

Revision of Part C, Phase 2—Proposed Section 250 (Revised Extant Section 350) (Mark-up from December 2016 Discussion)

Note to Meeting Participants

The Task Force's proposals were drafted in accordance with the format and structure drafting conventions set out in the [agreed-in-principle text](#) for Phase 1 of the Structure project. They also incorporate the conclusions reached to-date with respect to the Safeguards project.

Part 2 – PROFESSIONAL ACCOUNTANTS IN BUSINESS

Section 250, Gifts, Hospitality and other Inducements

Introduction

- 250.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 250.2 A professional accountant ~~offering might offer~~ or accepting inducements ~~might that~~ create a self-interest, familiarity or intimidation threat to compliance with the principles of integrity, ~~and~~ objectivity and professional behavior or might create threats to compliance with the other fundamental principles.
- 250.3 The requirements in R250.7 apply when a professional accountant offers or accepts inducements that might constitute non-compliance with laws and regulations. Section 250 focuses on requirements and application material relevant to applying the conceptual framework in circumstances when offering or accepting gifts, hospitality and other inducements that do not constitute non-compliance with laws and regulations when an accountant offers or accepts inducements, such as bribery and corruption.
- 250.4 To the extent that the professional accountant ~~are is~~ able to do so, taking into account their position and seniority in the organization, the accountants are is encouraged to complement the guidance requirements and application material in Section 250 with more specific policies and procedures related to the offer and acceptance of inducements.

Requirements and Application Material

General

- 250.~~54~~ A1 An inducement is an object, situation, or action that is used as a means to influence another individual's behavior. Inducements can ~~appear in many different situations, ranging~~ from minor acts of hospitality between business colleagues to ~~actual~~ non-compliance with law and regulations.

Types of Inducements

- 250.~~65~~ A1 Depending on the circumstances, the offering or accepting of inducements might affect the professional accountant's ability to comply with the fundamental principles. Such ~~if~~ inducements

can ~~take appear in~~ many different forms, for example as:

- Gifts.
- Hospitality.
- Entertainment.
- Facilitation payments; ~~and~~
- Political or charitable ~~D~~donations.
- ~~An inducement can also refer to p~~referential treatment.
- ~~and inappropriate a~~ppeals to friendship and loyalty.
- Employment opportunities.

R250.76 Offering or accepting inducements might lead to non-compliance with laws and regulations. In most jurisdictions, there are legal or regulatory provisions governing bribery and corruption. The professional accountant shall obtain an understanding of ~~relevant~~these legal or regulatory provisions governing bribery and corruption and comply with them.

250.87 A1 ~~Other i~~nducements ~~that are might not be~~ defined as illegal in a certain jurisdiction, ~~but~~ might still create threats to result in a breach of compliance with the fundamental principles. For example, a payment made to a public official to obtain a service to which the individual paying would be legally entitled to without making the payment might result in a threat to compliance with the fundamental principles of integrity or professional behavior.

Application of the Conceptual Framework to Inducements

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

R250.109 A professional accountant shall evaluate~~assess~~ whether the offering or accepting of an inducement might be made, or might be perceived by a reasonable and informed third party~~others~~ to be made, with the intention of improperly unduly influencing behavior. ~~Where this involves an inducement offered to or accepted by an immediate or close family member, the accountant shall make the same assessment.~~

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

- The value, frequency and nature of the inducements. For example, inducements offered or accepted on a regular basis, especially to or from the same party, might result in the professional accountant becoming less mindful to the fact that such inducements, in totality, might create a threat.
- The occasion that has given rise to the inducements, for example, such as a religious holiday or wedding.
- Whether the ~~offer of the~~ inducement offered or accepted can be ~~directly~~ associated with a professional activity. the conduct of business.

- Whether the inducements ~~is~~are specific to an individual or available to a broader group. The broader group might be internal to the employing organization or external to the employing organization, such as other customers or vendors.
- The roles and positions of the individuals offering or accepting the inducements.
- Whether the inducement is offered or accepted in a transparent manner.
- ~~250.9. A2—A~~Whether the professional accountant is encouraged to advise immediate or close family members of relevant threats and how those threats might be addressed where they are in positions that might result in offers or accepts an inducement knowing that it would breach the policies and procedures of the counterparty's of inducements, for example, as a result of their employing organization.

R250.1140 A professional accountant shall not accept, or encourage others to accept, any ~~inducement~~gifts, hospitality or other inducements that the accountant has reason to believe is, ~~or might be perceived by a reasonable and informed third party to be,~~are being made with the intention of ~~improperly~~unduly influencing the accountant.

R250.12 ~~A professional~~Neither shall an accountant shall not offer, or encourage others to offer, any ~~inducement~~gifts, hospitality or other inducements that is, ~~or might be perceived by a reasonable and informed third party to be,~~are made with the intention of ~~improperly~~unduly influencing the recipient.

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

Identifying Threats

R250.13 ~~12—Even when t~~The professional accountant shall identify threats to compliance with the fundamental principles, even when the accountant believes that there is no actual or perceived intent ~~to unduly influence the accountant, accepting the inducement might still create a threat to compliance with the fundamental principles. Therefore, the professional accountant shall identify possible threats,~~ unless the inducement is trivial and inconsequential, both individually and in the aggregate.

250.~~1342~~ A1 Self-interest threats might be created from the offering or accepting of inducements, if the inducement can influence the professional accountant's professional judgment or behavior. For example, a professional accountant accepting hospitality from a vendor during a procurement process.~~as the inducement might be made with the ulterior intention of gaining an otherwise unavailable advantage.~~

250.~~1342~~ A2 Familiarity threats might be created if the offering or accepting of an inducement results in the relationship between the professional accountant and another individual, such as a vendor or customer, becoming too close, whether on a professional or personal level, and thus affecting the accountant's professional judgment. For example, a professional accountant regularly offering complimentary offers to attend sporting events to a customer or supplier.

250.~~1342~~ A3 Intimidation threats might be created if the offering or accepting of an inducement is followed by threats to make that offer or acceptance public and damage the reputation of either the professional accountant or an immediate or close family member. For example, Aan

immediate or close family member accepting an inducement from an individual or entity that subsequently conducts sensitive business transactions with the professional accountant.

~~250.12 A1 Paragraph 120.6 A3 describes the categories of threats. The following are example of facts and circumstances that might create threats from the offering or accepting of inducements:~~

- ~~(a) Self-interest Threats~~
- ~~Familiarity Threats~~
- ~~(b) Intimidation Threats~~

Evaluating Threats

250.134 A1 Factors that are relevant to evaluating the level of any threats created by offering or accepting an inducements are the same factors that the professional accountant would consider in evaluating whether there might exist an intent to improperly influence another individual's behavior. Accordingly the accountant should refer to the factors listed in paragraph 250.10 A1 for purposes of evaluating the level of any threats. include:

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

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

Addressing Threats

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

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

decisions made by the accountant with respect to the individual or organization from which the accountant offered or accepted ~~or offered~~ the inducements.

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

- Not being involved in ~~Recusing from making~~ any business-related decisions involving the counterparty, provided that the individual or organization, such as a customer or vendor, to whom the professional accountant is satisfied that the individual who will offered or accepted the inducements when it becomes apparent that the inducements might affect, or be making such decisions can do so in an objective manner. ~~perceived to affect, the accountant's judgement.~~
- Donating the inducements to charity after receipt and disclosing the donation, as, ~~when it is not appropriate, to refuse them.~~

R250.1645 If the level of the threat created cannot be reduced to an acceptable level, the professional accountant shall not offer or accept the inducement.

Immediate or Close Family Members

R250.17 A professional accountant shall:

- (a) Remain alert to potential threats to compliance with the fundamental principles arising from inducements being offered or accepted by the accountant's immediate or close family members to ~~or refrain~~ from a counterparty with whom the accountant has a relationship.
- (b) Discuss any such threats with the relevant immediate or close family members.
- (c) Comply with paragraphs R250.10 to R250.12 when such threats arise.

250.17 A1 Threats might arise where the inducement could improperly influence either the professional accountant or the counterparty in the course of their relationship with the accountant.

250.17 A2 In addition to the factors set out in paragraph 250.10 A1, another factor that is relevant in evaluating whether there exists an actual or perceived intent is the nature of the relationship, between each of:

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

For example the offer of employment, outside of the normal recruitment process, to an immediate or close family member by a counterparty with whom the accountant has an existing or potential business relationship might indicate intent.

R250.18 The professional accountant shall advise the immediate or close family member not to offer or accept the inducement where an actual or perceived intent exists.

R250.19 In all circumstances where the immediate or close family member offers or accepts an inducement, threats to the professional accountant's compliance with the fundamental principles might arise. Therefore, where the accountant is aware of such inducements, the

accountant shall identify possible threats unless the inducement is trivial and inconsequential, both individually and in the aggregate.

250.19 A1 Relevant factors to be considered in identifying, evaluating and addressing threats are set out in paragraphs R250.13 to 250.15 A2. These are the same factors that a professional accountant would consider if the inducement was being offered or received directly. In addition, the factor set out in paragraph 250.17 A2 is also relevant

250.19 A2 Circumstances might exist, including where the immediate or close family member does not accept the advice pursuant to R250.18, where the only action to address the threats is for the professional accountant to not be involved in any business-related decisions involving the counterparty.

Other Considerations

Relation to Other Sections in the Code

250.~~2016~~-A1 ~~When~~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 employing organization, Section 260 is also relevant.

250.~~2016~~ A2 A professional accountant might also face pressure to offer or accept inducements that might create threats, for example, intimidation threats, to compliance with the fundamental principles. In such situations, Section 270 is also relevant.

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