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Exposure Draft

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Response Due Date  
8 November 2017

*Exposure Draft*

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**Proposed Revisions to the Code  
Pertaining to the Offering and Accepting of  
Inducements**



Hong Kong Institute of  
**Certified Public Accountants**  
香港會計師公會

## Exposure Draft

September 2017

*Comments due: December 8, 2017*

*International Ethics Standards Board  
for Accountants®*

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

**IESBA**

International  
Ethics Standards  
Board for Accountants®



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Ethics Standards  
Board for Accountants®

This Exposure Draft was developed and approved by the International Ethics Standards Board for Accountants® (IESBA®).

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

The structures and processes that support the operations of the IESBA are facilitated by the International Federation of Accountants® (IFAC®).

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## REQUEST FOR COMMENTS

The proposals in this Exposure Draft may be modified in light of comments received before being issued in final form. Comments are requested by **December 8, 2017**.

Respondents are asked to submit their comments electronically through the IESBA website, using the "[Submit a Comment](#)" link. Please submit comments in both PDF and Word files. Also, please note that first-time users must register to use this feature. All comments will be considered a matter of public record and will ultimately be posted on the website. Although the IESBA prefers that comments are submitted via its website, comments can also be sent to Ken Siong, IESBA Technical Director at [KenSiong@ethicsboard.org](mailto:KenSiong@ethicsboard.org).

This publication may be downloaded from the IESBA website: [www.ethicsboard.org](http://www.ethicsboard.org) . The approved text is published in the English language.

# PROPOSED REVISIONS TO THE CODE PERTAINING TO THE OFFERING AND ACCEPTING OF INDUCEMENTS

## CONTENTS

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	Page
EXPLANATORY MEMORANDUM .....	5
I. Introduction .....	5
II. Background .....	5
III. Significant Matters.....	7
IV. Analysis of Overall Impact of the Proposed Changes .....	12
V. Project Timetable and Effective Date.....	13
VI. Guide for Respondents .....	13
EXPOSURE DRAFT: Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements.....	15
Part 2 – Professional Accountants in Business.....	15
Part 3 – Professional Accountants in Public Practice.....	19
Part 4A – Independence for Audits and Reviews.....	23
Part 4B – Independence for Other Assurance Engagements .....	24

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# EXPLANATORY MEMORANDUM

## I. Introduction

1. This memorandum provides background to, and an explanation of, the proposed revisions to the extant Code regarding:
  - The offering and accepting of inducements by professional accountants in business<sup>1</sup> (PAIBs) and professional accountants in public practice<sup>2</sup> (PAPPs); and
  - Related conforming amendments to the independence provisions relating to gifts and hospitality.<sup>3</sup>
2. The IESBA approved these proposed changes for exposure at its June 2017 meeting.
3. The revised provisions, proposed Sections 250,<sup>4</sup> 340,<sup>5</sup> 420<sup>6</sup> and 906,<sup>7</sup> were drafted using the proposed new structure and drafting conventions for the Code.<sup>8</sup>

## II. Background

### Review of Part C of the Code Project

4. In early 2013, the IESBA approved the [Review of Part C of the Code Project](#) (Part C project) to strengthen extant Part C of the Code to better promote ethical behavior by PAIBs. This followed recommendations from a working group the IESBA had established to study reported accounting irregularities at certain companies and to survey a number of IFAC member organizations regarding the types of ethical issues on which their members in business most often seek guidance and assistance.
5. The IESBA agreed to approach the review of extant Part C in two phases:
  - Phase 1, which addressed mainly the topics of pressure to breach the fundamental principles, and the preparation and presentation of information. The IESBA completed Phase 1 in December 2015 with the approval of the close-off document [Changes to Part C of the Code Addressing Preparation and Presentation of Information, and Pressure to Breach the Fundamental Principles](#) (Part C close-off document). This includes revisions to extant Section 320<sup>9</sup>, a new Section 370<sup>10</sup> and conforming amendments to other sections of Part C. Those

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<sup>1</sup> Extant Part C – Professional Accountants in Business, Section 350, *Inducements*

<sup>2</sup> Extant Part B – Professional Accountants in Public Practice, Section 260, *Gifts and Hospitality*

<sup>3</sup> Extant Part B, Section 290, *Independence – Audit and Review Engagements*, paragraph 290.225 and Section 291, *Independence – Other Assurance Engagements*, paragraph 291.155

<sup>4</sup> Proposed restructured Code, Part 2 – Professional Accountants in Business, Section 250, *Inducements, Including Gifts and Hospitality*

<sup>5</sup> Proposed restructured Code, Part 3 – Professional Accountants in Public Practice, Section 340, *Inducements, Including Gifts and Hospitality*

<sup>6</sup> Proposed restructured Code, Part 4A – Independence – Audit and Review Engagements, Section 420, *Gifts and Hospitality*

<sup>7</sup> Proposed restructured Code, Part 4B – Independence – Other Assurance Engagements, Section 906, *Gifts and Hospitality*

<sup>8</sup> The IESBA will make any necessary structural and drafting refinements to the provisions once the structure and drafting conventions have been finalized.

<sup>9</sup> Extant Part C, Section 320, *Preparation and Reporting of Information*

<sup>10</sup> Extant Part C, Section 370, *Pressure to Breach the Fundamental Principles*

revisions were drafted in accordance with the structure and drafting conventions of the extant Code.

- Phase 2 which involves a review of the provisions relating to inducements in the extant Code.

### *Phase 1*

#### Restructuring

6. As part of its project to restructure the Code for greater understandability and usability (the Structure of the Code project), the IESBA issued for exposure in January 2017, *inter alia*, the proposed restructured text for the Part C close-off document. These proposals are included in the January 2017 Exposure Draft (ED), [Improving the Structure of the Code of Ethics for Professional Accountants – Phase 2](#) (Structure ED-2). As part of the restructuring of the Code, the IESBA has renumbered Parts B and C of the extant Code to Parts 3 and 2, respectively, of the restructured Code. The proposals in Structure ED-2 also include proposed conforming amendments arising from the IESBA's Safeguards project (see ED, [Proposed Revisions Pertaining to Safeguards in the Code—Phase 2 and Related Conforming Amendments](#) (Safeguards ED-2)). The restructuring of the Code is not intended to change its meaning. The IESBA anticipates finalizing the Structure of the Code project in December 2017.
7. The IESBA has determined that the revisions relating to Phase 1 of the Part C project will become effective at the same time as the proposed restructured Code.

#### Applicability of Extant Part C to PAPPs

8. As part of its review of extant Part C, the IESBA resolved to address questions that arose during its deliberations in Phase 1 of the project about the applicability of the provisions in Part C to PAPPs, i.e., professional accountants in firms who provide professional services to clients. In January 2017, the IESBA issued the ED, [Proposed Revisions to Clarify the Applicability of Provisions in Part C of the Extant Code to Professional Accountants in Public Practice](#) (Applicability ED). The Applicability ED includes proposals to add certain “applicability paragraphs” to the Code to clarify the circumstances in which the revised Phase 1 provisions should also apply to PAPPs. The IESBA anticipates finalizing the applicability paragraphs at the same time as the proposed restructured Code in December 2017.

### *Phase 2*

9. The review of the inducement provisions in the Code commenced in early 2015 and involved:
  - A consideration of literature and guidance material from other organizations regarding the offering and accepting of different forms of inducements. This included consideration of information from Transparency International UK on bribery of government officials and corruption.
  - A “gap analysis” of extant Section 350 to identify whether and how enhancements could be made to the Code.
10. Amongst other matters, the scope of Phase 2 of the project includes a consideration of revisions to:
  - Enhance the description of an inducement in the extant Code.
  - Respond to continuing concerns about the prevalence of bribery and corruption and facilitation payments, and determine how the Code should address these matters.

- Provide additional guidance in the Code that takes into account the role of culture in determining whether the offering or accepting of an inducement creates threats to compliance with the fundamental principles.
- Consider the need for symmetry between the provisions for PAIBs in Section 350 under Part C of the extant Code and those for PAPPs in Section 260 under Part B.

### III. Significant Matters

#### Objective of Phase 2 of the Project

11. The objective of Phase 2 of the project is to strengthen the provisions in extant Part C to assist PAIBs in better dealing with the offering and accepting of inducements while complying with the fundamental principles, in particular the principles of integrity, objectivity and professional behavior.

#### Highlights of Proposals

12. The proposed revisions, amongst other matters:
  - Clarify the description of the term “inducement” and provide additional examples of inducements.
  - Emphasize professional accountants’ responsibilities to comply with relevant laws and regulations relating to bribery and corruption when offering or being offered inducements.
  - Prohibit the offering and accepting of inducements by professional accountants that are made with intent to improperly influence the behavior of the recipients.
  - Clarify how the conceptual framework set out in Section 120<sup>11</sup> should be applied to identify, evaluate and address threats to compliance with the fundamental principles created by the offering and accepting of inducements.
  - Provide additional guidance on the offering and accepting of inducements by immediate or close family members.
  - Align the provisions relating to inducements for PAPPs (Part 3 of the restructured Code) with the enhanced provisions for PAIBs (Part 2 of the restructured Code).

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

13. Professional accountants are required to comply with the fundamental principles in relation to the offering or accepting of an inducement. The proposals take the following structured and logical approach in this regard:
  - A professional accountant is required to understand and comply with relevant laws and regulations that relate to bribery and corruption when offering or being offered an inducement.
  - Where an inducement is not prohibited by laws or regulations, the professional accountant should:

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<sup>11</sup> Part 1 – Complying with the Code, Fundamental Principles and Conceptual Framework, Section 120, *The Conceptual Framework*



- (i) Determine whether there is actual or perceived intent to improperly influence the behavior of the recipient. If there is such actual or perceived intent, the Code would prohibit offering or accepting the inducement even if it is trivial and inconsequential.
  - (ii) In the absence of actual or perceived intent to improperly influence behavior and unless the inducement is trivial and inconsequential, apply the conceptual framework set out in Section 120 to identify, evaluate and address any threats to compliance with the fundamental principles that might be created.
14. To avoid repetition, the IESBA proposes to address the offering and accepting of inducements simultaneously within the provisions.

## **Key Revisions**

### *Description of Inducement*

15. The IESBA determined that the term “inducement” in the context of the Code should be broad and neutral and should not necessarily refer to situations when there is an intent to improperly influence the behavior of another person. Whilst acknowledging that the term is often used in contexts that have negative connotations, the IESBA is of the view that an inducement can also be used to influence another person to act in a manner that is not unethical.
16. In discussion with stakeholders, including the IESBA Consultative Advisory Group (CAG), during the development of the proposals, the IESBA noted a concern among some about using the word “inducements”. There was a view that the term is understood by some as having a negative connotation. The IESBA believes that this concern could be addressed by providing a description of “inducements.” Accordingly, the proposed application material clarifies that an inducement:
  - Is an object, situation or action that is used as a means to influence another individual’s behavior.
  - Is not necessarily used with the intent to improperly influence an individual’s behavior.
  - Can range from minor acts of hospitality between business colleagues to acts that result in non-compliance with laws and regulations.
17. The proposed application material also includes additional examples of inducements (see paragraphs 250.4 A1 and 340.4 A1).
18. As a practical matter, the IESBA noted that the terms “gifts” and “hospitality” are often used when searching for guidance on the topic in the Code. Accordingly, the IESBA added these terms to the proposed titles for Sections 250 and 340.

### *Bribery and Corruption*

19. Whilst illegal inducements are not the focus of these sections, the IESBA is of the view that bribery and corruption are topical issues of continuing public interest. Accordingly, the IESBA proposes that professional accountants be:
  - (a) Reminded of the importance of complying with relevant laws and regulations (see paragraphs 250.3 and 340.3); and
  - (b) Explicitly required to obtain an understanding of relevant laws and regulations that prohibit the offering or accepting of inducements related to bribery and corruption and comply with them (see paragraphs R250.5 and R340.5).

20. The proposed requirement in Sections 250 and 340 has been drafted in a sufficiently broad manner to accommodate both jurisdictional and extra-territorial legislation that may apply. The proposed requirements are also intended to cover other illegal inducements (such as facilitation payments in some jurisdictions) that are not necessarily defined as bribery and corruption but nonetheless could be prohibited by law.
21. In response to comments from some Representatives of the IESBA CAG, the IESBA deliberated the need to define bribery and corruption. The IESBA concluded that the inclusion of an “intent” test in the proposals obviates the need to define such terms. The IESBA noted that the intent test significantly raises the bar of acceptable ethical behavior by professional accountants, and more so than attempting to define bribery and corruption. For instance, the offering of any inducement that is intended to improperly influence the behavior of a professional accountant, even if not prohibited by law or regulation, would be prohibited under the proposals. The IESBA also noted that definitions of bribery and corruption may vary from jurisdiction to jurisdiction. Accordingly, establishing a definition of these terms in a global Code could create confusion in how the Code should be applied in a local setting. In forming this view, the IESBA also considered whether to include a reference to external definitions of bribery and corruption. The IESBA concluded that this option was not feasible as there does not appear to be any globally accepted definitions of these terms.

*Prohibition on Inducements with Intent to Improperly Influence Behavior*

22. The IESBA is of the view that intent is a key principle in applying the conceptual framework when dealing with inducements. Accordingly, it is necessary under proposed Sections 250 and 340 for a professional accountant to first determine if an inducement is made with actual or perceived intent to improperly influence the behavior of the recipient (improper intent). The IESBA believes that there are no safeguards that can reduce threats created by inducements with improper intent (including those that are trivial and inconsequential) to an acceptable level. The IESBA therefore proposes that both sections prohibit professional accountants from offering or accepting such inducements (see paragraphs R250.7 to R250.8 and R340.7 to R340.8).
23. Determining whether there is improper intent requires the exercise of professional judgment. To facilitate the exercise of this judgment, the IESBA proposes a list of factors for professional accountants to consider in determining whether there is actual or perceived improper intent. Since no one other than the person offering an inducement knows whether there is intent, the IESBA believes that it is also necessary for the professional accountants to objectively consider how offering or accepting the inducement might be perceived by others. The IESBA proposes that this consideration be made through the reasonable and informed third party lens.
24. The IESBA deliberated whether it is acceptable to offer or accept an inducement that is “trivial and inconsequential” if it is made with improper intent. The IESBA noted that academic research indicates that even a gift having little intrinsic value might still affect the recipient’s behavior. On this basis, the IESBA proposes that as a matter of principle no exceptions should be made in this regard.

*Identifying, Evaluating and Addressing threats Created by Inducements with No Improper Intent*

25. The proposals clarify that professional accountants are required to apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to the fundamental principles created by the offering or accepting inducements that are not:
  - Illegal;

- Made with actual or perceived improper intent; and
  - Trivial and inconsequential.
26. The proposals include:
- Examples of self-interest, familiarity and intimidation threats that might be created by offering or accepting such an inducement (see paragraphs 250.11 A1 and 340.11 A1).
  - Guidance to assist professional accountants' evaluation of the level of threats created by offering or accepting such an inducement (see paragraphs 250.11 A2 and 340.11 A2). In developing this guidance, the IESBA came to the view that the factors for determining whether there is actual or perceived improper intent behind an inducement apply equally to evaluating the level of threats created by the offering or accepting of an inducement with no improper intent.
  - Examples of actions that might be safeguards to address the related threats or that might eliminate the threats (see paragraphs 250.11 A3 to 250.11 A4 and 340.11 A3 to 340.11 A4).
27. An example of an action that might be a safeguard is 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. While this action is provided as an example, the IESBA acknowledged that it may not be appropriate in some jurisdictions to disclose a donation to the individual or organization that offered the inducement to the professional accountant.
28. Notwithstanding the above proposed guidance, the IESBA believes that threats can also be addressed if the professional accountant simply does not offer or accept the inducement. As this option is always available to the professional accountant, consistent with eliminating the circumstances creating the threats under the conceptual framework, the IESBA does not believe there is a need to explicitly state it in the Code.

#### Cultural Differences

29. The IESBA acknowledges that cultural differences can play a role in determining whether it is ethical for a professional accountant to offer or accept an inducement and has considered whether to provide further guidance in this respect. The IESBA observed that while cultures vary across jurisdictions and influence what constitutes an acceptable inducement, often the ethical considerations are the same. The IESBA believes that a principles-based approach to addressing inducements that leverages the conceptual framework provides a sufficient and comprehensive basis to dealing with ethical questions and dilemmas relating to inducements, regardless of the cultural context. Accordingly, the IESBA does not see a need for guidance to address cultural differences.
30. Additionally, the IESBA noted that the reasonable and informed third party test is relevant in evaluating the level of threats to compliance with the fundamental principles created by an inducement with no improper intent. This test by definition involves a consideration of all relevant facts and circumstances, which might include cultural differences. Nevertheless, the IESBA agreed that cultural differences cannot be used as an excuse for unethical behavior, including with respect to inducements.

#### Immediate or Close Family Members

31. Similar to the extant Code, the proposals acknowledge that inducements may be offered by or to an immediate or close family member of a professional accountant. In such cases, threats to compliance

with the fundamental principles might also be created. In deliberating the revisions to the extant Code, the IESBA determined it necessary to expand the guidance in this area.

32. The proposals require a professional accountant to remain alert to potential threats to the accountant's compliance with the fundamental principles created by inducements that are offered by or to the accountant's immediate or close family member (see paragraphs R250.12 and R340.12). Proposed Sections 250 and 340 also impose a responsibility on professional accountants to advise the immediate and close family member not to offer or accept the inducement where the accountant has reason to believe there is intent to improperly influence the behavior of either the accountant or the counterparty with whom the accountant has a business relationship (see paragraphs R250.13 and R340.13).
33. Remaining alert to potential threats to compliance with the fundamental principles created by inducements that are offered by or to an immediate or close family member means that the professional accountant cannot ignore such situations, but also does not demand comprehensive knowledge of such situations.
34. The proposals explain that the list of factors in paragraphs 250.9 A1 and 340.9 A1 for determining whether there is improper intent is also relevant to determining whether there is actual or perceived intent to improperly influence behavior of the professional accountant or the counterparty (or in the case of PAPPs, the client) when an immediate or close family member of the professional accountant is involved. In addition, the proposals include as a factor consideration of the nature or closeness of the relationships between:
  - The professional accountant and the immediate or close family member
  - The immediate or close family member and the counterparty; and
  - The accountant and the counterparty (See paragraphs 250.13 A1 and 340.13 A1).
35. The IESBA intends the term "nature or closeness" to cover not only the type of relationship (e.g. siblings and parents and children) but also the degree of connection between the two parties in the relationship. For instance, the IESBA expects that the impact of an inducement offered to a professional accountant's brother will be greater if they have a close relationship.

#### **Alignment of Inducement Provisions for PAIBs and PAPPs**

36. The IESBA determined that the proposed enhancements to the inducement provisions in extant Part C should also be applicable to PAPPs. This is because it is likely that circumstances PAPPs encounter involving inducements that might create threats to compliance with the fundamental principles would be similar to those encountered by PAIBs. Therefore, the IESBA proposes that Section 340 be aligned with proposed Section 250 to provide PAPPs with equally robust provisions and guidance.
37. In aligning proposed Section 340 with proposed Section 250, the IESBA has:
  - Tailored the terminology and examples for the PAPP context.
  - Included in the subsection titled "Other Considerations" a reference to the requirements addressing gifts and hospitality in the proposed International Independence Standards (i.e., proposed Sections 420 and 906). This reference reminds PAPPs of the additional requirement that applies in relation to the accepting of gifts and hospitality from an audit, review or other assurance client.

38. Whilst the IESBA agreed that, for the purposes of Section 340, when a PAPP offers or accepts an inducement the counterparty would generally be a client, the proposed requirements are intended to capture both existing and potential clients.

### **Restructuring Changes and Conforming Amendments to the Independence Provisions**

39. Most of the changes to the independence provisions in proposed Sections 420 and 906 relate to restructuring the material in the extant Code.<sup>12</sup> However, there is also a need for limited conforming amendments arising from the enhancements to the inducements provisions for PAPPs in proposed Section 340.
40. Whereas proposed Section 340 establishes requirements and provides guidance regarding both offering and accepting inducements (including gifts and hospitality) that are broad, the provisions in the independence sections of the Code continue to focus on the accepting of gifts or hospitality from an audit, review or other assurance client.
41. The interaction of proposed Section 340 with Sections 420 and 906 means that:
- Auditors and assurance practitioners would be prohibited from accepting gifts and hospitality from audit and assurance clients unless the value is trivial and inconsequential.
  - While Sections 420 and 906 do not prohibit auditors and assurance practitioners from accepting gifts and hospitality from audit and assurance clients that are trivial and inconsequential, they should still apply Section 340 to determine whether such gifts and hospitality can be accepted. If they determine that the trivial and inconsequential gift or hospitality is being offered with improper intent, Section 340 would prohibit them from accepting that gift or hospitality.
  - If an auditor or assurance practitioner is offering an inducement to an audit or assurance client, the auditor or assurance practitioner should apply the provisions in proposed Section 340 in determining whether it can be offered.
  - If an auditor or assurance practitioner is offered an inducement other than a gift or hospitality from an audit or assurance client, the auditor or assurance practitioner should apply the provisions in proposed Section 340 in determining whether it can be accepted. If an immediate or close family member of an auditor or assurance practitioner is offered any inducement, including a gift or hospitality, from an audit or assurance client, the auditor or assurance practitioner should apply the related provisions in proposed Section 340.
42. In deliberating the proposed conforming amendments to Sections 420 and 906, the IESBA considered whether further changes should be made to the independence provisions to more closely align them to the enhanced provisions and concepts in Section 340. The IESBA determined that a consideration of whether to undertake such a review went beyond the scope of the Part C project. Accordingly, the IESBA agreed that such a matter might be for future consideration.

## **IV. Analysis of Overall Impact of the Proposed Changes**

43. The IESBA believes that the proposals represent a significant strengthening of the extant provisions and guidance relating to the offering and accepting of inducements, and will contribute to further

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<sup>12</sup> Part B, paragraphs 290.225 and 291.155

enhancing public trust in the profession.

44. The IESBA does not anticipate significant implementation costs for professional accountants and firms beyond usual implementation and maintenance costs that firms might incur in internal awareness and training initiatives and in updating their internal policies and methodologies to reflect changes to the Code. As those revisions are being proposed during a timeframe that overlaps with the timeline for completing the restructuring of the Code, some synergies and cost efficiencies might be realized.

## V. Project Timetable and Effective Date

45. The IESBA anticipates finalizing Phase 2 of the Part C project by the first half of 2018. The IESBA has not yet reached a decision on the effective date for the revised inducements provisions in Parts 2, 3, 4A and 4B but will do so in the context of its deliberations on the effective date for the restructured Code. The IESBA will communicate its decision to stakeholders in that regard in due course.

## VI. Guide for Respondents

46. The IESBA welcomes comments on all matters addressed in this ED, but especially those identified in the Request for Specific Comments below. Comments are most helpful when they refer to specific paragraphs, include the reasons for the comments, and, where appropriate, make specific suggestions for any proposed changes to wording. When a respondent agrees with proposals in this ED, it will be helpful for the IESBA to be made aware of this view.

### Request for Specific Comments

#### *Proposed Section 250*

1. Do respondents support the proposals in Section 250? In particular, do respondents support the proposed guidance to determine whether there is an intent to improperly influence behavior, and how it is articulated in the proposals?

#### *Proposed Section 340*

2. Do respondents agree that the proposed provisions relating to inducements for PAPPs should be aligned with the enhanced provisions for PAIBs in proposed Section 250? If so, do respondents agree that the proposals in Section 340 achieve this objective?

#### *Proposed Conforming Amendments to Independence Provisions*

3. Do respondents support the restructuring changes and proposed conforming amendments in proposed Sections 420 and 906?
4. Do respondents believe the IESBA should consider a project in the future to achieve further alignment of Sections 402 and 906 with proposed Section 340? If so, please explain why.

### Request for General Comments

47. In addition to the request for specific comments above, the IESBA is also seeking comments on the matters set out below:
- *Small- and Medium-Sized Entities (SMEs) and Small and Medium Practices (SMPs)* – The IESBA invites comments regarding any aspect of the proposals from SMEs and SMPs.

## EXPLANATORY MEMORANDUM

- *Regulators and Audit Oversight Bodies* – The IESBA invites comments on the proposals from an enforcement perspective from members of the regulatory and audit oversight communities.
- *Developing Nations* – Recognizing that many developing nations have adopted or are in the process of adopting the Code, the IESBA invites respondents from these nations to comment on the proposals, and in particular on any foreseeable difficulties in applying them in their environment.
- *Translations* – Recognizing that many respondents may intend to translate the final changes for adoption in their own environments, the IESBA welcomes comment on potential translation issues respondents may note in reviewing the proposals.

# EXPOSURE DRAFT: PROPOSED REVISIONS TO THE CODE PERTAINING TO THE OFFERING AND ACCEPTING OF INDUCEMENTS

## PART 2 – PROFESSIONAL ACCOUNTANTS IN BUSINESS

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### Section 250

#### Inducements, Including Gifts and Hospitality

##### Introduction

- 250.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 250.2 The offering or accepting of inducements might create a self-interest, familiarity or intimidation threat to compliance with the fundamental principles, especially the principles of integrity, objectivity and professional behavior.
- 250.3 Section 250 sets out requirements and application material relevant to applying the conceptual framework in relation to the offering or accepting of inducements that does not constitute non-compliance with laws and regulations. This section also requires a professional accountant 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 behavior, but not necessarily with the intent to improperly influence that individual's behavior. 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 opportunities.
  - Preferential treatment.
  - Facilitation payments.

###### Inducements Prohibited by Laws and Regulations

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

**R250.7** A professional accountant shall not offer, or encourage others to offer, any inducement that is made, or which the accountant believes a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the recipient's behavior.

**R250.8** A professional accountant shall not accept, or encourage others to accept, any inducement that the accountant has reason to believe is made, or believes a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the recipient's behavior.

250.9 A1 Relevant factors to consider in determining whether there is actual or perceived intent to improperly influence behavior include:

- The nature, frequency and value of the inducement.
- Whether there is a special occasion that has given rise to the inducement, for example, whether it is customary practice in relation to a religious holiday or wedding.
- Whether the inducement is an ancillary part of a professional activity, for example, accepting lunch in connection with a business meeting.
- Whether the offer of the inducement is limited to the individual recipient or available to a broader group. The broader group might be internal or external to the employing organization, such as other customers or vendors.
- The roles and positions of the individuals offering or being offered the inducement.
- Whether the professional accountant knows, or has reason to believe, that accepting the inducement would breach the policies and procedures of the counterparty's employing organization.

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

250.10 A1 Unless an inducement is trivial and inconsequential, the requirements and application material set out in the conceptual framework apply when a professional accountant believes there is no actual or perceived intent to improperly influence behavior.

250.11 A1 The following are examples where threats might be created from offering or accepting an inducement:

(a) Self-interest threats

- A professional accountant is offered hospitality from a vendor during a procurement process.

(b) Familiarity threats

- A professional accountant regularly takes a customer or supplier to sporting events.

(c) Intimidation threats

- A professional accountant accepts hospitality that would be perceived to be inappropriate were it to be publicly disclosed.

250.11 A2 The factors that are relevant in evaluating the level of any threats created by offering or accepting an inducement are the same factors set out in paragraph 250.9 A1 for determining intent.

250.11 A3 Examples of actions that might be safeguards to address threats created by offering or accepting an inducement include:

- Registering the inducement, whether offered or accepted, in a log monitored by senior management or those charged with governance for the purposes of transparency.
- Having an appropriate individual, who is not otherwise involved in the professional activity, review any work performed or decisions made by the professional accountant with respect to the individual or organization from which the accountant 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.

250.11 A4 An example of an action that might eliminate threats created by offering or accepting an inducement is transferring responsibility for any business-related decision involving the counterparty to another individual who the professional accountant has no reason to believe would be, or would be perceived to be, improperly influenced in making the decision.

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

**R250.12** A professional accountant shall remain alert to potential threats to the accountant's compliance with the fundamental principles arising from an inducement being offered:

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

**R250.13** Where the professional accountant has reason to believe there is intent to improperly influence the behavior of the accountant or the counterparty, or believes a reasonable and informed third party would be likely to conclude such intent exists, the accountant 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 A1 are relevant in determining whether there is actual or perceived intent to improperly influence the behavior of the professional accountant or the counterparty. Another factor that is relevant is the nature or closeness of the relationship, between:

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

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

250.14 A1 Unless the inducement is trivial and inconsequential, the application material in paragraphs 250.10 A1 to 250.11 A4 is relevant for the purposes of identifying, evaluating and addressing threats where:

- (a) The immediate or close family member offers or accepts the inducement contrary to the advice of the professional accountant in accordance with R250.13; or
- (b) The accountant does not have reason to believe an actual or perceived intent to improperly influence the behavior of the accountant or the counterparty exists.

250.14 A2 Factors that are relevant in evaluating the level of threats in these circumstances include the nature or closeness of the relationships referred to in paragraph 250.13 A1.

### **Other Considerations**

250.15 A1 If a professional accountant encounters or is made aware of inducements that might result in non-compliance or suspected non-compliance with laws and regulations by other individuals working for or under the direction of the employing organization, Section 260 is also relevant.

250.15 A2 If a professional accountant faces pressure to offer or accept inducements that might create threats to compliance with the fundamental principles, Section 270 is also relevant.

250.15 A3 If a professional accountant is offered an inducement by the employing organization relating to financial interests, compensation and incentives linked to performance, Section 240 is also relevant.

## **PART 3 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE**

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### **Section 340**

#### **Inducements, Including Gifts and Hospitality**

##### **Introduction**

- 340.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 340.2 The offering or accepting of inducements might create a self-interest, familiarity or intimidation threat to compliance with the fundamental principles, especially the principles of integrity, objectivity and professional behavior.
- 340.3 Section 340 sets out requirements and application material relevant to applying the conceptual framework in relation to the offering and accepting of inducements that does not constitute non-compliance with laws and regulations. This section also requires a professional accountant 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 behavior, but not necessarily with the intent to improperly influence that individual's behavior. Inducements can range from minor acts of hospitality between professional accountants and 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 opportunities.
  - Preferential treatment.
  - Facilitation payments.

###### **Inducements Prohibited by Laws and Regulations**

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

**R340.7** A professional accountant shall not offer, or encourage others to offer, any inducement that is made, or which the accountant believes a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the recipient's behavior.

**R340.8** A professional accountant shall not accept, or encourage others to accept, any inducement that the accountant has reason to believe is made, or believes a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the recipient's behavior.

340.9 A1 Relevant factors to consider in determining whether there is actual or perceived intent to improperly influence behavior include:

- The nature, frequency and value of the inducement.
- Whether there is a special occasion that has given rise to the inducement, for example, whether it is customary practice in relation to a religious holiday or wedding.
- Whether the inducement is an ancillary part of a professional service, for example, accepting lunch in connection with a business meeting.
- Whether the offer of the inducement is limited to the 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 professional accountant knows, or has reason to believe, that accepting the inducement would breach the policies and procedures of the client.

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

340.10 A1 Unless an inducement is trivial and inconsequential, the requirements and application material set out in the conceptual framework apply when a professional accountant believes there is no actual or perceived intent to improperly influence behavior.

340.11 A1 The following are examples where threats might be created from offering or accepting an inducement:

(a) Self-interest threats

- A professional accountant is offered hospitality from a client whilst preparing the client's tax return.

(b) Familiarity threats

- A professional accountant regularly takes a client to sporting events.

(c) Intimidation threats

- A professional accountant accepts hospitality from a client that would be perceived to be inappropriate were it to be publicly disclosed.

340.11 A2 The factors that are relevant in evaluating the level of any threats created by offering or accepting an inducement are the same factors set out in paragraph 340.9 A1 for determining intent.

340.11 A3 Examples of actions that might be safeguards to address threats created by offering or accepting an inducement include:

- Registering the inducement, whether offered or accepted, in a log monitored by senior management of the firm or another individual responsible for the firm's ethics compliance for the purposes of transparency.
- Having an appropriate individual, who is not otherwise involved in providing the professional service, review any work performed or decisions made by the professional accountant with respect to the client from which the accountant 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.

340.11 A4 An example of an action that might eliminate threats created by offering or accepting an inducement is transferring responsibility for the provision of any professional services for the client to another individual who the professional accountant has no reason to believe would be, or would be perceived to be, improperly influenced when providing the services.

**Immediate or Close Family Members**

**R340.12** A professional accountant shall remain alert to potential threats to the accountant's compliance with the fundamental principles arising from an inducement being offered:

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

**R340.13** Where the professional accountant has reason to believe there is intent to improperly influence the behavior of the accountant or the accountant's client, or believes a reasonable and informed third party would be likely to conclude such intent exists, the accountant 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 A1 are relevant in determining whether there is actual or perceived intent to improperly influence the behavior of the professional accountant or the client. Another factor that is relevant is the nature or closeness of the relationship, between:

- (a) The professional accountant and the immediate or close family member;
- (b) The immediate or close family member and the client; and
- (c) The accountant and the client.

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

340.14 A1 Unless the inducement is trivial and inconsequential, the application material in paragraphs 340.10 A1 to 340.11 A4 is relevant for the purposes of identifying, evaluating and addressing threats where:

- (a) The immediate or close family member offers or accepts the inducement contrary to the advice of the professional accountant in accordance with R340.13; or
- (b) The accountant does not have reason to believe an actual or perceived intent to improperly influence the behavior of the accountant or the client exists.

340.14 A2 Factors that are relevant in evaluating the level of threats in these circumstances include the nature or closeness of the relationships referred to in paragraph 340.13 A1.

**Other Considerations**

340.15 A1 If a firm, network firm or an audit team member is being offered gifts or hospitality from an audit client, then the additional requirement set out in Section 420 applies.

340.15 A2 If a firm or an assurance team member is being offered gifts or hospitality from an assurance client, then the additional requirement set out in Section 906 applies.

340.15 A3 If a professional accountant encounters or is made aware of inducements that might result in non-compliance or suspected non-compliance with laws and regulations by a client or individuals working for the client, Section 360 is also relevant.

## **PART 4A – INDEPENDENCE FOR AUDITS AND REVIEWS**

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### **Section 420**

#### **Gifts and Hospitality**

##### **Introduction**

- 420.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to independence.
- 420.2 Accepting gifts and hospitality from an audit client might create self-interest, familiarity or intimidation threats to compliance with the fundamental principles and threats to independence.
- 420.3 Section 420 sets out a requirement relevant to applying the conceptual framework to accepting gifts and hospitality from an audit client.

##### **Requirement**

- R420.4** In addition to complying with the requirements relating to the offering or accepting of inducements set out in Section 340, a firm, network firm or audit team member shall not accept gifts and hospitality from an audit client, unless the value is trivial and inconsequential.



## **Part 4B – INDEPENDENCE FOR OTHER ASSURANCE ENGAGEMENTS**

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### **Section 906**

#### **Gifts and Hospitality**

##### **Introduction**

- 906.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to independence.
- 906.2 Accepting gifts and hospitality from an assurance client might create self-interest, familiarity or intimidation threats to compliance with the fundamental principles and threats to independence.
- 906.3 Section 906 sets out a requirement relevant to applying the conceptual framework to accepting gifts and hospitality from an assurance client.

##### **Requirement**

- R906.4** In addition to complying with the requirements relating to the offering or accepting of inducements set out in Section 340, a firm or an assurance team member shall not accept gifts and hospitality from an assurance client, unless the value is trivial and inconsequential.

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**International  
Ethics Standards  
Board for Accountants®**

529 Fifth Avenue, New York, NY 10017  
T + 1 (212) 286-9344 F +1 (212) 286-9570  
[www.ethicsboard.org](http://www.ethicsboard.org)

## CONTENTS

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IESBA Press Release

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