics standards.

Such information *might* be gained from prior association with, or from consulting others about, the expert.

#### Using the Output of Technology

**R320.11** When a *member* intends to use the output of technology in the course of undertaking a *professional activity*, the *member* shall determine whether the use is appropriate for the intended purpose.

320.11 A1 Factors to consider when a *member* intends to use the output of technology include:

- The nature of the activity to be performed by the technology.
- The expected use of, or extent of reliance on, the output of the technology.
- Whether the *member* has the ability, or access to an expert with the ability, to understand, use and explain the technology and its appropriateness for the purpose intended.
- Whether the technology used has been appropriately tested and evaluated for the purpose intended.
- Prior experience with the technology and whether its use for specific purposes is generally accepted.

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- The *firm's* oversight of the design, development, implementation, operation, maintenance, monitoring, updating or upgrading of the technology.
- The controls relating to the use of the technology, including procedures for authorising user access to the technology and overseeing such use.
- The appropriateness of the inputs to the technology, including data and any related decisions, and decisions made by individuals in the course of using the technology.

### **Other Considerations**

320.12 A1 When a *member* is considering using the work of experts or the output of technology, a consideration is whether the *member* is in a position within the *firm* to obtain information in relation to the factors necessary to determine whether such use is appropriate.

## SECTION 321

### SECOND OPINIONS

#### Introduction

- 321.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 321.2 Providing a second opinion to an entity that is not an existing client *might* create a self-interest or other threat to compliance with one or more of the *fundamental principles*. This section sets out specific requirements and application material relevant to applying the *conceptual framework* in such circumstances.

#### Requirements and Application Material

##### General

- 321.3 A1 A *member might* be asked to provide a second opinion on the application of tax laws and regulations, and accounting, auditing, reporting or other standards or principles to (a) specific circumstances, or (b) transactions by or on behalf of a company or an entity that is not an existing client. A threat, for example, a self-interest threat to compliance with the principle of professional competence and due care, *might* be created if the second opinion is not based on the same facts that the *existing* or *predecessor accountant* or other service provider had, or is based on inadequate evidence.
- 321.3 A2 A factor that is relevant in evaluating the level of such a self-interest threat is the circumstances of the request and all the other available facts and assumptions relevant to the expression of a *professional judgment*.
- 321.3 A3 Examples of actions that *might* be *safeguards* to address such a self-interest threat include:
- With the client's permission, obtaining information from the *existing* or *predecessor accountant* or other service provider.
  - Describing the limitations surrounding any opinion in communications with the client.
  - Providing the *existing* or *predecessor accountant* or other service provider with a copy of the opinion.

##### *When Permission to Communicate is Not Provided*

- R321.4** If an entity seeking a second opinion from a *member* will not permit the *member* to communicate with the *existing* or *predecessor accountant* or other service provider, the *member* shall determine whether the *member may* provide the second opinion sought.

## SECTION 325

### OBJECTIVITY OF AN ENGAGEMENT QUALITY REVIEWER AND OTHER APPROPRIATE REVIEWERS

#### Introduction

- 325.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 325.2 Appointing an *engagement quality reviewer* who has involvement in the work being reviewed or close relationships with those responsible for performing that work *might* create *threats* to compliance with the principle of objectivity.
- 325.3 This section sets out specific application material relevant to applying the *conceptual framework* in relation to the objectivity of an *engagement quality reviewer*.
- 325.4 An *engagement quality reviewer* is also an example of an *appropriate reviewer* as described in paragraph 300.8 A4. Therefore, the application material in this section *might* apply in circumstances where a *member* appoints an *appropriate reviewer* to review work performed as a *safeguard* to address identified *threats*.

#### Requirements and Application Material

##### General

325.5 A1 [Amended. Refer to NZ325.5 A1]

NZ325.5 A1 Quality engagements are achieved through planning and performing engagements and reporting on them in accordance with *technical and professional standards* and applicable laws and regulations. For *firms* that perform *audits* or *reviews* of *financial statements*, or other *assurance* or *related services* engagements, Professional and Ethical Standard 3 (*PES 3*) *Quality Management for Firms that Perform Audits or Reviews of Financial Statements, or Other Assurance or Related Services Engagements* issued by NZAuASB establishes the *firm's* responsibilities for its system of quality management and requires the *firm* to design and implement responses to address quality risks related to engagements performance. Such responses include establishing policies or procedures addressing *engagement quality reviews* in accordance with Professional and Ethical Standard 4 (*PES 4*) *Engagement Quality Reviews*. Similarly, for a *firm* that performs engagements that are not *audits* or *reviews* of *financial statements*, or other *assurance* or *related services* engagements, Professional Standard 1 (*PS-1*) *Quality Management* issued by NZICA establishes the *firm's* responsibilities for its system of quality management and requires the *firm* to design and implement policies and procedures related to engagements performance. Such requirements include the *firm* considering whether it should establish policies or procedures addressing *engagement quality reviews* for high-risk engagements.

325.5 A2 An *engagement quality reviewer* is a partner, other individual in the *firm*, or an external individual, appointed by the *firm* to perform the *engagement quality review*.

##### Identifying Threats

325.6 A1 [Amended. Refer to NZ325.6 A1]

NZ325.6 A1 The following are examples of circumstances where *threats* to the objectivity of a *member* appointed as an *engagement quality reviewer* might be created:

- a) Self-interest threat
  - Two *engagement partners* each serving as an *engagement quality reviewer* for the other's engagement.
- b) Self-review threat
  - A *member* serving as an *engagement quality reviewer* on an engagement after previously serving as the *engagement partner*.
- c) Familiarity threat
  - A *member* serving as an *engagement quality reviewer* has a close relationship with or is an *immediate family* member of another individual who is involved in the engagement.
- d) Intimidation threat
  - A *member* serving as an *engagement quality reviewer* for an engagement has a direct reporting line to the partner responsible for the engagement.

### Evaluating Threats

325.7 A1 Factors that are relevant in evaluating the level of *threats* to the objectivity of an individual appointed as an *engagement quality reviewer* include:

- The role and seniority of the individual.
- The nature of the individual's relationship with others involved on the engagement.
- The length of time the individual was previously involved with the engagement and the individual's role.
- When the individual was last involved in the engagement prior to being appointed as *engagement quality reviewer* and any subsequent relevant changes to the circumstances of the engagement.
- The nature and complexity of issues that required significant judgment from the individual in any previous involvement in the engagement.

### Addressing Threats

325.8 A1 An example of an action that might eliminate an intimidation threat is reassigning reporting responsibilities within the *firm*.

325.8 A2 An example of an action that might be a *safeguard* to address a self-review threat is implementing a period of sufficient duration (a cooling-off period) before the individual who was on the engagement is appointed as an *engagement quality reviewer*.

### Cooling-off Period – Audits, Reviews, Other Assurance or Related Service Engagements

325.8 A3 Professional and Ethical Standard 4 (*PES 4*) *Engagement Quality Reviews* requires the *firm* to establish policies or procedures that specify, as a condition for eligibility, a cooling-off period of two years before the *engagement partner* can assume the role of *engagement quality reviewer*.

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This serves to enable compliance with the principle of objectivity and the consistent performance of quality engagements.

- 325.8 A4 The cooling-off period required by Professional and Ethical Standard 4 (*PES 4*) *Engagement Quality Reviews* is distinct from, and does not modify, the partner rotation requirements in Section 540 (refer *PES 1*), which are designed to address *threats* to *independence* created by long association with an *audit client*.

## SECTION 330

### FEES AND OTHER TYPES OF REMUNERATION

#### Introduction

330.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.

330.2 The level and nature of fee and other remuneration arrangements *might* create a self-interest threat to compliance with one or more of the *fundamental principles*. This section sets out specific application material relevant to applying the *conceptual framework* in such circumstances.

#### Application Material

##### Level of Fees

330.3 A1 [Amended. Refer to NZ330.3 A1]

NZ330.3.A1 The level of fees *might* impact a *member's* ability to perform *professional services* in accordance with applicable *technical and professional standards* and relevant laws and regulations.

330.3 A2 [Amended. Refer to NZ330.3 A2]

NZ330.3 A2 A *member might* quote whatever fee is considered appropriate. Quoting a fee lower than another accountant is not in itself unethical. However, the level of fees quoted creates a self-interest threat to compliance with the principle of professional competence and due care if the fee quoted is so low that it *might* be difficult to perform the engagement in accordance with applicable *technical and professional standards* and relevant laws and regulations.

330.3 A3 Factors that are relevant in evaluating the level of such a threat include:

- Whether the client is aware of the terms of the engagement and, in particular, the basis on which fees are determined and which *professional services* are covered.
- Whether the level of the fee is set by an independent third party such as a regulatory body.

330.3 A4 Examples of actions that *might* be *safeguards* to address such a self-interest threat include:

- Adjusting the level of fees or the scope of the engagement.
- Having an *appropriate reviewer* review the work performed.

##### Contingent Fees

330.4 A1 *Contingent fees* are used for certain types of non-assurance services. However, *contingent fees might* create *threats* to compliance with the *fundamental principles*, particularly a self-interest threat to compliance with the principle of objectivity, in certain circumstances.

330.4 A2 Factors that are relevant in evaluating the level of such *threats* include:

- The nature of the engagement.
- The range of possible fee amounts.
- The basis for determining the fee.

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- Disclosure to intended users of the work performed by the *member* and the basis of remuneration.
- Quality management policies and procedures.
- Whether an independent third party is to review the outcome or result of the transaction.
- Whether the level of the fee is set by an independent third party such as a regulatory body.

330.4 A3 Examples of actions that *might* be *safeguards* to address such a self-interest threat include:

- Having an *appropriate reviewer* who was not involved in performing the non-assurance service review the work performed by the *member*.
- Obtaining an advance written agreement with the client on the basis of remuneration.

**NZ R330.4.1 A *member* shall not enter into a *Contingent Fee* arrangement or receive a *Contingent Fee* where prohibited to do so by *technical and professional standards* or laws and regulations.**

330.4 A4 Requirements and application material related to *contingent fees* for services provided to *audit* or *review clients* and other *assurance clients* are set out in *International Independence Standards (New Zealand)* (refer *PES 1*).

### **Referral Fees or Commissions**

330.5 A1 A self-interest threat to compliance with the principles of objectivity and professional competence and due care is created if a *member* pays or receives a referral fee or receives a commission relating to a client. Such referral fees or commissions include, for example:

- A fee paid to another *member* for the purposes of obtaining new client work when the client continues as a client of the *existing accountant* but requires specialist services not offered by that accountant.
- A fee received for referring a continuing client to another *member* or other expert where the *existing accountant* does not provide the specific *professional service* required by the client.
- A commission received from a third party (for example, a software vendor) in connection with the sale of goods or services to a client.

330.5 A2 Examples of actions that *might* be *safeguards* to address such a self-interest threat include:

- Obtaining an advance agreement from the client for commission arrangements in connection with the sale by another party of goods or services to the client *might* address a self-interest threat.
- Disclosing to clients any referral fees or commission arrangements paid to, or received from, another *member* or third party for recommending services or products *might* address a self-interest threat.

**NZ R330.5.1 Subject to R330.5.2, a *member* who accepts or pays referral fees, commissions or other similar benefits shall inform the client in writing of:**

- **The existence of the arrangement;**

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- The identity of the other party or parties; and
- The method of calculation of the referral fee, commission or other similar benefit accruing directly or indirectly to or from the *member*.

**NZ R330.5.2 A *member* shall not accept or pay referral fees, commissions or other similar benefits in connection with an *assurance engagement*.**

NZ 330.5.2 A1 The receipt or payment of referral fees, commissions or other similar benefits in connection with an *assurance engagement* creates a threat to *independence* that no *safeguards* could reduce to an *acceptable level*.

**Purchase or Sale of a Firm**

330.6 A1 A *member may* purchase all or part of another *firm* on the basis that payments will be made to individuals formerly owning the *firm* or to their heirs or estates. Such payments are not referral fees or commissions for the purposes of this section.

## SECTION 340

### INDUCEMENTS, INCLUDING GIFTS AND HOSPITALITY

#### Introduction

- 340.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 340.2 Offering or accepting *inducements* might create a self-interest, familiarity or intimidation threat to compliance with the *fundamental principles*, particularly the principles of integrity, objectivity and professional behaviour.
- 340.3 This section sets out requirements and application material relevant to applying the *conceptual framework* in relation to the offering and accepting of *inducements* when performing *professional services* that does not constitute *non-compliance with laws and regulations*. This section also requires a *member* to comply with relevant laws and regulations when offering or accepting *inducements*.

#### Requirements and Application Material

##### General

- 340.4 A1 An *inducement* is an object, situation, or action that is used as a means to influence another individual's behaviour, but not necessarily with the intent to improperly influence that individual's behaviour. *Inducements* can range from minor acts of hospitality between *members* and existing or prospective clients to acts that result in *non-compliance with laws and regulations*. An *inducement* can take many different forms, for example:
- Gifts.
  - Hospitality.
  - Entertainment.
  - Political or charitable donations.
  - Appeals to friendship and loyalty.
  - Employment or other commercial opportunities.
  - Preferential treatment, rights or privileges.

##### Inducements Prohibited by Laws and Regulations

- R340.5** In many jurisdictions, there are laws and regulations, such as those related to bribery and corruption, that prohibit the offering or accepting of *inducements* in certain circumstances. The *member* shall obtain an understanding of relevant laws and regulations and comply with them when the *member* encounters such circumstances.

##### Inducements Not Prohibited by Laws and Regulations

- 340.6 A1 The offering or accepting of *inducements* that is not prohibited by laws and regulations *might* still create *threats* to compliance with the *fundamental principles*.

*Inducements with Intent to Improperly Influence Behaviour*

**R340.7** A *member* shall not offer, or encourage others to offer, any *inducement* that is made, or which the *member* considers a *reasonable and informed third party* would be likely to conclude is made, with the intent to improperly influence the behaviour of the recipient or of another individual.

**R340.8** A *member* shall not accept, or encourage others to accept, any *inducement* that the *member* concludes is made, or considers a *reasonable and informed third party* would be likely to conclude is made, with the intent to improperly influence the behaviour of the recipient or of another individual.

340.9 A1 An *inducement* is considered as improperly influencing an individual's behaviour if it causes the individual to act in an unethical manner. Such improper influence can be directed either towards the recipient or towards another individual who has some relationship with the recipient. The *fundamental principles* are an appropriate frame of reference for a *member* in considering what constitutes unethical behaviour on the part of the *member* and, if necessary by analogy, other individuals.

340.9 A2 A breach of the fundamental principle of integrity arises when a *member* offers or accepts, or encourages others to offer or accept, an *inducement* where the intent is to improperly influence the behaviour of the recipient or of another individual.

340.9 A3 The determination of whether there is actual or perceived intent to improperly influence behaviour requires the exercise of *professional judgment*. Relevant factors to consider *might* include:

- The nature, frequency, value and cumulative effect of the *inducement*.
- Timing of when the *inducement* is offered relative to any action or decision that it *might* influence.
- Whether the *inducement* is a customary or cultural practice in the circumstances, for example, offering a gift on the occasion of a religious holiday or wedding.
- Whether the *inducement* is an ancillary part of a *professional service*, for example, offering or accepting lunch in connection with a business meeting.
- Whether the offer of the *inducement* is limited to an individual recipient or available to a broader group. The broader group *might* be internal or external to the *firm*, such as other suppliers to the client.
- The roles and positions of the individuals at the *firm* or the client offering or being offered the *inducement*.
- Whether the *member* knows, or has reason to believe, that accepting the *inducement* would breach the policies and procedures of the client.
- The degree of transparency with which the *inducement* is offered.
- Whether the *inducement* was required or requested by the recipient.
- The known previous behaviour or reputation of the offeror.

## Consideration of Further Actions

340.10 A1 If the *member* becomes aware of an *inducement* offered with actual or perceived intent to improperly influence behaviour, *threats* to compliance with the *fundamental principles* might still be created even if the requirements in paragraphs R340.7 and R340.8 are met.

340.10 A2 Examples of actions that *might* be *safeguards* to address such *threats* include:

- Informing senior management of the *firm* or *those charged with governance* of the client regarding the offer.
- Amending or terminating the business relationship with the client.

## *Inducements with No Intent to Improperly Influence Behaviour*

340.11 A1 The requirements and application material set out in the *conceptual framework* apply when a *member* has concluded there is no actual or perceived intent to improperly influence the behaviour of the recipient or of another individual.

340.11 A2 If such an *inducement* is trivial and inconsequential, any *threats* created will be at an *acceptable level*.

340.11 A3 Examples of circumstances where offering or accepting such an *inducement* *might* create *threats* even if the *member* has concluded there is no actual or perceived intent to improperly influence behaviour include:

- Self-interest threats
  - A *member* is offered hospitality from the prospective acquirer of a client while providing corporate finance services to the client.
- Familiarity threats
  - A *member* regularly takes an existing or prospective client to sporting events.
- Intimidation threats
  - A *member* accepts hospitality from a client, the nature of which could be perceived to be inappropriate were it to be publicly disclosed.

340.11 A4 Relevant factors in evaluating the level of such *threats* created by offering or accepting such an *inducement* include the same factors set out in paragraph 340.9 A3 for determining intent.

340.11 A5 Examples of actions that *might* eliminate *threats* created by offering or accepting such an *inducement* include:

- Declining or not offering the *inducement*.
- Transferring responsibility for the provision of any *professional services* to the client to another individual who the *member* has no reason to believe would be, or would be perceived to be, improperly influenced when providing the services.

340.11 A6 Examples of actions that *might* be *safeguards* to address such *threats* created by offering or accepting such an *inducement* include:

- Being transparent with senior management of the *firm* or of the client about offering or accepting an *inducement*.

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- Registering the *inducement* in a log monitored by senior management of the *firm* or another individual responsible for the *firm's* ethics compliance or maintained by the client.
- Having an *appropriate reviewer*, who is not otherwise involved in providing the *professional service*, review any work performed or decisions made by the *member* with respect to the client from which the *member* accepted the *inducement*.
- Donating the *inducement* to charity after receipt and appropriately disclosing the donation, for example, to a *member* of senior management of the *firm* or the individual who offered the *inducement*.
- Reimbursing the cost of the *inducement*, such as hospitality, received.
- As soon as possible, returning the *inducement*, such as a gift, after it was initially accepted.

### **Immediate or Close Family Members**

**R340.12** A *member* shall remain alert to potential *threats* to the *member's* compliance with the *fundamental principles* created by the offering of an *inducement*:

- (a) By an *immediate* or *close family* member of the *member* to an existing or prospective client of the *member*.
- (b) To an *immediate* or *close family* member of the *member* by an existing or prospective client of the *member*.

**R340.13** Where the *member* becomes aware of an *inducement* being offered to or made by an *immediate* or *close family* member and concludes there is intent to improperly influence the behaviour of the *member* or of an existing or prospective client of the *member*, or considers a *reasonable and informed third party* would be likely to conclude such intent exists, the *member* shall advise the *immediate* or *close family* member not to offer or accept the *inducement*.

340.13 A1 The factors set out in paragraph 340.9 A3 are relevant in determining whether there is actual or perceived intent to improperly influence the behaviour of the *member* or of the existing or prospective client. Another factor that is relevant is the nature or closeness of the relationship, between:

- (a) The *member* and the *immediate* or *close family* member;
- (b) The *immediate* or *close family* member and the existing or prospective client; and
- (c) The *member* and the existing or prospective client.

For example, the offer of employment, outside of the normal recruitment process, to the spouse of the *member* by a client for whom the *member* is providing a business valuation for a prospective sale *might* indicate such intent.

340.13 A2 The application material in paragraph 340.10 A2 is also relevant in addressing *threats* that *might* be created when there is actual or perceived intent to improperly influence the behaviour of the *member*, or of the existing or prospective client even if the *immediate* or *close family* member has followed the advice given pursuant to paragraph R340.13.

*Application of the Conceptual Framework*

- 340.14 A1 Where the *member* becomes aware of an *inducement* offered in the circumstances addressed in paragraph *R340.12*, *threats* to compliance with the *fundamental principles* might be created where:
- (a) The *immediate* or *close family* member offers or accepts the *inducement* contrary to the advice of the *member* pursuant to paragraph *R340.13*; or
  - (b) The *member* does not have reason to believe an actual or perceived intent to improperly influence the behaviour of the *member* or of the existing or prospective client exists.
- 340.14 A2 The application material in paragraphs *340.11 A1* to *340.11 A6* is relevant for the purposes of identifying, evaluating and addressing such *threats*. Factors that are relevant in evaluating the level of *threats* in these circumstances also include the nature or closeness of the relationships set out in paragraph *340.13 A1*.

**Other Considerations**

- 340.15 A1 If a *member* encounters or is made aware of *inducements* that *might* result in non-compliance or suspected *non-compliance with laws and regulations* by a client or individuals working for or under the direction of the client, the requirements and application material in Section 360 apply.
- 340.15 A2 If a *firm*, *network firm* or an *audit* or *review team* member is being offered gifts or hospitality from an *audit* or *review client*, the requirement and application material set out in Section 420 (refer *PES 1*) apply.
- 340.15 A3 If a *firm* or an *assurance team* member is being offered gifts or hospitality from an *assurance client*, the requirement and application material set out in Section 906 (refer *PES 1*) apply.

## SECTION 350

### CUSTODY OF CLIENT ASSETS

#### Introduction

350.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.

350.2 Holding client assets creates a self-interest or other threat to compliance with the principles of professional behaviour and objectivity. This section sets out specific requirements and application material relevant to applying the *conceptual framework* in such circumstances.

#### Requirements and Application Material

##### Before Taking Custody

**R350.3** A *member* shall not assume custody of client money or other assets unless permitted to do so by law and in accordance with any conditions under which such custody *may* be taken.

**R350.4** As part of client and engagement acceptance procedures related to assuming custody of client money or assets, a *member* shall:

- (a) Make inquiries about the source of the assets; and
- (b) Consider related legal and regulatory obligations.

350.4 A1 Inquiries about the source of client assets *might* reveal, for example, that the assets were derived from illegal activities, such as money laundering. In such circumstances, a threat would be created and the provisions of Section 360 would apply.

##### After Taking Custody

**R350.5** A *member* entrusted with money or other assets belonging to others shall:

- (a) Comply with the laws and regulations relevant to holding and accounting for the assets;
- (b) Keep the assets separately from personal or *firm* assets;
- (c) Use the assets only for the purpose for which they are intended; and
- (d) Be ready at all times to account for the assets and any income, dividends, or gains generated, to any individuals entitled to that accounting.

## SECTION 360

### RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS

#### Introduction

- 360.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 360.2 A self-interest or intimidation threat to compliance with the principles of integrity and professional behaviour is created when a *member* becomes aware of non-compliance or suspected *non-compliance with laws and regulations*.
- 360.3 A *member might* encounter or be made aware of non-compliance or suspected non-compliance in the course of providing a *professional service* to a client. This section guides the *member* in assessing the implications of the matter and the possible courses of action when responding to non-compliance or suspected non-compliance with:
- (a) Laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the client's *financial statements*; and
  - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the client's *financial statements*, but compliance with which *might* be fundamental to the operating aspects of the client's business, to its ability to continue its business, or to avoid material penalties.

#### Objectives of the Member in Relation to Non-compliance with Laws and Regulations

- 360.4 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the *public interest*. When responding to non-compliance or suspected non-compliance, the objectives of the *member* are:
- (a) To comply with the principles of integrity and professional behaviour;
  - (b) By alerting management or, where appropriate, *those charged with governance* of the client, to seek to:
    - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
    - (ii) Deter the commission of the non-compliance where it has not yet occurred; and
  - (c) To take such further action as appropriate in the *public interest*.

#### Requirements and Application Material

##### General

- 360.5 A1 *Non-compliance with laws and regulations* ("non-compliance") comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:
- (a) A client;
  - (b) *Those charged with governance* of a client;
  - (c) Management of a client; or

(d) Other individuals working for or under the direction of a client.

360.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

360.5 A3 Non-compliance *might* result in fines, litigation or other consequences for the client, potentially materially affecting its *financial statements*. Importantly, such non-compliance *might* have wider *public interest* implications in terms of potentially *substantial harm* to investors, creditors, employees or the general public. For the purposes of this section, an act that causes *substantial harm* is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

**R360.6 In some jurisdictions, there are legal or regulatory provisions governing how *members* should address non-compliance or suspected non-compliance. These legal or regulatory provisions *might* differ from or go beyond the provisions in this section. When encountering such non-compliance or suspected non-compliance, the *member* shall obtain an understanding of those legal or regulatory provisions and comply with them, including:**

- (a) Any requirement to report the matter to an appropriate authority; and**
- (b) Any prohibition on alerting the client.**

360.6 A1 A prohibition on alerting the client *might* arise, for example, pursuant to anti-money laundering legislation.

360.7 A1 This section applies regardless of the nature of the client, including whether or not it is a *public interest entity*.

360.7 A2 A *member* who encounters or is made aware of matters that are clearly inconsequential is not required to comply with this section. Whether a matter is clearly inconsequential is to be judged with respect to its nature and its impact, financial or otherwise, on the client, its stakeholders and the general public.

360.7 A3 This section does not address:

- (a) Personal misconduct unrelated to the business activities of the client; and
- (b) Non-compliance by parties other than those specified in paragraph 360.5 A1. This includes, for example, circumstances where a *member* has been engaged by a client to

perform a due diligence assignment on a third party entity and the identified or suspected non-compliance has been committed by that third-party.

The *member might* nevertheless find the guidance in this section helpful in considering how to respond in these situations.

### **Responsibilities of Management and Those Charged with Governance**

360.8 A1 Management, with the oversight of *those charged with governance*, is responsible for ensuring that the client's business activities are conducted in accordance with laws and regulations. Management and *those charged with governance* are also responsible for identifying and addressing any non-compliance by:

- (a) The client;
- (b) An individual charged with governance of the entity;
- (c) A *member* of management; or
- (d) Other individuals working for or under the direction of the client.

### **Responsibilities of All Members**

**R360.9** Where a *member* becomes aware of a matter to which this section applies, the steps that the *member* takes to comply with this section shall be taken on a timely basis. In taking timely steps, the *member* shall have regard to the nature of the matter and the potential harm to the interests of the entity, investors, creditors, employees or the general public.

### **Audits and Reviews of Financial Statements**

Refer to paragraphs R360.10 – R360.28A1 of the NZAuASB's Professional and Ethical Standard 1, Code of Ethics for Assurance Practitioners (Including International Independence Standards) (New Zealand) (*PES 1*).

### **Professional Services Other than Audits and Reviews of Financial Statements**

*Obtaining an Understanding of the Matter and Addressing It with Management and Those Charged with Governance*

**R360.29** [Amended. Refer to NZ360.29]

**NZ R360.29** If a *member* engaged to provide a *professional service* other than an audit or review of *financial statements* becomes aware of information concerning non-compliance or suspected non-compliance, the *member* shall seek to obtain an understanding of the matter. This understanding shall include the nature of the non-compliance or suspected non-compliance and the circumstances in which it has occurred or *might* be about to occur.

360.29 A1 The *member* is expected to apply knowledge and expertise, and exercise *professional judgment*. However, the *member* is not expected to have a level of understanding of laws and regulations beyond that which is required for the *professional service* for which the *member* was engaged. Whether an act constitutes actual non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.

360.29 A2 Depending on the nature and significance of the matter, the *member might* consult on a confidential basis with others within the *firm*, a *network firm* or a *professional body*, or with legal counsel.

**R360.30** If the *member* identifies or suspects that non-compliance has occurred or *might* occur, the *member* shall discuss the matter with the appropriate level of management. If the *member* has access to *those charged with governance*, the *member* shall also discuss the matter with them where appropriate.

360.30 A1 The purpose of the discussion is to clarify the *member's* understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also *might* prompt management or *those charged with governance* to investigate the matter.

360.30 A2 The appropriate level of management with whom to discuss the matter is a question of *professional judgment*. Relevant factors to consider include:

- The nature and circumstances of the matter.
- The individuals actually or potentially involved.
- The likelihood of collusion.
- The potential consequences of the matter.
- Whether that level of management is able to investigate the matter and take appropriate action.

*Communicating the Matter to the Entity's External Auditor or Assurance Practitioner*

**R360.31** [Amended. Refer to NZ R360.31]

**NZ R360.31** If the *member* is performing a *professional service* other than an audit or review for:

- (a) An *audit or review client* of the *firm*; or
- (b) A component of an *audit or review client* of the *firm*,

the *member* shall communicate the non-compliance or suspected non-compliance within the *firm*, unless prohibited from doing so by law or regulation. The communication shall be made in accordance with the *firm's* protocols or procedures. In the absence of such protocols and procedures, it shall be made directly to the audit or review *engagement partner*.

**R360.32** [Amended. Refer to NZ R360.32]

**NZ R360.32** If the *member* is performing a *professional service* other than an audit or review for:

- (a) An *audit or review client* of a *network firm*; or
- (b) A component of an *audit or review client* of a *network firm*,

the *member* shall consider whether to communicate the non-compliance or suspected non-compliance to the *network firm*. Where the communication is made, it shall be made in accordance with the *network's* protocols or procedures. In the absence of such protocols and procedures, it shall be made directly to the audit or review *engagement partner*.

**R360.33** [Amended. Refer *NZ R360.33*]

**NZ R360.33** If the *member* is performing a *professional service* other than an audit or review for a client that is not:

(a) An *audit* or *review client* of the *firm* or a *network firm*; or

(b) A component of an *audit* or *review client* of the *firm* or a *network firm*,

the *member* shall consider whether to communicate the non-compliance or suspected non-compliance to the *firm* that is the client's external *assurance practitioner*, if any.

#### Relevant Factors to Consider

360.34 A1 Factors relevant to considering the communication in accordance with paragraphs *R360.31* to *R360.33* include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the entity to enable it to take appropriate action.
- Whether management or *those charged with governance* have already informed the entity's external auditor about the matter.
- The likely materiality of the matter to the audit of the client's *financial statements* or, where the matter relates to a component of a group, its likely materiality to the audit of the group *financial statements*.

#### Purpose of Communication

360.35 A1 In the circumstances addressed in paragraphs *R360.31* to *R360.33*, the purpose of the communication is to enable the audit *engagement partner* to be informed about the non-compliance or suspected non-compliance and to determine whether and, if so, how to address it in accordance with the provisions of this section.

#### *Considering Whether Further Action Is Needed*

**R360.36** The *member* shall also consider whether further action is needed in the *public interest*.

360.36 A1 Whether further action is needed, and the nature and extent of it, will depend on factors such as:

- The legal and regulatory framework.
- The appropriateness and timeliness of the response of management and, where applicable, *those charged with governance*.
- The urgency of the situation.
- The involvement of management or *those charged with governance* in the matter.
- The likelihood of *substantial harm* to the interests of the client, investors, creditors, employees or the general public.

360.36 A2 Further action by the *member* might include:

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- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Withdrawing from the engagement and the professional relationship where permitted by law or regulation.

360.36 A3 In considering whether to disclose to an appropriate authority, relevant factors to take into account include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the entity to enable it to take appropriate action.

**R360.37** If the *member* determines that disclosure of the non-compliance or suspected non-compliance to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to paragraph NZ R114.3 of the Code. When making such disclosure, the *member* shall act in good faith and exercise caution when making statements and assertions. The *member* shall also consider whether it is appropriate to inform the client of the *member's* intentions before disclosing the matter.

### *Imminent Breach*

**R360.38** In exceptional circumstances, the member *might* become aware of actual or intended conduct that the member has reason to believe would constitute an imminent breach of a law or regulation that would cause *substantial harm* to investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or *those charged with governance* of the entity, the member shall exercise *professional judgment* and determine whether to disclose the matter immediately to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach of law or regulation. If disclosure is made, that disclosure is permitted pursuant to paragraph NZ R114.3 of the Code.

### *Seeking Advice*

360.39 A1 The *member might* consider:

- Consulting internally.
- Obtaining legal advice to understand the professional or legal implications of taking any particular course of action.
- Consulting on a confidential basis with a regulatory or *professional body*.

### *Documentation*

360.40 A1 In relation to non-compliance or suspected non-compliance that falls within the scope of this section, the *member* is encouraged to document:

- The matter.

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- The results of discussion with management and, where applicable, *those charged with governance* and other parties.
- How management and, where applicable, *those charged with governance* have responded to the matter.
- The courses of action the *member* considered, the judgments made and the decisions that were taken.
- How the *member* is satisfied that the *member* has fulfilled the responsibility set out in paragraph R360.36.

## SECTION 380

### TAX PLANNING SERVICES

#### Introduction

- 380.1 *Members* are required to comply with the *fundamental principles* and apply the *conceptual framework* set out in Section 120 to identify, evaluate and address *threats*.
- 380.2 Providing tax planning services *might* create self-interest, self-review, advocacy or intimidation *threats* to compliance with the *fundamental principles*.
- 380.3 This section sets out requirements and application material relevant to applying the *conceptual framework* in relation to the provision of tax planning services. This section also requires a *member* to comply with relevant tax laws and regulations when providing such services.

#### Requirements and Application Material

##### General

##### *Members' Public Interest Role in Relation to Tax Planning Services*

- 380.4 A1 *Members* play an important role in tax planning by contributing their expertise and experience to assist clients in meeting their tax planning goals while complying with tax laws and regulations. In doing so, *members* help to facilitate a more efficient and effective operation of a jurisdiction's tax system, which is in the *public interest*.
- 380.4 A2 Clients are entitled to organise their affairs for tax planning purposes. While there are a variety of ways to achieve such purposes, clients have a responsibility to pay taxes as determined by the relevant tax laws and regulations. In this regard, *members'* role is to use their expertise and experience to assist their clients in achieving their tax planning goals and meeting their tax obligations. However, when *members* provide such assistance, it *might* involve certain tax minimisation arrangements that, although not prohibited by tax laws and regulations, *might* create *threats* to compliance with the *fundamental principles*.
- 380.4 A3 It is ultimately for a tribunal, court or other appropriate adjudicative body to determine whether a *tax planning arrangement* complies with the relevant tax laws and regulations.

##### *Description of Tax Planning Services*

- 380.5 A1 Tax planning services are advisory services designed to assist a client, whether an individual or an entity, in planning or structuring the client's affairs in a tax-efficient manner.
- 380.5 A2 Tax planning services cover a broad range of topics or areas. Examples of such services include:
- Advising an individual to structure their tax affairs to achieve investment, retirement or estate planning goals.
  - Advising an individual business owner on structuring their ownership and income from the business to minimise their overall taxes.
  - Advising an entity on structuring its international operations to minimise its overall taxes.
  - Advising on the structuring of transfer pricing arrangements, taking into account tax related transfer pricing guidelines.
  - Advising on the utilisation of losses in a tax-efficient manner.

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- Advising an entity on the structuring of its capital distribution strategy in a tax-efficient manner.
- Advising an entity on structuring its compensation strategy for senior executives to optimise the tax benefits.

380.5 A3 Tax planning services do not include services that are generally referred to as tax compliance or tax preparation, which are services to assist the client in fulfilling the client's filing, reporting, payment and other obligations under tax laws and regulations. However, if a tax service comprises both tax planning and tax compliance, the portion that relates to tax planning is covered by this section.

380.5 A4 This section applies regardless of the nature of the client, including whether it is a *public interest entity*.

### **Related Services**

380.6 A1 There *might* be circumstances where a *member* is engaged to provide a *related service* to a client that is based on or linked to a *tax planning arrangement* developed by the client or a third-party provider. In such circumstances, the provisions of this section apply to the underlying *tax planning arrangement*.

380.6 A2 Examples of such *related services* include:

- Assisting the client in resolving a dispute with the tax authority on the *tax planning arrangement*.
- Representing the client in administrative or court proceedings regarding the *tax planning arrangement*.
- Implementing the *tax planning arrangement* for the client.
- Advising the client on an acquisition where the valuation depends on the *tax planning arrangement* established by the target.
- Advising the client on estate planning based on a *tax planning arrangement* established for the client's business.

### **Compliance with Laws and Regulations**

380.7 A1 This section does not address tax evasion, which is illegal.

#### *Anti-avoidance Laws and Regulations*

**R380.8** Where there are laws and regulations, including those that *might* be referred to as anti-avoidance rules, that limit or prohibit certain *tax planning arrangements*, a *member* shall obtain an understanding of those laws and regulations and advise the client to comply with them when providing tax planning services.

380.8A1 If, in the course of providing tax planning services, a *member* becomes aware of tax evasion or suspected tax evasion, or other non-compliance or suspected *noncompliance with tax laws and regulations* by a client, management, *those charged with governance* or other individuals working for or under the direction of the client, the requirements and application material set out in Section 360 apply.

## Responsibilities of Management and Those Charged with Governance

- 380.9 A1 In relation to tax planning, management, with the oversight of *those charged with governance*, has a number of responsibilities, including:
- Ensuring that the client's tax affairs are conducted in accordance with the relevant tax laws and regulations.
  - Maintaining all the books and records and implementing the systems of internal control necessary to enable the client to fulfill its tax compliance obligations.
  - Making available all the facts and other relevant information needed to enable the *member* to perform the tax planning service.
  - Engaging experts to advise on relevant aspects of the *tax planning arrangement*.
  - Deciding whether to accept and implement the *member's* recommendation or advice on a *tax planning arrangement*.
  - Authorising the submission of the client's tax returns and ensuring that any matters raised by the relevant tax authorities are addressed in a timely manner.
  - Making such disclosures to the relevant tax authorities as *might* be required by tax laws and regulations or as *might* be necessary to support a tax position, including details of any *tax planning arrangements*.
  - Making appropriate disclosure of tax strategy, policies or other tax-related matters in the *financial statements* or other relevant public documents in accordance with applicable reporting requirements.
  - Ensuring that the client's *tax planning arrangements* are consistent with any publicly disclosed tax strategy or policies.

## Responsibilities of All Members

- R380.10 As part of providing a tax planning service, a *member* shall obtain an understanding of the nature of the engagement, including:**
- (a) Knowledge and understanding of the client, its owners, management and *those charged with governance*, and its business activities;**
  - (b) The purpose, facts and circumstances of the *tax planning arrangement*; and**
  - (c) The relevant tax laws and regulations.**
- 380.10 A1 The requirements and application material in Section 320 apply with respect to client and engagement acceptance.
- 380.10 A2 A *member might* be engaged to provide a second opinion on a *tax planning arrangement*. In addition to the provisions in this section, the requirements and application material in Section 321 also apply in such circumstances.
- 380.11 A1 A *member* is expected to apply professional competence and due care in accordance with Subsection 113 when providing a tax planning service. The *member* is also expected to have an inquiring mind and exercise *professional judgment* in accordance with Section 120 when considering the specific facts and circumstances relating to the tax planning service.

**Basis for Recommending or otherwise Advising on a Tax Planning Arrangement**

**R380.12** A *member* shall recommend or otherwise advise on a *tax planning arrangement* to a client only if the *member* has determined that there is a *credible basis* in laws and regulations for the arrangement.

380.12 A1 The determination of whether there is a *credible basis* involves the exercise of *professional judgment* by the *member*. This determination will vary from jurisdiction to jurisdiction based on the relevant laws and regulations at the time.

380.12 A2 If the *member* determines that the *tax planning arrangement* does not have a *credible basis* in laws and regulations, paragraph R380.12 does not preclude the *member* from explaining to the client the *member's* rationale for the determination or advising on an alternative arrangement that has a *credible basis*.

380.12 A3 Paragraph R380.12 also does not preclude the *member* from being engaged by the client, or otherwise assisting the client, to remediate or rectify a *tax planning arrangement* which lacks a *credible basis*. Such type of service is a *related service* as described in paragraphs 380.6 A1 and A2. This includes, for example:

- Assisting the client to restructure a *tax planning arrangement* to achieve a *credible basis* as part of a tax dispute resolution service.
- Agreeing with the client appropriate changes to the *tax planning arrangement* to achieve a *credible basis* as part of representing the client in administrative or court proceedings.

380.12 A4 Examples of actions that a *member might* take to determine that there is a *credible basis* in relation to a particular *tax planning arrangement* include:

- Reviewing the relevant facts and circumstances, including the economic purpose and substance of the arrangement.
- Assessing the reasonableness of any assumptions.
- Reviewing the relevant tax legislation.
- Reviewing legislative proceedings that discuss the intent of the relevant tax legislation.
- Reviewing relevant literature such as court decisions, professional or industry journals, and tax authority rulings or guidance.
- Considering whether the basis used for the proposed arrangement is an established practice that has not been challenged by the relevant tax authorities.
- Considering how likely the proposed arrangement would be accepted by the relevant tax authorities if all the relevant facts and circumstances were disclosed.
- Consulting with legal counsel or other experts within or outside the *member's firm* regarding what a reasonable interpretation of the relevant laws and regulations *might* be.
- Consulting with the relevant tax authorities, where applicable.

**R380.13** If, during the course of the engagement, the *member* becomes aware of circumstances that *might* impact the previous determination of the *credible basis*, the *member* shall re-assess the validity of that basis.

*Consideration of the Overall Tax Planning Recommendation or Advice*

**R380.14** In addition to determining that there is a *credible basis* for the *tax planning arrangement*, the *member* shall exercise *professional judgment* and consider the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the arrangement.

380.14 A1 The reputational and commercial consequences *might* relate to personal or business implications to the client or implications to the reputation of the client and the profession from a prolonged dispute with the relevant tax or other authorities. The implications to the client *might* involve adverse publicity, costs, fines or penalties, loss of management time over a significant period, and potential adverse consequences for the client's business.

380.14 A2 An awareness of the wider economic consequences *might* take into account the *member's* general understanding of the current economic environment and the impact of the *tax planning arrangement* on the tax base of the jurisdiction, or the relative impacts of the arrangement on the tax bases of multiple jurisdictions, where the client operates.

**R380.15** If, having considered the matters set out in paragraph R380.14, the *member* decides not to recommend or otherwise advise on a *tax planning arrangement* that the client would like to pursue, the *member* shall inform the client of this and explain the basis for the *member's* conclusion.

*Tax Planning Arrangements Involving Multiple Jurisdictions*

380.16 A1 There *might* be circumstances where a *member* becomes aware that a client is obtaining a tax benefit from accounting for the same transaction in more than one jurisdiction, especially if there is no tax treaty between the jurisdictions. In such circumstances, while the client *might* be in compliance with the tax laws and regulations of each jurisdiction, the *member* *might* advise the client to disclose to the relevant tax authorities the particular facts and circumstances and the tax benefits derived from the transaction in the different jurisdictions.

380.16 A2 Relevant factors the *member* *might* consider in determining whether to advise the client to make such disclosure include:

- The significance of the tax benefits in the relevant jurisdictions.
- Stakeholders' perceptions of the client if the facts and circumstances were known to the stakeholders.
- Whether there are globally or nationally accepted principles or practices regarding disclosure of similar situations to the tax authorities in the relevant jurisdictions.

**Circumstances of Uncertainty**

380.17 A1 In determining whether there is a *credible basis* for the *tax planning arrangement*, a *member* *might* encounter circumstances giving rise to uncertainty as to whether a proposed *tax planning arrangement* will be in compliance with the relevant tax laws and regulations. Such uncertainty makes it more challenging for the *member* to determine that there is a *credible basis* in laws and regulations for the *tax planning arrangement* and *might*, therefore, create *threats* to compliance with the *fundamental principles*.

380.17 A2 Circumstances that *might* give rise to uncertainty include:

- Difficulty in establishing an adequate factual basis.

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- Difficulty in establishing an adequate basis of assumptions.
- Lack of clarity in the tax laws and regulations and their interpretation, including:
  - Gaps in the tax laws and regulations.
  - Challenges to previous court rulings.
  - Conflicting tax laws and regulations in different jurisdictions in circumstances involving cross-border transactions.
  - Innovative business models not addressed by the current tax laws and regulations.
  - Recent court or tax authority rulings or positions that cast doubt on similar *tax planning arrangements*.
  - Complexity in interpreting or applying the tax laws and regulations from a technical or legal point of view.
  - Lack of a legal precedent, ruling or position.
- Lack of clarity regarding the economic purpose and substance of the *tax planning arrangement*.
- Lack of clarity about the ultimate beneficiaries of the *tax planning arrangement*.

**R380.18 Where there is uncertainty as to whether a *tax planning arrangement* is or will be in compliance with the relevant tax laws and regulations, a *member* shall discuss the uncertainty with the client.**

380.18 A1 The discussion serves a number of purposes, including:

- Explaining the *member's* assessment about how likely the relevant tax authorities are to have a view that supports the *tax planning arrangement* where there is a lack of clarity in the interpretation of the relevant tax laws and regulations.
- Considering any assumptions made when establishing the basis on which the tax planning advice is provided.
- Obtaining any additional information from the client that might reduce the uncertainty.
- Discussing any reputational, commercial or wider economic consequences in pursuing the *tax planning arrangement*.
- Discussing potential courses of action to mitigate the possibility of adverse consequences for the client, including consideration of disclosure to the relevant tax authorities.

### **Potential Threats Arising from Providing a Tax Planning Service**

380.19 A1 Providing a tax planning service to a client might create a self-interest, self-review, advocacy or intimidation threat. For example:

- A self-review threat *might* be created when a *member* has recently provided a valuation service to a client for tax purposes, the output of which is then relied upon or is a key input to a tax planning service for the client.

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- A self-interest threat *might* be created when a *member* has a *direct financial interest* in a client and the *member* is involved in designing a *tax planning arrangement* that has an impact on the client's financial situation.
- Self-interest and advocacy threats *might* be created when a *member* actively promotes a particular tax position a client should adopt.
- A self-interest threat *might* be created when a *member* is in possession of *confidential information* obtained from the *member's* involvement in formulating or drafting tax policy, laws or regulations for a government agency and the *confidential information* would be valuable to the *member* in advising other clients on their *tax planning arrangements*.
- A self-interest threat *might* be created when a *member* accepts a fee that *might* be perceived to be excessive for an engagement to develop a *tax planning arrangement* for which the interpretation of the relevant tax laws and regulations is uncertain or unclear.
- Self-interest and advocacy threats *might* be created when a *member* advocates a client's position in a *tax planning arrangement* which the *member* previously advised on before a tax authority when there are indications that the arrangement *might* not have a *credible basis* in laws and regulations.
- Self-interest and intimidation threats *might* be created when a *member* provides services to a client who exerts significant influence over the design of a particular tax arrangement, in a way that *might* influence the *member's* determination that there is a *credible basis* for the arrangement in laws and regulations.
- Self-interest and intimidation threats *might* be created when a *member* is threatened with dismissal from the engagement or the *member's firm* concerning the position a client is insisting on pursuing regarding a *tax planning arrangement*.

380.19 A2 Factors that are relevant in evaluating the level of such *threats* include:

- The degree of transparency of the client, including, where applicable, the identity of the ultimate beneficiaries.
- Whether the *tax planning arrangement* has a clear economic purpose and substance based on the underlying business transaction or circumstances.
- The nature and complexity of the underlying business transaction or circumstances.
- The complexity or clarity of the relevant tax laws and regulations.
- Whether the *member* knows, or has reason to believe, that the *tax planning arrangement* would be contrary to the intent of the relevant tax legislation.
- The number of jurisdictions involved and the nature of their tax regimes.
- The extent of the *member's* expertise and experience in the relevant tax areas.
- The significance of the potential tax savings.
- The nature and amount of the fee for the tax planning service.
- The extent to which the *member* is aware that the *tax planning arrangement* reflects an established practice that has not been challenged by the relevant tax authorities.
- Whether there is pressure being exerted by the client or another party on the *member*.

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- The degree of urgency in implementing the *tax planning arrangement*.
- Whether it is a *tax planning arrangement* used for multiple clients with little modification for the client's specific circumstances.
- The known previous behavior or reputation of the client, including its organisational culture.

380.19 A3 Examples of actions that *might* eliminate such *threats* include:

- Referring the client to an expert outside the *member's firm* who has the necessary expertise and experience to advise the client on the *tax planning arrangement*.
- Advising the client to structure the *tax planning arrangement* so that it is consistent with an existing interpretation or ruling issued by the relevant tax authorities.
- Obtaining an advance ruling from the relevant tax or other authorities, where possible.
- Advising the client not to pursue the *tax planning arrangement*.

380.19 A4 Examples of actions that *might* be *safeguards* to address such *threats* include:

- Establishing the identity of the ultimate beneficiaries.
- Advising the client to structure the *tax planning arrangement* so that it better aligns with the underlying economic purpose and substance.
- Advising the client to structure the *tax planning arrangement* based on an established practice that is currently not subject to challenge by the relevant tax authorities or is known to have been accepted by the relevant tax authorities.
- Consulting with a legal counsel or other expert within or outside the *member's firm* in the relevant tax areas.
- Obtaining an opinion from an appropriately qualified professional (such as legal counsel or another *member*) regarding the interpretation of the relevant tax laws and regulations as applied to the particular circumstances.
- Having an *appropriate reviewer*, who is not otherwise involved in providing the tax planning service, review any work performed or conclusions reached by the *member* with respect to the *tax planning arrangement*.
- Having the client provide full transparency about the *tax planning arrangement* to the relevant tax authorities, including the goals, business and legal aspects, and ultimate beneficiaries of the *tax planning arrangement*.

380.19 A5 Examples of steps a *member might* take to establish the identity of the ultimate beneficiaries include:

- Making inquiries of management and others within the client.
- Making inquiries of others within or outside the *firm* who have dealt with the client, having regard to the principle of confidentiality.
- Reviewing the client's tax records, *financial statements* and other relevant corporate records.

- Making inquiries of registrars where the client or entities within its legal structure are incorporated concerning the relevant shareholders.
- Researching relevant public records.

#### **Communication of Basis of the Tax Planning Recommendation or Advice**

**R380.20** A *member* shall explain the basis on which the *member* recommended or otherwise advised on a *tax planning arrangement* to the client.

#### **Disagreement with the Client**

**R380.21** If the *member* disagrees that a *tax planning arrangement* that a client would like to pursue has a *credible basis*, the *member* shall:

- (a) Inform the client of the basis of the *member's* assessment;
- (b) Communicate to the client the potential consequences of pursuing the arrangement; and
- (c) Advise the client not to pursue the arrangement.

**R380.22** If the client decides to pursue the *tax planning arrangement* despite the *member's* advice to the contrary, the *member* shall advise the client to:

- (a) Communicate internally to the appropriate level of management the details of the arrangement and the difference of views;
- (b) Consider making full disclosure of the arrangement to the relevant tax authorities; and
- (c) Consider communicating the details of the arrangement and the difference of views to the external auditor, if any.

380.22 A1 As part of communicating the matters set out in paragraphs R380.21 and R380.22, a *member* might consider it appropriate to raise the relevant matters with *those charged with governance* of the client.

**R380.23** In light of the client's response to the *member's* advice, the *member* shall consider whether there is a need to withdraw from the engagement and the professional relationship.

NZ320.23 A1 *Technical and professional standards* and laws and regulations might provide more prescriptive requirements where paragraph R380.23 applies.

#### **Tax Planning Products or Arrangements Developed by a Third Party**

**R380.24** If a client engages a *member* to advise on a tax planning product or arrangement developed by a third party, the *member* shall:

- (a) Inform the client of any professional or business relationship the *member* has with the third-party provider; and
- (b) Apply the provisions in this section with respect to the tax planning product or arrangement.

**R380.25** If a *member* recommends or refers a client to a third-party provider of tax planning services, the *member* shall inform the client of any professional or business relationship the *member* has with the third-party provider.

380.25 A1 Where the *member* only recommends or refers a client to a third-party provider of tax planning services, the provisions of this section do not apply.

380.25 A2 If a *member* receives a referral fee or commission from the third-party provider, the provisions in Section 330 apply.

#### Documentation

380.26 A1 When providing a tax planning service, a *member* is encouraged to document on a timely basis:

- (a) The purpose, circumstances and substance of the *tax planning arrangement*.
- (b) The identity of the ultimate beneficiaries.
- (c) The nature of any uncertainties.
- (d) The *member's* analysis, the courses of action considered, the judgments made, and the conclusions reached in advising the client on the *tax planning arrangement*.
- (e) The results of discussions with the client and other parties.
- (f) The client's response to the *member's* advice.
- (g) Any disagreement with the client.

380.26 A2 Preparing such documentation assists the *member* to:

- Consider the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the arrangement.
- Develop the *member's* analysis of the facts, circumstances, relevant tax laws and regulations and any assumptions made or changed.
- Record the basis of the *professional judgments* at the time they were made or changed.
- Support the position if the *tax planning arrangement* is challenged by the relevant tax authorities.
- Demonstrate that the *member* has complied with the provisions in this section.

NZ380.26 A3 *Member's* might also be required to prepare such documentation to comply with *technical and professional standards* and laws and regulations.

## **INTERNATIONAL INDEPENDENCE STANDARDS (NEW ZEALAND) (PARTS 4A AND 4B)**

### **PART 4A – INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS**

Refer to Part 4A of the NZAuASB's Professional and Ethical Standard 1, International Code of Ethics for Assurance Practitioners (including International Independence Standards) (New Zealand) (*PES 1*).

### **PART 4B – INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENTS**

Refer to Part 4B of the NZAuASB's Professional and Ethical Standard 1, International Code of Ethics for Assurance Practitioners (including International Independence Standards) (New Zealand) (*PES 1*).

## GLOSSARY, INCLUDING LISTS OF ABBREVIATIONS

In the *Code of Ethics*, the singular shall be construed as including the plural as well as the reverse, and the terms below have the following meanings assigned to them.

In this Glossary, explanations of defined terms are shown in regular font; italics are used for explanations of described terms which have a specific meaning in certain parts of the Code or for additional explanations of defined terms. References are also provided to terms described in the Code.

Acceptable level	A level at which a <i>member</i> using the <i>reasonable and informed third party test</i> would likely conclude that the <i>member</i> complies with the <i>fundamental principles</i> .
Advertising	The communication to the public of information as to the services or skills provided by <i>members in public practice</i> with a view to procuring professional business.
Appropriate reviewer	<p><i>An appropriate reviewer is a professional with the necessary knowledge, skills, experience and authority to review, in an objective manner, the relevant work performed or service provided. Such an individual might be a member.</i></p> <p><i>This term is described in paragraph 300.8 A4.</i></p>
Assurance client	The <i>responsible party</i> and also, in an <i>attestation engagement</i> , the party taking responsibility for the <i>subject matter information</i> (who <i>might</i> be the same as the <i>responsible party</i> ).
Assurance engagement	<p>An engagement in which a <i>member in public practice</i> aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the <i>responsible party</i> about the <i>subject matter information</i> (that is, the outcome of the measurement or evaluation of an <i>underlying subject matter</i> against <i>criteria</i>).</p> <p>(ISAE (NZ) 3000 (Revised) describes the elements and objectives of an assurance engagement conducted under that Standard and Explanatory Guide (EG) Au1 <i>Overview of Auditing and Assurance Standards</i> provides a general description of assurance engagements to which <i>International Standards on Auditing (New Zealand)</i> (ISAs (NZ)), <i>International Standards on Review Engagements (New Zealand)</i> (ISREs (NZ)) <i>New Zealand Standard on Review Engagements (NZ SRE)</i>) <i>International Standards on Assurance Engagements (New Zealand)</i> (ISAEs (NZ)), and <i>Standards on Assurance Engagements</i> (SAEs) apply.)</p> <p><i>In Part 4B, the term ‘assurance engagement’ refers to assurance engagements that are not audit or review engagements.</i></p>
[NZ] Assurance Practitioner	A person or an organisation, whether in public practice, industry, commerce or the public sector, appointed or engaged to undertake <i>assurance engagements</i> or <i>related services</i> .

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[NZ] Assurance Services	Comprise of any <i>assurance engagements</i> performed by an <i>assurance practitioner</i> .
Assurance team	<ul style="list-style-type: none"><li>(a) All <i>members</i> of the <i>engagement team</i> for the <i>assurance engagement</i>;</li><li>(b) All others within, or engaged by, the <i>firm</i> who can directly influence the outcome of the <i>assurance engagement</i>, including:<ul style="list-style-type: none"><li>(i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the <i>assurance engagement partner</i> in connection with the performance of the <i>assurance engagement</i>;</li><li>(ii) Those who provide consultation regarding technical or industry specific issues, transactions or events for the <i>assurance engagement</i>; and</li><li>(iii) Those who perform an <i>engagement quality review</i>, or a review consistent with the objective of an <i>engagement quality review</i>, for the engagement.</li></ul></li></ul>
Attestation engagement	<p>An <i>assurance engagement</i> in which a party other than the <i>member in public practice</i> measures or evaluates the <i>underlying subject matter</i> against the <i>criteria</i>. A party other than the <i>member</i> also often presents the resulting <i>subject matter information</i> in a report or statement. In some cases, however, the subject matter information <i>may</i> be presented by the <i>member</i> in the assurance report. In an attestation engagement, the <i>member's</i> conclusion addresses whether the <i>subject matter information</i> is free from material misstatement. The <i>member's</i> conclusion <i>may</i> be phrased in terms of:</p> <ul style="list-style-type: none"><li>a) The <i>underlying subject matter</i> and the applicable <i>criteria</i>;</li><li>b) The <i>subject matter information</i> and the applicable <i>criteria</i>; or</li><li>c) A statement made by the appropriate party(ies).</li></ul>
[NZ] Audit Client	<p>An entity in respect of which a <i>firm</i> conducts an <i>audit engagement</i>. When the client is a <i>FMC reporting entity considered to have a higher level of public accountability</i>, audit client will always include its <i>related entities</i>. When the audit client is not a <i>FMC reporting entity considered to have a higher level of public accountability</i>, audit client includes those <i>related entities</i> over which the client has direct or indirect control. (See also paragraph R 400.27 of PES 1)</p> <p><i>In Part 4A, the term "audit client" applies equally to "review client".</i></p> <p><i>In the case of a group audit, see the definition of group audit client</i></p>
Audit engagement	A reasonable <i>assurance engagement</i> in which a <i>member in public practice</i> expresses an opinion whether <i>financial statements</i> are prepared, in all material respects (or give a true and fair view or are presented fairly, in all material respects), in accordance with an applicable financial reporting framework, such as an engagement conducted in accordance with <i>International Standards on Auditing</i>

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(*New Zealand*). This includes a Statutory Audit, which is an audit required by legislation or other regulation.

- Audit team
- (a) All *members* of the *engagement team* for the *audit engagement*;
  - (b) All others within, or engaged by, the *firm* who can directly influence the outcome of the *audit engagement*, including:
    - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the *engagement partner* in connection with the performance of the *audit engagement*, including those at all successively senior levels above the *engagement partner* through to the individual who is the *firm's* Senior or Managing Partner (Chief Executive or equivalent);
    - (ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and
    - (iii) Those who perform an *engagement quality review*, or a review consistent with the objective of an *engagement quality review* for the engagement; and
  - (c) Any other individuals within a *network firm* who can directly influence the outcome of the *audit engagement*.

*In Part 4A, the term “audit team” applies equally to “review team”. In the case of a group audit, see the definition of group audit team.*

- Close family                      A parent, child or sibling who is not an *immediate family* member.
- Component                        *Refer to Glossary of PES 1*
- Component audit client        *Refer to Glossary of PES 1*
- Component auditor firm        *Refer to Glossary of PES 1*
- Conceptual framework         *This term is described in Section 120.*
- Confidential information       Any information, data or other material in whatever form or medium (including written, electronic, visual or oral) that is not publicly available.
- Contingent fee                   A fee calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the *firm*. A fee that is established by a court or other public authority is not a contingent fee.
- Cooling-off period               *Refer to Glossary of PES 1*
- [NZ] Credible basis              For *tax planning arrangements* that require advice or recommendations in respect to New Zealand tax laws and regulations, includes an acceptable tax position as defined in section 3 of the Tax Administration Act 1994(NZ). For *tax planning*

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*arrangements* that require advice or recommendations in respect to the tax laws and regulations of a jurisdiction other than New Zealand, is what is commonly understood and accepted as a “credible basis” in that jurisdiction.

Criteria	In an <i>assurance engagement</i> , the benchmarks used to measure or evaluate the <i>underlying subject matter</i> . The “applicable criteria” are the criteria used for the particular engagement.
Direct engagement	<i>Refer to Glossary of PES 1</i>
Direct financial interest	<i>A financial interest:</i>  (a) Owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others); or  (b) Beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control, or the ability to influence investment decisions.
Director or officer	Those charged with the governance of an entity, or acting in an equivalent capacity, regardless of their title, which <i>might</i> vary from jurisdiction to jurisdiction.
Eligible audit engagement	<i>Refer to Glossary of PES 1</i>
Eligible assurance engagement	<i>Refer to Glossary in PES 1</i>
[NZ] Employing organisation	Any organisation in which or for which a <i>member</i> works as an employee, contractor, partner, director (executive or non-executive), owner, manager or in a voluntary or honorary capacity.
Engagement partner	The partner or other person in the <i>firm</i> who is responsible for the engagement and its performance, and for the report that is issued on behalf of the <i>firm</i> , and who, where required, has the appropriate authority from a <i>professional</i> , legal or regulatory body <sup>13</sup> .
Engagement period (Audit and Review Engagements)	<i>Refer to Glossary in PES 1</i>
Engagement period (Assurance Engagements Other than Audit and Review Engagements)	<i>Refer to Glossary in PES 1</i>

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<sup>13</sup> “Engagement Partner” should be read as referring to their public sector equivalents where relevant

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Engagement quality review	An objective evaluation of the significant judgments made by the <i>engagement team</i> and the conclusions reached thereon, performed by the engagement quality reviewer and completed on or before the issue of the engagement report(s).
Engagement quality reviewer	A partner, other individual in <i>firm</i> , or an external individual, appointed by the <i>firm</i> to perform the engagement quality review.
Engagement team	<p>All partners and staff performing the engagement, and any other individuals who perform procedures on the engagement, excluding <i>external experts</i> and internal auditors who provide direct assistance on the engagement.</p> <p><i>In Part 4A, the term “engagement team” refers to individuals performing audit or review procedures on the audit or review engagement, respectively. This term is further described in paragraph 400.9.</i></p> <p><i>ISA (NZ) 220 (Revised) provides further guidance on the definition of engagement team in the context of an audit of financial statements.</i></p> <p><i>ISA (NZ) 620 defines an auditor’s expert as an individual or organisation possessing expertise in a field other than accounting or auditing, whose work in that field is used by the auditor to assist the auditor in obtaining sufficient appropriate audit evidence. ISA (NZ) 620 deals with the auditor’s responsibilities relating to the work of such experts.</i></p> <p><i>ISA (NZ) 610 (Revised 2013) deals with the auditor’s responsibilities if using the work of internal auditors, including using internal auditors to provide direct assistance on the audit engagement.</i></p> <p><i>In Part 4B, the term “engagement team” refers to individuals performing assurance procedures on the assurance engagement.</i></p>
Existing accountant	An accountant in public practice currently holding an audit appointment or carrying out accounting, tax, consulting or similar <i>professional services</i> for a client.
External expert	An individual (who is not a partner or a member of the professional staff, including temporary staff, of the <i>firm</i> or a <i>network firm</i> ) or organisation possessing skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the <i>member</i> in obtaining sufficient appropriate evidence.
Financial interest	An interest in an equity or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.
Financial statements	A structured representation of <i>historical financial information</i> , including related notes, intended to communicate an entity’s economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The term can

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relate to a complete set of financial statements, but it can also refer to a single financial statement, for example, a balance sheet, or a statement of revenues and expenses, and related explanatory notes.

*This term does not refer to specific elements, accounts or items of a financial statement.*

Financial statements on which the firm will express an opinion      In the case of a single entity, the financial statements of that entity. In the case of consolidated financial statements, also referred to as group financial statements, the consolidated financial statements.

[NZ] Firm

- (a) A sole practitioner, partnership or corporation undertaking *professional services*;
- (b) An entity that controls such parties, through ownership, management or other means; and
- (c) An entity controlled by such parties, through ownership, management or other means.

*Paragraphs 400.4 and 900.3 of PES 1 explain how the word “firm” is used to address the responsibility of members and firms for compliance with Parts 4A and 4B, respectively.*

[NZ] FMC reporting entity considered to have a higher level of public accountability      A FMC reporting entity, or class of FMC reporting entity that is considered to have a higher level of public accountability than other FMC reporting entities:

- under section 461K of the Financial Markets Conduct Act 2013; or
- by notice issued by the Financial Markets Authority (FMA) under section 461L(1)(a) of the Financial Markets Conduct Act 2013.

Fundamental principles      *This term is described in paragraph 110.1 A1. Each of the fundamental principles is, in turn, described in the following paragraphs:*

<i>Integrity</i>	<i>R111.1</i>
<i>Objectivity</i>	<i>R112.1</i>
<i>Professional competence and due care</i>	<i>R113.1</i>
<i>Confidentiality</i>	<i>R114.1 to R114.3</i>
<i>Professional behaviour</i>	<i>R115.1</i>

Group      *Refer to Glossary in PES 1*

Group audit      *Refer to Glossary in PES 1*

[NZ] Group audit client      *Refer to Glossary in PES 1*

Group auditor firm      *Refer to Glossary in PES 1*

Group audit team      *Refer to Glossary in PES 1*

Group engagement partner	<i>Refer to Glossary in PES 1</i>
Group financial statements	<i>Refer to Glossary in PES 1</i>
Historical financial information	Information expressed in financial terms in relation to a particular entity, derived primarily from that entity's accounting system, about economic events occurring in past time periods or about economic conditions or circumstances at points in time in the past.
Immediate family	A spouse (or equivalent) or dependent.
Independence	<p>Independence comprises:</p> <p>(a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise <i>professional judgment</i>, thereby allowing an individual to act with integrity, and exercise objectivity and professional skepticism.</p> <p>(b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a <i>reasonable and informed third party</i> would be likely to conclude that a <i>firm's</i>, or an <i>audit</i> or <i>assurance team</i> member's, integrity, objectivity or professional skepticism has been compromised.</p> <p><i>As set out in paragraphs 400.5 and 900.4, references to an individual or firm being "independent" means that the individual or firm has complied with Parts 4A and 4B, as applicable.</i></p>
Indirect financial interest	A <i>financial interest</i> beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has no control or ability to influence investment decisions.
Inducement	<p>An object, situation, or action that is used as a means to influence another individual's behaviour, but not necessarily with the intent to improperly influence that individual's behaviour.</p> <p><i>Inducements can range from minor acts of hospitality between business colleagues (for members in business), or between members and existing or prospective clients (for members in public practice), to acts that result in non-compliance with laws and regulations. An inducement can take many different forms, for example:</i></p> <ul style="list-style-type: none"><li>• <i>Gifts.</i></li><li>• <i>Hospitality.</i></li><li>• <i>Entertainment.</i></li><li>• <i>Political or charitable donations.</i></li></ul>

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- *Appeals to friendship and loyalty.*
- *Employment or other commercial opportunities.*
- *Preferential treatment, rights or privileges*

Key audit partner	The <i>engagement partner</i> , the individual responsible for the <i>engagement quality review</i> , and other audit partners, if any, on the <i>engagement team</i> who make key decisions or judgments on significant matters with respect to the audit of the <i>financial statements on which the firm will express an opinion</i> . Depending upon the circumstances and the role of the individuals on the audit, “other audit partners” <i>might</i> include, for example, <i>engagement partners</i> for certain components in a <i>group audit</i> such as significant subsidiaries or divisions.
May	<i>This term is used in the Code to denote permission to take a particular action in certain circumstances, including as an exception to a requirement. It is not used to denote possibility.</i>
[NZ] Member	<p>An individual who is a member of the New Zealand Institute of Chartered Accountants in accordance with the New Zealand Institute of Chartered Accountants Rules.</p> <p><i>In Part 1, the term “member” refers to individual members in business and to members in public practice and their firms.</i></p> <p><i>In Part 2, the term “member” refers to members in business.</i></p> <p><i>In Parts 3, 4A and 4B, the term “member” refers to members in public practice and their firms.</i></p>
[NZ] Member in business	A member working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or professional bodies, who <i>might</i> be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer.
[NZ] Member in public practice	<p>A member, irrespective of membership designation or functional classification (for example, audit, tax or consulting) in a <i>firm</i> that provides <i>professional services</i> or otherwise provides <i>professional services</i> to the public.</p> <p><i>The term “member in public practice” is also used to refer to a firm of members in public practice.</i></p>
Might	<i>This term is used in the Code to denote the possibility of a matter arising, an event occurring or a course of action being taken. The term does not ascribe any particular level of possibility or likelihood when used in conjunction with a threat, as the evaluation of the level of a threat depends on the facts and circumstances of any particular matter, event or course of action.</i>

Network	<p>A larger structure:</p> <ul style="list-style-type: none"><li>(a) That is aimed at co-operation; and</li><li>(b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality management policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.</li></ul>
Network firm	<p>A <i>firm</i> or entity that belongs to a <i>network</i>.</p> <p><i>For further information, see paragraphs 400.50 A1 to 400.54 A1.</i></p>
Non-compliance with laws and regulations (Members in Business)	<p><i>Non-compliance with laws and regulations (“non-compliance”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:</i></p> <ul style="list-style-type: none"><li>(a) <i>The member’s employing organisation;</i></li><li>(b) <i>Those charged with governance of the employing organisation;</i></li><li>(c) <i>Management of the employing organisation; or</i></li><li>(d) <i>Other individuals working for or under the direction of the employing organisation.</i></li></ul> <p><i>This term is described in paragraph 260.5 A1.</i></p>
Non-compliance with laws and regulations (Members in Public Practice)	<p><i>Non-compliance with laws and regulations (“non-compliance”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:</i></p> <ul style="list-style-type: none"><li>(a) <i>A client;</i></li><li>(b) <i>Those charged with governance of a client;</i></li><li>(c) <i>Management of a client; or</i></li><li>(d) <i>Other individuals working for or under the direction of a client.</i></li></ul> <p><i>This term is described in paragraph 360.5 A1.</i></p>
[NZ] Offer document	<p><i>Refer to Glossary in PES 1</i></p>
Office	<p>A distinct sub-group, whether organized on geographical or practice lines.</p>
Predecessor accountant	<p>An accountant in public practice who most recently held an audit appointment or carried out accounting, tax, consulting or similar <i>professional services</i> for a client, where there is no <i>existing accountant</i>.</p>
[NZ] Principal	<p>A person having a direct or indirect ownership interest in a practice entity and a governance role in that same structure in the nature of a shareholder and director of a company, a partner of a partnership, a person with the power of appointment of trustees, or a trustee in respect of a trust.</p>

Professional accountant	[Deleted]
Professional accountant in business	[Deleted]
Professional accountant in public practice	[Deleted]
Professional activity	An activity requiring accountancy or related skills undertaken by a <i>member</i> , including accounting, auditing, tax, management consulting, and financial management.
Professional body	Includes New Zealand Institute of Chartered Accountants and Chartered Accountants Australia and New Zealand.
Professional judgement	<i>Professional judgement involves the application of relevant training, professional knowledge, skill and experience commensurate with the facts and circumstances, taking into account the nature and scope of the particular professional activities, and the interests and relationships involved.</i>  <i>This term is described in paragraph 120.5 A4.</i>
Professional services	<i>Professional activities</i> performed for clients.
Proposed accountant	An accountant in public practice who is considering accepting an audit appointment or an engagement to perform accounting, tax, consulting or similar <i>professional services</i> for a prospective client (or in some cases, an existing client).
[NZ] Public interest	The collective well-being of the community and institutions the profession serves
[NZ] Public interest entity	For the purposes of Part 4A, an entity is a public interest entity when it falls within any of the following categories:  a) <i>A publicly traded entity;</i> b) An entity one of whose main functions is to take deposits from the public; c) An entity one of whose main functions is to provide insurance to the public; or d) An entity specified as such by law, regulation or professional standards to meet the purpose described in paragraph 400.10 (refer <i>PES 1</i> ).  The Code provides for the categories to be more explicitly defined or added to as described in paragraphs 400.18 A1 and 400.18 A2 (refer <i>PES 1</i> ).  Notwithstanding (a)-(d) above, an entity that meets the Tier 1 criteria in accordance with XRB A1 <sup>14</sup> and is not eligible to report in accordance with the accounting requirements of another tier is a public interest entity.

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<sup>14</sup> XRB A1, Application of the Accounting Standards Framework

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Publicly traded entity	<p>An entity that issues financial instruments that are transferrable and traded through a publicly accessible market mechanism, including through listing on a stock exchange.</p> <p><i>A listed issuer as defined by relevant securities law or regulation is an example of a publicly traded entity.</i></p>
Reasonable and informed third party	<p><i>The reasonable and informed third party test is a consideration by the member about whether the same conclusions would likely be reached by another party. Such consideration is made from the perspective of a reasonable and informed third party, who weighs all the relevant facts and circumstances that the member knows, or could reasonably be expected to know, at the time that the conclusions are made. The reasonable and informed third party does not need to be a member, but would possess the relevant knowledge and experience to understand and evaluate the appropriateness of the member's conclusions in an impartial manner.</i></p> <p><i>These terms are described in paragraph R120.5 A9.</i></p>
Reasonable and informed third party test	
Related entity	<p>An entity that has any of the following relationships with the client:</p> <ul style="list-style-type: none"><li>(a) An entity that has direct or indirect control over the client if the client is material to such entity;</li><li>(b) An entity with a <i>direct financial interest</i> in the client if that entity has significant influence over the client and the interest in the client is material to such entity;</li><li>(c) An entity over which the client has direct or indirect control;</li><li>(d) An entity in which the client, or an entity related to the client under (c) above, has a <i>direct financial interest</i> that gives it significant influence over such entity and the interest is material to the client and its related entity in (c); and</li><li>(e) An entity which is under common control with the client (a “sister entity”) if the sister entity and the client are both material to the entity that controls both the client and sister entity.</li></ul>
[NZ] Related services	<p>For the purposes of section 380, this term is described in paragraph 380.6A1.</p> <p>Otherwise, services to perform agreed upon procedures or other non-assurance work that <i>may</i> ordinarily be carried out by an <i>assurance practitioner</i> as prescribed by the External Reporting Board or the New Zealand Auditing and Assurance Board.</p>
Responsible party	<p>In an <i>assurance engagement</i>, the party responsible for the <i>underlying subject matter</i>.</p>
Review client	<p>An entity in respect of which a <i>firm</i> conducts a <i>review engagement</i>.</p>

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Review engagement	<p>An <i>assurance engagement</i>, conducted in accordance with <i>International Standards on Review Engagements (New Zealand) 2400</i> or <i>New Zealand Standard on Review Engagements 2410</i> or equivalent, in which a <i>member in public practice</i> expresses a conclusion on whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the <i>member's</i> attention that causes the <i>member</i> to believe that the <i>financial statements</i> are not prepared, in all material respects, in accordance with an applicable financial reporting framework.</p>
Review team	<ul style="list-style-type: none"><li>(a) All <i>members</i> of the <i>engagement team</i> for the <i>review engagement</i>; and</li><li>(b) All others within, or engaged by, the <i>firm</i> who can directly influence the outcome of the <i>review engagement</i>, including:<ul style="list-style-type: none"><li>(i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the <i>engagement partner</i> in connection with the performance of the <i>review engagement</i>, including those at all successively senior levels above the <i>engagement partner</i> through to the individual who is the <i>firm's</i> Senior or Managing Partner (Chief Executive or equivalent);</li><li>(ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and</li><li>(iii) Those who perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the engagement; and</li></ul></li><li>(c) Any other individuals within a <i>network firm</i> who can directly influence the outcome of the <i>review engagement</i>.</li></ul>
Safeguards	<p><i>Safeguards are actions, individually or in combination, that the member takes that effectively reduce threats to compliance with the fundamental principles to an acceptable level.</i></p> <p><i>This term is described in paragraph 120.10 A2.</i></p>
[NZ] Senior member in business	<p><i>Senior members in business are directors, officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the employing organisation's human, financial, technological, physical and intangible resources.</i></p> <p><i>This term is described in paragraph 260.11 A1.</i></p>
Substantial harm	<p><i>This term is described in paragraphs 260.5 A3 and 360.5 A3.</i></p>
Special purpose financial statements	<p><i>Financial statements</i> prepared in accordance with a financial reporting framework designed to meet the financial information needs of specified users.</p>

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Subject matter information	The outcome of the measurement or evaluation of the <i>underlying subject matter</i> against the <i>criteria</i> , i.e., the information that results from applying the <i>criteria</i> to the <i>underlying subject matter</i> .										
[NZ] Tax planning arrangement	Any arrangement that is the result of, or otherwise the subject of tax planning activities or tax planning services.										
[NZ] Technical and professional standards	The standards issued by the New Zealand Institute of Chartered Accountants, the External Reporting Board, the New Zealand Auditing and Assurance Standards Board, the New Zealand Accounting Standards Board and any other standards or authoritative guidance applicable to the task or engagement.										
Those charged with governance	The person(s) or organisation(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process. For some entities in some jurisdictions, those charged with governance <i>might</i> include management personnel, for example, executive <i>members</i> of a governance board of a private or public sector entity, or an owner-manager.										
Threats	<p><i>This term is described in paragraph 120.6 A3 and includes the following categories:</i></p> <table><tr><td><i>Self interest</i></td><td><i>120.6 A3(a)</i></td></tr><tr><td><i>Self-review</i></td><td><i>120.6 A3(b)</i></td></tr><tr><td><i>Advocacy</i></td><td><i>120.6 A3(c)</i></td></tr><tr><td><i>Familiarity</i></td><td><i>120.6 A3(d)</i></td></tr><tr><td><i>Intimidation</i></td><td><i>120.6 A3(e)</i></td></tr></table>	<i>Self interest</i>	<i>120.6 A3(a)</i>	<i>Self-review</i>	<i>120.6 A3(b)</i>	<i>Advocacy</i>	<i>120.6 A3(c)</i>	<i>Familiarity</i>	<i>120.6 A3(d)</i>	<i>Intimidation</i>	<i>120.6 A3(e)</i>
<i>Self interest</i>	<i>120.6 A3(a)</i>										
<i>Self-review</i>	<i>120.6 A3(b)</i>										
<i>Advocacy</i>	<i>120.6 A3(c)</i>										
<i>Familiarity</i>	<i>120.6 A3(d)</i>										
<i>Intimidation</i>	<i>120.6 A3(e)</i>										
Time-on period	<i>Refer to Glossary in PES 1</i>										
Underlying subject matter	<i>The phenomenon that is measured or evaluated by applying criteria</i>										

## **EFFECTIVE DATE**

- The revised Code will be effective as of 1 July 2025.

## **WITHDRAWAL OF EXTANT CODE**

- This Code of Ethics supersedes the extant Code of Ethics (effective 15 December 2024).

## CONFORMITY WITH INTERNATIONAL PRONOUNCEMENTS

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This conformity statement accompanies but is not part of this *Code of Ethics*; it is given for information purposes only.

The *Code of Ethics* is based on the Final Pronouncement *International Code of Ethics for Professional Accountants (including International Independence Standards)* issued by the International Ethics Standards Board for Accountants (IESBA) in April 2018. It also includes the Final Pronouncement *Revisions to the Code Pertaining to the Offering and Accepting of Inducements* issued by IESBA in July 2018 (IESBA Code), the Final Pronouncement *Revisions to Part 4B of the Code to Reflect Terms and Concepts Used in International Standard on Assurance Engagements 3000 (Revised)*, published by IFAC in January 2020, the Final Pronouncement *Revisions to the Code to Promote the Role and Mindset Expected of Professional Accountants*, published by IFAC in October 2020, the Final Pronouncement *Revisions to the Code Addressing the Objectivity of an Engagement Quality Reviewer and Other Appropriate Reviewers*, published by IFAC in January 2021, the Final Pronouncement *Revisions to the Non-Assurance Services Provisions of the Code*, published by IFAC in April 2021, the Final Pronouncement *Revisions to the Fee-related Provisions of the Code*, published by IFAC in April 2021, the Final Pronouncement *Quality Management-related Conforming Amendments to the Code*, published by IFAC in April 2022, the Final Pronouncement *Revisions to the Definitions of Listed Entity and Public Interest Entity*, published by IFAC in April 2022, the Final Pronouncement *Revisions to the Code Relating to the Definition of Engagement Team and Group Audits*, published by IFAC in February 2023, the Final Pronouncement *Technology-related Provisions of the Code*, published by IFAC in April 2023, and the Final Pronouncement *Revisions to the Code Addressing Tax Planning and Related Services*, published by IFAC in April 2024.

The principles and requirements of this *Code of Ethics* and the IESBA Code are consistent except for the following:

- The addition of New Zealand Notice of Legal Status, Preface and Scope and Application sections in this *Code of Ethics*;
- The addition of paragraphs and definitions prefixed as NZ in this *Code of Ethics*;
- Requirement paragraphs in this *Code of Ethics* are in **bold-type** font
- This *Code of Ethics* generally refers to *members* whereas the IESBA Code refers to professional accountants;
- The additional definitions in this *Code of Ethics* are of *assurance practitioner, assurance services, credible basis, employing organisation, FMC reporting entity considered to have a higher level of public accountability, professional body, principal, public interest, related services, tax planning arrangement* and *technical and professional standards*. Inclusion of this later definition has resulted in consequential amendments *NZ100.2, NZ110.1 A1, NZ R113.1, NZ 220.10 A1, NZ270.3 A3, NZ330.3 A1* and *NZ330.3 A2*;
- This *Code of Ethics* tailors the following IESBA defined terms to the New Zealand environment: *audit client, firm* and *public interest entity*;
- Paragraph *NZ100.5 A1NZ110\_6A1* clarifies that the meaning of the letter “R” applies to the New Zealand scope and application.
- Paragraphs *NZ R100.9 - NZ R100.10* establish a duty for *members* to report unethical behaviour of other *members* or themselves to the most senior executive of the New Zealand Institute of Chartered Accountants;
- Paragraphs *NZ R100.11 - NZ100.13 A1* establish a responsibility for *members* over the conduct of non-member partners or directors, and others under the supervision of the member;

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- The principle of timeliness in paragraph 113.1 A4 is extended in NZ113.1 A4.1 to *members'* obligation to respond to the New Zealand Institute of Chartered Accountants;
- Paragraph NZ R114.3 in this Code of Ethics clarifies that the exceptions to complying with paragraph R114.2 extend to situations described in paragraph R114.2(d).
- Paragraph NZ114.3 A1.1 recommends that *members* obtain legal advice if considering disclosing *confidential information*.
- Paragraph NZ R114.4 in this Code of Ethics clarifies that the prohibition extends to situations described in paragraph R114.2(d).
- Paragraph NZ R115.3 requires a *member* to act with courtesy and consideration.
- Paragraph NZ120.17 A1 outlines firm culture guidance material for non-assurance engagements;
- Paragraphs NZ R120.18 – NZ R120.19 outline *independence* requirements for non-assurance engagements;
- Paragraphs NZ210.8 A1, NZ210.8 A4 and NZ310.14 A1 encourage *members* to document matters relating to conflicts of interest;
- Paragraphs NZ R310.9.1 - NZ R310.9.2 require the *member in public practice* to disclose, in writing, the nature of the conflict of interest and the related *safeguards* applied to reduce it to an *acceptable level*, to all clients or potential clients affected by the conflict. It also requires the *member in public practice* to obtain, in writing, the clients consent to perform the *professional services* when *safeguards* are applied. The IESBA Code states that disclosure is generally necessary;
- Paragraph NZ R310.12.1 requires a *member in public practice* to disengage from the relevant engagement if adequate disclosure to the client of a conflict of interest is restricted as a result of confidentiality requirements. The IESBA Code allows the engagement to proceed in limited circumstances;
- As a consequence of the inclusion of paragraphs NZ R310.9.1 - NZ R310.9.2 and NZ R310.12.1 in this Code of Ethics, IESBA paragraphs 310.9 A3, 310.9 A4, R310.12 - R310.13 and the third bullet point of paragraph 310.9 A2 have been deleted from this *Code of Ethics*;
- Paragraph NZ R320.5 clarifies that client permission is required before initiating discussions with *existing accountant* or *predecessor accountant*
- Paragraphs NZ R320.7.1 - NZ R320.7.2 provide additional requirements for *existing accountants* regarding enquiries from *proposed accountants* and transfer of records;
- Paragraph NZ R330.4.1: prohibits *members* from entering into a *contingent fee* arrangement or receiving a *contingent fee* where they are prohibited by *technical and professional standards* or laws and regulations;
- Paragraph NZ R330.5.1: requires certain information to be disclosed to clients in respect to the receipt or payment of referral fees, commissions or similar benefits
- Paragraphs NZ R330.5.2 - NZ330.5.2 A1 provide that *assurance practitioners* shall not accept an engagement if the practitioner receives a referral fee or commission;
- Paragraphs R360.10 - 360.28 A1 are cross-referenced to *PES 1* as issued by the NZAuASB. Refer to *PES 1* to see how these paragraphs differ to the IESBA Code;
- Paragraphs NZ R360.29 and NZ R360.31 - NZ R360.33 have been tailored to the NZ environment to be consistent with *PES 1* as issued by the NZAuASB;
- Paragraph NZ380.23 A1 reminds a *member* that more prescriptive actions *might* be included in *technical or professional standards* or laws and regulations.
- Paragraph NZ380.26 A3 reminds a *member* that the documentation described in paragraph 380.26 A1 *might* be required to comply with *technical or professional standards* or laws and regulations.
- Parts 4A and 4B are cross-referenced to *PES 1* as issued by the NZAuASB. Refer to *PES 1* issued by the NZAuASB to see how Parts 4A and 4B differ to the IESBA Code; and

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- As a result of these cross-references to *PES 1*, this *Code of Ethics* excludes the IESBA definitions of audit; audit report; component; component audit client; component auditor firm; cooling-off period; eligible audit engagement; direct engagement; eligible assurance engagement; engagement period (audit and review engagements); engagement period (assurance engagements other than audit and review engagements); group; group audit; group audit client; group audit firm; group audit team; group engagement partner; group financial statements; time-on period.

## CONFORMITY WITH NATIONAL PRONOUNCEMENTS

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This conformity statement accompanies but is not part of this *Code of Ethics*; it is given for information purposes only.

This is a comparison between Professional and Ethical Standard 1, *International Code of Ethics for Assurance Practitioners (including International Independence Standards) (New Zealand) (PES 1)* issued by the New Zealand Auditing and Assurance Standards Board (NZAuASB) and this *Code of Ethics*. This *Code of Ethics* has a broader scope but has the same requirements where the codes overlap.

An overview of the key differences between *PES 1* and this *Code of Ethics* are as follows:

- The addition of a New Zealand Notice of Legal Status in this *Code of Ethics*.
- The addition of different Preface and Scope and Application sections.
- Requirement paragraphs in this *Code of Ethics* are in **bold-type** font
- The term “member” in this *Code of Ethics* has been amended to “*assurance practitioner*” in *PES 1*;
- References to certain terms such as “*professional services*” in this *Code of Ethics* have been amended to terms such as “*assurance services*” in *PES 1* to reflect *PES 1*’s narrower scope, as appropriate;
- *Part 2* relating to *members in business* in this *Code of Ethics* has been renamed “assurance practitioners performing professional activities pursuant to their relationship with the firm” in *PES 1*. Consequential amendments have also been made to paragraph 300.5 A1 in *PES 1*;
- This *Code of Ethics* includes a definition of “*technical and professional standards*” and resulting consequential amendments *NZ100.2*, *NZ110.1 A1*, *NZ R113.1*, *NZ 220.10 A1*, *NZ270.3 A3*, *NZ330.3 A1* and *NZ330.3 A2*. *PES 1* replaces references to this term with the words “standards issued by the External Reporting Board, the New Zealand Auditing and Assurance Standards Board and the New Zealand Accounting Standards Board” to reflect its narrower scope. This *Code of Ethics* also includes an additional definitions of *credible basis*, *employing organization*, *principal*, *professional body*, *related services* and *tax planning arrangement*;
- This *Code of Ethics* tailors the IESBA definition of *firm*. *PES 1* does not include this tailoring;
- Paragraph *NZ100.5 A1* in this *Code of Ethics* clarifies that the meaning of the letter “R” applies to the New Zealand scope and application;
- Paragraphs *NZ R100.9–NZ R100.10* in this *Code of Ethics* establish a duty for *members* to report unethical behaviour of other *members* or themselves to the most senior executive of the New Zealand Institute of Chartered Accountants;
- Paragraphs *NZ R100.11–NZ100.13 A1* in this *Code of Ethics* establish a responsibility for *members* over the conduct of non-member partners or directors, and others under the supervision of the *member*;
- The principle of timeliness in paragraph *113.1 A4* in this *Code of Ethics* is extended in *NZ113.1 A4.1* to *members*’ obligation to respond to the New Zealand Institute of Chartered Accountants;
- Paragraph *NZ R114.3* in this *Code of Ethics* clarifies that the exceptions to complying with paragraph *R114.2* extend to situations described in paragraph *R114.2(d)*;
- Paragraph *NZ R114.4* in this *Code of Ethics* clarifies that the prohibition extends to situations described in paragraph *R114.2(d)*.
- Paragraph *NZ R115.3* in this *Code of Ethics* requires a *member* to act with courtesy and consideration;

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- Paragraph *NZ120.17 A1* in this *Code of Ethics* outlines firm culture guidance material for non-assurance engagements;
- Paragraphs *NZ R120.18 – NZ R120.19* in this *Code of Ethics* outline *independence* requirements for non-assurance engagements;
- Paragraphs *NZ210.8 A1*, *NZ210.8 A4* and *NZ310.14 A1* in this *Code of Ethics* encourage *members* to document matters relating to conflicts of interest;
- Sections *280* and *380* of this *Code of Ethics* are not included in *PES 1* as the topic covered is not within the NZAuASB's standard setting mandate.
- The third bullet point of paragraph *310.9 A2* has also been deleted from this *Code of Ethics*.
- Paragraph *NZ R320.5* in this *Code of Ethics* clarifies that client permission is required before initiating discussions with *existing accountant* or *predecessor accountant*. *PES 1* retains IESBA paragraph *320.5 A1*;
- Paragraphs *NZ R320.7.1–NZ R320.7.2* in this *Code of Ethics* provide additional requirements for *existing accountants* regarding enquiries from *proposed accountants* and transfer of records;
- Section *321 Second Opinions*, dealing with situations where a *member in public practice* provides a second opinion on the application of accounting principles has been excluded from *PES 1*;
- Paragraph *NZ R330.4.1* in this *Code of Ethics* prohibits *members* entering into a *contingent fee* arrangement or receiving a *contingent fee* where they are prohibited by *technical and professional standards* or laws and regulations;
- Paragraph *NZ R 330.5.1* in this *Code of Ethics* requires certain information to be disclosed to clients in respect to the receipt or payment of referral fees, commissions or similar benefits;
- Paragraphs *NZ R330.5.2 - NZ330.5.2 A1* in this *Code of Ethics* are labelled *NZ R330.5.1 - NZ330.5.1 A1* in *PES 1*; and
- As Paragraphs *NZ R360.10 - 360.28 A1* and Parts 4A and 4B are cross-referenced in this *Code of Ethics* to *PES 1*, this *Code of Ethics* excludes the definitions of audit; audit report; component; component audit client; component auditor firm; cooling-off period; direct engagement; eligible audit engagement; eligible assurance engagement; engagement period (audit and review engagements); engagement period (assurance engagements other than audit and review engagements); group; group audit client; group audit; group audit firm; group audit team; group engagement partner; group financial statements; [NZ] offer document; and time-on period.

## CONFORMITY WITH AUSTRALIAN PRONOUNCEMENTS

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This conformity statement accompanies but is not part of this *Code of Ethics*; it is given for information purposes only.

This is a comparison between *APES 110 Code of Ethics for Professional Accountants (including Independence Standards)* (APES110) issued by the Accounting Professional and Ethical Standards Board (APESB) and this *Code of Ethics*.

An overview of the key differences between APES110 and this *Code of Ethics* are as follows:

- The addition of a New Zealand Notice of Legal Status and Preface in this *Code of Ethics*.
- The addition of different Scope and Application sections, in this *Code of Ethics* and APES 110, as applicable.
- The addition of paragraphs and definitions prefixed as NZ or AUST, as applicable.
- The additional definitions in this *Code of Ethics* are of *assurance practitioner, assurance services, credible basis, employing organisation, FMC reporting entity considered to have a higher level of public accountability, principal, professional body, public interest, related services, tax planning arrangement* and *technical and professional standards*. Inclusion of this later definition has resulted in consequential amendments *NZ100.2, NZ110.1 A1, NZ R113.1, NZ 220.10 A1, NZ270.3 A3, NZ330.3 A1, and NZ330.3 A2*.
- The additional definitions in APES 110 are of AASB, administration; AuASB, auditing and assurance standards, Australian accounting standards; professional bodies, professional standards.
- This *Code of Ethics* tailors the following IESBA defined terms to the New Zealand environment: *assurance team, audit client, firm* and *public interest entity*.
- APES110 tailors the following IESBA defined terms to the Australian environment: engagement team.
- Paragraph *NZ100.5 A1* in this *Code of Ethics* clarifies that the meaning of the letter “R” applies to the New Zealand scope and application section.
- Paragraphs *NZ R100.9 - NZ R100.10* in this *Code of Ethics* establish a duty for *members* to report unethical behaviour of other *members* or themselves to the most senior executive of the New Zealand Institute of Chartered Accountants.
- Paragraphs *NZ R100.11 - NZ100.13 A1* in this *Code of Ethics* establish a responsibility for *members* in relation to the conduct of non- member partners or directors, and others under the supervision of the *member*.
- In this *Code of Ethics*, the principle of timeliness in paragraph *113.1 A4* is extended in *NZ113.1 A4.1* to *members’* obligation to respond to the New Zealand Institute of Chartered Accountants.
- APES 110 clarifies the conditions when information subject to *R114.2* can be disclosed by amending paragraph *R114.3* to include the words “or information in respect of which the duty of confidentiality applies” (and become an AUST paragraph). This *Code of Ethics* provides this same clarification but by adding the words “or other information described in paragraph *R114.2(d)*” to paragraph *NZ R114.3*.
- Paragraph *NZ R114.4* in this *Code of Ethics* clarifies that the prohibition extends to situations described in paragraph *R114.2(d)*.

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- Paragraph *NZ R115.3* of this *Code of Ethics* requires a *member* to behave professionally at all times.
- Paragraph *NZ120.17 A1* in this *Code of Ethics* outlines firm culture guidance material for non-assurance engagements.
- Paragraphs *NZ R120.18 - NZ R120.19* in this *Code of Ethics* outline *independence* requirements for non-assurance engagements. There are no corresponding provisions in APES110.
- APES 110 makes footnote reference to applicable Australian standards and legislation at paragraphs 120.12 A2, 200.5 A3, 260.9 A1, R280.12, 350.2, R360.6, 360.21 A1 360.25 A3, 380.3 and R380.12.
- Paragraphs *NZ210.8 A1*, *NZ210.8 A4* and *NZ310.14 A1* in this *Code of Ethics* encourage *members* to document matters relating to conflicts of interest;
- Paragraph AUST R220.9.1 in APES 110 requires certain actions where a member is not satisfied that *financial statements* are presented in accordance with applicable Australian accounting standards. An equivalent NZ paragraph has not been included in this *Code of Ethics* because the paragraph's intent is adequately covered by other revised IESBA paragraphs in section 220.
- Paragraphs *NZ R310.9.1 - NZ R310.9.2* in this *Code of Ethics* require a *member in public practice* to disclose, in writing, the nature of the conflict of interest and the related *safeguards* applied to reduce it to an *acceptable level*, to all clients or potential clients affected by the conflict. It also requires the *member in public practice* to obtain, in writing, the client's consent to perform the *professional services* when *safeguards* are applied. These paragraphs are consistent with *PES 1*.
- Paragraph *NZ R310.12.1* in this *Code of Ethics* requires a *member in public practice* to disengage from the relevant engagement if adequate disclosure to the client of a conflict of interest is restricted as a result of confidentiality requirements. This paragraph is consistent with *PES 1*.
- As a consequence of the inclusion of paragraphs *NZ R310.9.1 - NZ R310.9.2* and *NZ R310.12.1* in this *Code of Ethics*, IESBA paragraphs 310.9 A3, 310.9 A4 and R310.12 - R310.13 and the third bullet point of paragraph 310.9 A2 have been deleted from this *Code of Ethics*. These paragraphs have been retained in APES 110.
- Paragraph AUST 320.2.1 in APES110 states that the requirements of section 320 also apply where a *member in public practice* is replacing or being replaced by an accountant who is not a member. In this *Code of Ethics*, this issue is addressed by reference to accountant rather than member in the definition of the *existing accountant*, *proposed accountant* and *predecessor accountant*.
- Paragraph *NZ R320.5* in this *Code of Ethics* clarifies that client permission is required before initiating discussions with the *existing accountant* or *predecessor accountant*. APES 110 retains IESBA paragraph 320.5 A1
- Paragraphs *NZ R320.7.1-NZ R320.7.2* in this *Code of Ethics* provide additional guidance for *existing accountants* regarding enquiries from *proposed accountants* and transfer of records.
- Paragraph *325.8 A4* has been omitted from APES110 for reasons specific to the Australian environment. The paragraph's inclusion in this standard is consistent with *PES 1*.
- Paragraphs *NZ R330.5.1 - NZ R330.5.2 A1* in this *Code of Ethics* deal with both the payment and receipt of referral fees, commissions and similar payments whereas the equivalent provisions in APES110 deal only with receipts.
- Paragraphs *300.8 A2*, *310.8 A3*, and *320.3 A3* of APES 110 retain references to "engagement team" rather than updated references to "team".
- Paragraphs R360.10 - 360.28 A1 in this *Code of Ethics* are cross-referenced to *PES 1*. Refer to *PES 1* to see how these paragraphs differ to the IESBA Code and APES110.
- Paragraphs *NZ R360.29* and *NZ R360.31 - NZ R360.33* have been tailored to the NZ environment to be consistent with *PES 1*.

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- Paragraphs AUST R280.12A1.1 and R380.12A1.1 of APES 110 describe “credible basis” in the Australian context. This concept is defined in this *Code of Ethics*.
- Paragraphs AUST R280.23 and AUST R380.26 require compliance with documentation requirements of APESB’s taxation services standard.
- Paragraph *NZ380.23 A1* in this *Code of Ethics* reminds a *member* that more prescriptive actions *might* be included in *technical or professional standards* or laws and regulations.
- Paragraph *NZ380.26 A3* in this *Code of Ethics* reminds a *member* that the documentation described in paragraph *380.26 A1* *might* be required to comply with *technical or professional standards* or laws and regulations.
- Parts 4A and 4B in this *Code of Ethics* are cross-referenced to *PES 1*. Refer to *PES 1* to see how Parts 4A and 4B differ to the IESBA Code and APES110.
- As a result of these cross-references to *PES 1* in this *Code of Ethics*, this *Code of Ethics* excludes the IESBA definitions of audit; audit report; component; component audit client; component auditor firm; cooling-off period; direct engagement; eligible audit engagement; eligible assurance engagement; engagement period (audit and review engagements); engagement period (assurance engagements other than audit and review engagements); group; group audit; group audit client; group audit firm; group audit team; group engagement partner; group financial statements; and time-on period. These definitions remain in APES110.