

Agenda Item 1-D

Inducements – Proposed Text (Mark-up from ED Version)

PART 2 – PROFESSIONAL ACCOUNTANTS IN BUSINESS

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.

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250.2 ~~The Offering~~ or accepting ~~of~~ inducements might create a self-interest, familiarity or intimidation threat to compliance with the fundamental principles, ~~especially~~particularly the principles of integrity, objectivity and professional behavior.

Commented [IESBA2]: 350.2

250.3 ~~Section 250~~This section sets out requirements and application material relevant to applying the conceptual framework in relation to the offering ~~of~~and accepting of inducements when undertaking professional activities 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.

Commented [IESBA3]: New paragraph

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:

Commented [IESBA4]: 350.1

- Gifts.
- Hospitality.
- Entertainment.
- Political or charitable donations.
- Appeals to friendship and loyalty.
- Employment or other commercial opportunities.
- Preferential treatment , rights or privileges.
- ~~Facilitation payments.~~

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 professional accountant shall obtain an understanding of relevant laws and regulations and comply with them when the accountant encounters such circumstances.

Commented [IESBA5]: New paragraph

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.

Commented [IESBA6]: New paragraph

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 believesconsiders a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the recipient's behavior of the recipient or of another individual.

Commented [IESBA7]: 350.7

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

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250.9 A1 An inducement is considered as improperly influencing an individual's behavior 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 professional accountant in considering what constitutes unethical behavior on the part of the accountant and, if necessary by analogy, other individuals.

Commented [IESBA9]: New paragraph

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

Commented [IESBA10]: New paragraph

250.9 A34 Relevant factors to consider in determiningThe determination of whether there is actual or perceived intent to improperly influence behavior requires the exercise of professional judgment. Relevant factors to consider might include:

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- The nature, frequency ~~and~~, 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 there is a special occasion that has given rise to the inducement is a customary or cultural practice in the circumstances, for example, whether it is customary practice in relation to 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 thean 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.
- The degree of transparency with which the inducement is offered.
- Whether the inducement was required or requested by the recipient.
- The known previous behavior or reputation of the offeror.

Consideration of Further Actions

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

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

Commented [IESBA13]: New paragraph

- Informing senior management or those charged with governance of the employing organization of the professional accountant or the offeror regarding the offer.
- Amending or terminating the business relationship with the offeror.

Inducements with No Intent to Improperly Influence Behavior

250.11 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 has concluded there is no actual or perceived intent to improperly influence the behavior of the recipient or of another individual.

Commented [IESBA14]: 350.1

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

Commented [IESBA15]: New paragraph

250.11 A3 The following are examples where threats might be created from Examples of circumstances where offering or accepting such an inducement might create threats even if the professional accountant has concluded there is no actual or perceived intent to improperly influence behavior include:

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- Self-interest threats
 - A professional accountant is offered hospitality from part-time employment by a vendor during a procurement process.
- Familiarity threats
 - A professional accountant regularly takes a customer or supplier to sporting events.
- Intimidation threats
 - A professional accountant accepts hospitality, that would be the nature of which could be perceived to be inappropriate were it to be publicly disclosed.

250.11 A42 The Relevant factors ~~that are relevant~~ in evaluating the level of any such threats created by offering or accepting such an inducement ~~are~~ include the same factors set out in paragraph 250.9 A34 for determining intent.

Commented [IESBA17]: New paragraph

250.11 A54 An eExamples of ~~an~~ actions that might eliminate threats created by offering or accepting such an inducement include ~~is~~:

Commented [IESBA18]: New paragraph

- o Declining or not offering the inducement.
- o ~~†~~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.

250.11 A63 Examples of actions that might be safeguards to address such threats created by offering or accepting such an inducement include:

Commented [IESBA19]: 350.4

- Being transparent with senior management or those charged with governance of the employing organization of the professional accountant or of the counterparty about offering or accepting an inducement.
- Registering the inducement, ~~whether offered or accepted,~~ in a log monitored/maintained by ~~senior management or those charged with governance for the purposes of transparency~~ the employing organization of the accountant or the counterparty.
- Having an appropriate individual reviewer, who is not otherwise involved in undertaking 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.
- 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 professional accountant shall remain alert to potential threats to the accountant's compliance with the fundamental principles ~~arising from~~ created by the offering of an inducement ~~being offered~~:

Commented [IESBA20]: New paragraph

- (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~~ 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 behavior of the accountant or of the counterparty, or ~~believes~~ considers a reasonable and informed third party would be likely to conclude such intent

Commented [IESBA21]: 350.4

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 A3~~4~~ are relevant in determining whether there is actual or perceived intent to improperly influence the behavior of the professional accountant or of the counterparty. Another factor that is relevant is the nature or closeness of the relationship, between:

Commented [IESBA22]: New paragraph

- (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.

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

Commented [IESBA23]: New paragraph

Application of the Conceptual Framework

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 the professional accountant 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:~~

Commented [IESBA24]: New paragraph

- (a) The immediate or close family member offers or accepts the inducement contrary to the advice of the professional accountant ~~in accordance with~~ pursuant to paragraph 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 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 referred to set out in paragraph 250.13 A1.

Commented [IESBA25]: New paragraph

Other Considerations

250.15 A13 If a professional accountant is offered an inducement by the employing organization relating to financial interests, compensation and incentives linked to performance, the requirements and application material set out in Section 240 is also relevant apply.

Commented [IESBA26]: New paragraph

250.15 A24 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, the requirements and application material set out in Section 260 is also relevant apply.

Commented [IESBA27]: New paragraph

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250.15 A³² If a professional accountant 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 is also relevantapply.

Commented [IESBA28]: 350.5

PART 3 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

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.

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340.2 ~~The offering or accepting of~~ inducements might create a self-interest, familiarity or intimidation threat to compliance with the fundamental principles, ~~especially~~ particularly the principles of integrity, objectivity and professional behavior.

Commented [IESBA30]: 260.1

340.3 ~~Section 340~~ 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 professional accountant to comply with relevant laws and regulations when offering or accepting inducements.

Commented [IESBA31]: New paragraph

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 ~~existing or prospective~~ clients to acts that result in non-compliance with laws and regulations. An inducement can take many different forms, for example:

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- Gifts.
- Hospitality.
- Entertainment.
- Political or charitable donations.
- Appeals to friendship and loyalty.
- Employment ~~or other commercial~~ opportunities.
- Preferential treatment, ~~rights or privileges~~.
- ~~Facilitation payments.~~

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 professional accountant shall obtain an understanding of relevant laws and regulations and comply with them when the accountant encounters such circumstances.

Commented [IESBA33]: New paragraph

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.

Commented [IESBA34]: New paragraph

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~~considers a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the ~~recipient's~~behavior of the recipient or of another individual.

Commented [IESBA35]: New paragraph

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

Commented [IESBA36]: New paragraph

340.9 A1 An inducement is considered as improperly influencing an individual's behavior 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 professional accountant in considering what constitutes unethical behavior on the part of the accountant and, if necessary by analogy, other individuals.

Commented [IESBA37]: New paragraph

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

340.9 A31 Relevant factors to consider in determining~~The determination of~~ whether there is actual or perceived intent to improperly influence behavior requires the exercise of professional judgment. Relevant factors to consider might include:

Commented [IESBA38]: New paragraph

Commented [IESBA39]: New paragraph

- The nature, frequency, ~~and~~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 there is a special occasion that has given rise to the inducement is a customary or cultural practice in the circumstances, for example, whether it is customary practice in relation to 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 ~~the~~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 professional accountant 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 behavior or reputation of the offeror.

Consideration of Further Actions

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

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

Commented [IESBA41]: New paragraph

- 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 Behavior

340.11 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 has concluded there is no actual or perceived intent to improperly influence the behavior of the recipient or of another individual.

Commented [IESBA42]: 260.2, 260.3

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

Commented [IESBA43]: New paragraph

340.11 A3 The following are examples where threats might be created from Examples of circumstances where offering or accepting such an inducement might create threats even if the professional accountant has concluded there is no actual or perceived intent to improperly influence behavior include:

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(a) Self-interest threats

- A professional accountant is offered hospitality from a client whilst preparing the client's tax return the prospective acquirer of a client while providing corporate finance services to the client.

(b) Familiarity threats

- A professional accountant regularly takes an existing or prospective client to sporting events.

(c) Intimidation threats

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

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

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340.11 A54 ~~An e~~Examples of ~~an actions~~ that might eliminate threats created by offering or accepting such an inducement include:is

Commented [IESBA46]: New paragraph

- Declining or not offering the inducement.
- ~~t~~Transferring responsibility for the provision of any professional services ~~for~~to 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.

340.11 A63 Examples of actions that might be safeguards to address such threats created by offering or accepting such an inducement include:

Commented [IESBA47]: New paragraph

- Being transparent with senior management of the firm or of the client about offering or accepting an inducement.
- 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 or maintained by the client.
- Having an appropriate individual reviewer, 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.
- 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 professional accountant shall remain alert to potential threats to the accountant's compliance with the fundamental principles arising from created by the offering of an inducement ~~being offered:~~

Commented [IESBA48]: New paragraph

- By an immediate or close family member of the accountant to an existing or prospective client of the accountant.
- To an immediate or close family member of the accountant by an existing or prospective client of the accountant.

R340.13 Where the professional accountant has reason to believe 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 behavior of the accountant or ~~the accountant's of an existing or prospective~~ client of the accountant, or ~~believes~~considers 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.

Commented [IESBA49]: New paragraph

340.13 A1 The factors set out in paragraph 340.9 A34 are relevant in determining whether there is actual or perceived intent to improperly influence the behavior of the professional accountant or of the

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existing or prospective 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 existing or prospective client; and
- (c) The accountant and the existing or prospective client.

For example, the offer of employment, outside of the normal recruitment process, to the 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.

340.13 A2 The application material in paragraph 340.10 A2 is also relevant in addressing threats that might arise when there is actual or perceived intent to improperly influence the behavior of the professional accountant, 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.

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Application of the Conceptual Framework

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 the professional accountant 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:

Commented [IESBA52]: New paragraph

- (a) The immediate or close family member offers or accepts the inducement contrary to the advice of the professional accountant in accordance with pursuant to paragraph 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 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 referred to set out in paragraph 340.13 A1.

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Other Considerations

340.15 A13 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 or under the direction of the client, the requirements and application material in Section 360 is also relevant apply.

Commented [IESBA54]: New paragraph

340.15 A24 If a firm, network firm or an audit team member is being offered gifts or hospitality from an audit client, then the additional requirement and application material set out in Section 420 applies.

Commented [IESBA55]: New paragraph

340.15 A32 If a firm or an assurance team member is being offered gifts or hospitality from an assurance client, then the additional requirement and application material set out in Section 906 applies.

Commented [IESBA56]: New paragraph

PART 4A – INDEPENDENCE FOR AUDITS AND REVIEWS

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.

Commented [IESBA57]: New paragraph

420.2 Accepting gifts and hospitality from an audit client might create a self-interest, familiarity or intimidation threats to compliance with the fundamental principles and threats to independence. This section sets out a specific requirement and application material relevant to applying the conceptual framework in such circumstances.

Commented [IESBA58]: 290.225

Commented [IESBA59]: New paragraph

420.3 Section 420 sets out a requirement relevant to applying the conceptual framework to accepting gifts and hospitality from an audit client.

Commented [IESBA60]: New paragraph

Requirement and Application Material

R420.34 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 an audit team member shall not accept gifts and hospitality from an audit client, unless the value is trivial and inconsequential.

Commented [IESBA61]: New paragraph

420.3 A1 Where a firm, network firm or audit team member is offering or accepting an inducement to or from an audit client, the requirements and application material set out in Section 340 apply and non-compliance with these requirements might create threats to independence.

Commented [IESBA62]: New paragraph

420.3 A2 The requirements set out in Section 340 relating to offering or accepting inducements do not allow a firm, network firm or audit team member to accept gifts and hospitality where the intent is to improperly influence behavior even if the value is trivial and inconsequential.

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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.

Commented [IESBA64]: New paragraph

906.2 Accepting gifts and hospitality from an assurance client might create a self-interest, familiarity or intimidation threats to compliance with the fundamental principles and threats to independence. This section sets out a specific requirement and application material relevant to applying the conceptual framework in such circumstances.

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Commented [IESBA66]: New paragraph

906.3 Section 906 sets out a requirement relevant to applying the conceptual framework to accepting gifts and hospitality from an assurance client.

Commented [IESBA67]: New paragraph

Requirement and Application Material

R906.34 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.

Commented [IESBA68]: 291.155

906.3 A1 Where a firm or assurance team member is offering or accepting an inducement to or from an assurance client, the requirements and application material set out in Section 340 apply and non-compliance with these requirements might create threats to independence.

Commented [IESBA69]: New paragraph

906.3 A2 The requirements set out in Section 340 relating to offering or accepting inducements do not allow a firm or assurance team member to accept gifts and hospitality where the intent is to improperly influence behavior even if the value is trivial and inconsequential.

Commented [IESBA70]: New paragraph