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Agenda Item

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Committee	International Ethics Standards Board for Accountants
Meeting Location:	Hilton, Arc de Triomphe, Paris
Meeting Date:	June 23-24, 2010

Conflicts of Interest

Objectives of Agenda Item

1. To discuss a draft definition of a Conflict of Interest and provide direction to the Task Force.

Background

At its October 2009 meeting, the IESBA approved a project proposal on Conflicts of Interest (COI) (see Agenda Paper 2-A). The objective of the proposal is to provide additional guidance to professional accountants when dealing with COI's. The guidance is to be helpful, up to date and instrumental in assisting professional accountants in identifying COI's. The project will result in revisions to Section 220 of the Code, "Conflicts of Interest" and/or Section 310, "Potential Conflicts" as deemed necessary by the Task Force.

Section 220 of the Code addresses COI's for professional accountants in public practice and Section 310 of the Code addresses potential COI's for professional accountants in business. Section 220 of the Code states that a professional accountant shall take reasonable steps to identify circumstances that may pose a COI. The section also states that a professional accountant shall evaluate the COI and apply safeguards to eliminate the threat or reduce it to an acceptable level. Potential safeguards are provided in the section and it is stated that obtaining consent from all relevant parties is generally necessary. If consent is requested and it cannot be obtained, the professional accountant shall not continue to represent one of the parties within the COI.

Section 310 of the Code describes a professional accountant's responsibilities to an employing organization and professional obligations to comply with the fundamental principles. Certain examples are provided as to where these two requirements are in conflict and certain pressures a professional accountant in business may face. The section goes on to give examples of safeguards that may be applied to reduce the threat of the conflict.

Prepared by: Jason Evans

The Task Force is thus charged with considering what additional guidance may be necessary for professional accountants. The proposal provides examples of additional guidance to be provided, such as: a definition or a description of a COI, linkage in the guidance to the fundamental principles (i.e. objectivity and confidentiality), providing examples of conflicts, providing example situations of when a COI may arise, identification of conflicts, evaluating conflicts, addressing conflicts and conflict management.

The proposal states that the Task Force should consider whether the Code should contain a definition or description of a conflict early in the process. A sample definition was provided in the proposal as follows:

> "A conflict of interest arises from an interest or relationship that would be seen by a reasonable and informed third party to influence a professional accountant's objectivity."

The Task Force was also charged with considering whether the guidance for COI's that is common between both types of accountants should be repeated in Sections B and C or just stated in Section A. For example, the Task Force was asked to determine if there is a common definition which would be contained in Section A of the Code, or, two separate descriptions to be contained in sections B and C of the Code.

The Task Force[1] held two meetings since the approval by the Board of the Project Proposal. The first meeting was held in New York on March 23, 2010. The second meeting was held on May 6 and 7, 2010 in London.

Potential Revisions to Sections 220 and 310

Based on preliminary discussions of the Task Force, it was decided that Sections 220 and 310 are in need of revision due to the fact that the guidance provided is not as broad as it should be, and that there is no guidance in terms of recognizing a COI, evaluating a COI and little guidance on managing a COI. Section 220 of the Code provides some examples of COI's, however, the majority of the Section deals with evaluating the significance of threats and the application of safeguards. While this provides some guidance on managing a COI, the Task Force concluded that more guidance is necessary based on the range of possibilities and scenarios that create a COI.

Section 310 of the Code mainly discusses undue influence and the pressure that a professional accountant in business may feel to act in a manner contrary to the fundamental principles. The idea was proposed that Section 310 potentially needed to be renamed to better describe the section's content (i.e., "Unethical Pressure," "Undue Pressure," etc.). Professional accountants in business would benefit from a section

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dealing with actual conflicts beyond undue influence such as conflicts that may arise between the employer and other third parties. The Task Force noted that each section needed expansion in terms of examples and descriptions of COI's and guidance for professional accountants in indentifying and dealing with COI's. It was the general sentiment of the Task Force that these sections require revision in order to meet the objectives of the Project Proposal and the Task Force agreed to remain flexible in terms of proposals for such revisions as the project moves forward.

One Definition versus Two Descriptions

The Task Force considered proposing one definition of a COI versus proposing two general descriptions of a COI, one for professional accountants in public practice and another for accountants in business. This was considered due to the concern that there are numerous possible COI's for professional accountants and the nature of the conflicts differs greatly between professional accountants in public practice and in business.

One definition for all accountants would be an effective and efficient way for all accountants to identify, at an early stage, a potential COI based on a broadly structured definition. It would allow for a professional accountant to identify a potential COI at a high level, then the accountant can drill down for more guidance within the respective section of the Code. Once the potential COI is identified, based on the comprehensive definition, the professional accountant can perform further research into Sections B and C of the Code for more extensive guidance on managing a potential conflict. Based on that approach to identifying COI's, the Task Force ultimately decided to continue its efforts to create one definition of a COI for all professional accountants, however, to assess the final definition and the benefits in assisting professional accountants in recognizing a COI at an early stage. If the definition is less effective than two separate descriptions, then the Task Force will move forward with the descriptions. Some Task Force members thought that due to the numerous situations that could be viewed as a COI and the inherent differences in the nature of the business between public practice and business, two descriptions may be more effective in early identification of COI's. Other members believed that a broad definition may be beneficial in beginning the process of identification, at which point a professional accountant in public practice or business could then drill down to make their own conclusion as to whether a COI exists or not. As the Task Force moves forward, the members will be mindful of the effectiveness of the final product and remain flexible in proposing a definition or two separate descriptions.

Public Practice vs. Business

The Task Force discussed the possibility of creating two sub-groups to address the issue of COI with one group focusing on professional accountants in public practice and the second sub-group focusing on professional accountants in business. This was considered due to the concern that there are numerous possible COI's for professional accountants and the nature of the conflicts differs greatly between professional accountants in public practice and in business. It was agreed that it was too early to separate the two tasks and that the Task Force would proceed and assess the need to separate the tasks as more progress was attained.

Elements of a COI

Before beginning the task of creating a definition of a COI, the Task Force identified the essential elements of a COI. This was performed by broad discussions and examination of different examples of definitions of COI's by other accounting authoritative bodies. While discussing the necessary elements of a COI, the Task Force considered the following definitions from the following sources:

IESBA Project Proposal:

> *"A conflict of interest arises from an interest or relationship that would be seen by a reasonable and informed third party to influence a professional accountant's objectivity."*

Institute of Chartered Accountants of Ontario, Rules of Professional Conduct Section 210:

> "*A member or firm engaged in the practice of public accounting or in a related business or practice shall, before accepting any professional engagement, determine whether there is any restriction, influence, interest or relationship which, in respect of the proposed engagement, would cause a reasonable observer to conclude that there will be a conflict as contemplated by Rule 210.2.*" (http://www.icao.on.ca/Resources/Membershandbook/1011page2635.pdf)

American Institute of Certified Public Accountants, Code of Professional Conduct, Interpretation 102-2:

> *"A conflict of interest may occur if a member performs a professional service for a client or employer and the member or his or her firm has a relationship with another person, entity, product, or service that could, in the member's professional judgment, be viewed by the client, employer, or other appropriate parties as impairing the member's objectivity."* (http://www.aicpa.org/about/code/et_102.html#et_102.03)

New Zealand Institute of Chartered Accountants Code, Rule 5:

> *"Conflicts of interest may arise where a member undertakes professional work for a client or employer and the member, or the member's firm, has a relationship with another person, entity, product or service that could be viewed by the client or employer as impairing the Objectivity of the member."* (http://www.nzica.com/AM/Template.cfm?Section=Professional_standards_files&Template=/CM/ContentDisplay.cfm&ContentID=15545)

After review of these definitions and based on the content of the definitions and discussions of the "Prince Jefri" case (see Agenda Paper 2-B), the Task Force identified the essential elements of a COI. The goal of the identification of the essential elements of a COI was to ensure they were captured in the proposed draft definition to provide comprehensive guidance to all professional accountants in identifying potential COI's at early stages.

Professional Service

The first element necessary for a COI to exist is the performance of a professional service. "Professional services" is defined in the IESBA Code as:

> "Services requiring accountancy or related skills performed by a professional accountant including accounting, auditing, taxation, management consulting and financial management services."

The term is applicable to all professional accountants and, therefore, covers both professional accountants in public practice and in business.

The Task Force agreed that the professional service is the genesis of any COI, because it is the performance of the service that creates the event in which conflict or contention arises for the professional accountant. For example, where two parties have competing or conflicting intentions, such as two companies trying to acquire the same target company. The potential COI for the professional accountant does not arise until the professional accountant performs professional services related to the acquisition. Therefore, it was concluded that for the definition or descriptions purposes, the phrase "perform professional service" would be necessary as a key element to assist in identifying and describing a potential COI for both professional accountants in public practice and in business.

Former Clients

Based on the agreed upon notion that a professional service is an essential element bringing about a potential COI, the Task Force considered the notion of a COI with a former client for professional accountants in public practice. Specifically, if the professional service begins the process of conflicting interests, could professional services performed in the past with parties where professional relationships have been severed cause a potential COI?

During the deliberations, the Task Force referred to the "Prince Jefri" case. For the full text, please see Agenda Paper A-2. In the respective case, Prince Jefri Bolkiah was a client of KPMG and he was also the Minister of Finance of Brunei. The Brunei Government hired KPMG to perform investigative services concerning certain assets and the activities of Prince Jefri, and contended that Prince Jefri was a former client of the firm, not a current client. The House of Lords granted an injunction restraining KPMG from performing the investigative services on behalf of the Brunei Government. The House of Lords commented on the duties to an existing client and a former client and how they differ. The Court stated that in the situation of a former client "the court's jurisdiction cannot be based on any conflict of interest, real or perceived, for there is none." The court goes on to say that "the only duty to the former client which survives the termination of the client relationship is a continuing duty to preserve the confidentiality of information imparted during its subsistence." While the Courts in this case were speaking of the solicitor-client relationship, the Task Force agreed with the analysis in terms of the professional accountant. A professional accountant has no duty of loyalty to a former client or employer once the professional relationship is clearly terminated.

The Task Force did discuss different hypothetical scenarios in which a duty of loyalty may exist between a former client or employer. However, the Task Force could not create a scenario where the duty of loyalty would exist in order to create a potential COI with a former client or employer. It was concluded that the duty of confidentiality does still exist upon such a termination. Therefore, the Task Force agreed that the duty of loyalty is non-existent to a former client or employer, thus such consideration is not an essential element of a COI and therefore the scope of a potential definition of a COI should not specifically include former clients or employers of professional accountants.

The specific hypothetical examples of potential COI's with former clients or employers considered by the Task Force are listed below:

1. A professional accountant in public practice has a new tax client that has similar tax implications as a former client. Would performing the tax planning services for the new client using the experience gained through providing the professional service to the former client create a COI?

   The Task Force concluded that a professional accountant in public practice will obtain experience while serving clients over time and that the accountant is expected to use applied knowledge when serving future clients. The accountant has a continuing duty to maintain confidentiality. This matter is currently addressed in the Code in paragraph 140.6 which states:

   "The need to comply with the principle of confidentiality continues even after the end of relationships between a professional accountant and a client or employer. When a professional accountant changes employment or acquires a new client, the professional accountant is entitled to use prior experience. The professional accountant shall not, however, use or disclose any confidential information either acquired or received as a result of a professional or business relationship."

   Based upon the analysis above, the Task Force agreed, that, while protecting confidentiality of a former client may create an issue, it is not a conflict of interests in the sense that the duty of loyalty is owed to the former client.

2. A professional accountant invites a former client on a regular basis to social events, such as a golf club on weekends on a regular basis. Alternatively, the professional accountant sponsors events for a former client. Could a COI exist with the former client and another client?

The second example is common and deemed by the Task Force to be business networking which is an everyday activity. The key element of this example is that it is an example of a "professional relationship" which differs in nature from the relationship which occurs through the delivery of a "professional service." The fact remains that there are no professional responsibilities nor is there a loyalty due to the ex-client in the example above and therefore, no COI could exist.

After concluding that former clients and former employers would not be included in the scope of the definition of a COI, the Task Force extended the discussion to other business relationships of parties that were not former clients or former employers.

Other Business Relationships

Based on the progression of the previous topic concerning relationships with former clients and employers, the Task Force discussed general business relationships with non-clients and non-employers. The question was posed as to whether or not a COI could arise from business relationships with non-clients or non-employers. The Task Force considered whether there could be situations in which a professional accountant has a COI with non-clients and non-employers, even in the event that they are not ex-clients or ex-employers. The following situations were considered:

1. A CPA firm enters into a joint venture with a software company to provide third parties with software that performs accounting functions.
2. A CPA firm hosts events for businesses that are competitors, yet, neither business was ever a client of the firm.

The Task Force agreed that while there could be a COI in any given relationship, in the first situation, the firm is providing accounting expertise and the software company is providing technological expertise and no professional service is provided by the firm. This would be considered normal business activities that would be governed by local legal jurisdictions. The second situation is networking in the normal course of business. It is not the intent of the Task Force to force professional accountants to cease professional networking opportunities. The local legal jurisdiction and societal norms provide the overarching guidance when considering relationships with other businesses where no professional services are rendered. The Task Force agreed professional relationships is a topic that is not for the Code to address or attempt to regulate in terms of COI's assuming that no professional services are being provided. When professional accountants are in need of guidance in terms of relationships with businesses that are not clients or employers and no professional services are being provided, the professional accountant may refer to Section 110 of the Code, Integrity; specifically, Section 110.1 states that:

"The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness."

The professional accountant may also refer to Section 150 of the Code, Professional Behavior; specifically, Section 150.1 states that the professional accountant should "avoid any action that the professional accountant knows or should know may discredit the profession."

Relationships with One or More Parties with Conflicting Interests

The next essential element that the Task Force focused on discussing was the relationships that must exist for a COI to arise. The performance of the professional services noted above must result in a conflict with either the interests of the professional accountant, or a third party. The other party with which a conflict may arise could be a client, an employer or another third party. The Task Force noted three scenarios of relationships where a COI may exist due to the performance of professional services:

First scenario: "Professional Accountant and One Third Party" – In this scenario, the professional services performed by the professional accountant conflict with the interests of one third party (i.e., a client or employer). For example, a professional accountant in public practice owns a separate business and the performance of a professional service creates a conflict of interest between the client and the accountant (i.e the accountant's separate business is a competitor of the client). This could be viewed as a "self interest conflict" due to the fact that the professional accountant's self interests are at stake and conflict with the client.

Second scenario: "Professional Accountant and Two Third Parties for which Professional Services are Rendered" – In this scenario, the professional accountant performs professional services for two third parties and the services create a conflict. For example, the professional accountant in public practice may perform financial services for two clients who are trying to acquire the same target company. Also, a professional accountant in business may perform professional services for an employer and an outside organization that create a conflict.

Third scenario: "Professional Accountant, One Party for which the Professional Accountant Performs Services and One Business Relationship" – In this scenario, the professional accountant provides professional services to a client or employer and has a business relationship with a direct competitor of the client or a relationship with a vendor of the employer. This differs from the examples under the section above, "Other Business Relationships" in that there is a professional service provided to a client or employer. For example, the professional accountant may perform the audit of a software company, yet the audit firm uses the software of a direct competitor. Some members of the task force questioned whether this would technically be a "self interest" conflict as noted in the first scenario. However, it is the interests of the client and the professional accountant's business relationship with the software company that are conflicting which separates this category from the first scenario. While the Task Force did agree not to scope in general business relationships in the definition of a COI, it is the professional services to the client that makes this scenario crucial to the focus of the Task Force in its goal to define a COI.

Based on this analysis, for a COI to arise, there must be a professional service that causes a conflict with the accountant or one or more third parties. Thus, a relationship with one or more third parties was identified as an essential element of a COI.

Reasonable Third Party

The Task Force considered language concerning the reasonable third party test for the definition of a COI. As noted above, the reasonable third party test is included in the straw-man definition contained in the project proposal.

In determining whether a reasonable third-party test was necessary in the identification of a conflict of interest, the Task Force considered the following:

- While the definition of independence contains a reasonable and informed third party test this is because independence is a proxy for objectivity. Objectivity is a state of mind and it is not possible for an outsider to know whether the accountant has an objective state of mind. Independence, therefore, incorporates the notion of independence in appearance in that the accountant avoids facts and circumstances "that are so significant a reasonable and informed third party would be likely to conclude… that …integrity, objectivity or professional scepticism has been compromised."
- The conceptual framework requires accountants to apply safeguards to eliminate or reduce to an acceptable level threats to compliance with the fundamental principles. The definition of an acceptable level incorporates the concept of a reasonable and informed third party. "A level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the professional accountant at that time, that compliance with the fundamental principles was not compromised."

The Task Force concluded that whether a COI existed was, in effect, a matter of fact and, therefore, a reasonable and informed third party test was not germane to the definition of a COI. What was relevant was that, once identified, the COI was addressed to a level that would be acceptable to a reasonable and informed third party - which is consistent with the conceptual framework.

Based on this analysis, the Task Force agreed not to include the reasonable third party test in the definition of a COI.

Linkage to the Fundamental Principles

The project proposal states the following:

> *"Linkage to Fundamental Principles* – The Task Force will consider whether guidance is needed to provide a linkage to the fundamental principles.
>
> The principle of objectivity imposes an obligation on all professional accountants not to compromise their professional or business judgment because of bias, conflict of interest or the undue influence of others. This principle requires accountants either to be free of conflicts of interest or if potential conflicts exist to observe methodologies or procedures for resolving them.

> The principle of confidentiality imposes an obligation on all professional accountants to refrain from:
>
> (a) Disclosing outside the firm or employing organization confidential information acquired as a result of professional and business relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and
>
> (b) Using confidential information acquired as a result of professional and business relationships for their personal advantage or the advantage of third parties."

The Task Force considered linking the definition of a COI to the fundamental principles. Of the fundamental principles, objectivity is most closely related with a COI. While the fundamental principle of confidentiality was considered, it was noted that a professional accountant must hold to this fundamental principle regardless of the fact of whether professional services are being provided or not (i.e. must adhere to the principle of confidentiality to former employers or clients). While confidentiality may cause a conflict, it is not a conflict of "interests" because it could very possibly be a situation where no duty of loyalty is due. Thus, the Task Force concluded that the link between the definition and the fundamental principle of confidentiality was not appropriate.

Integrity, professional competence and due care, and professional behavior also were considered but by their descriptions in section 100.5 of the Code, the Task Force concluded that there was not a natural link to the conflict that may arise due to certain relationships between clients, employers and other third parties.

The Task Force thus concluded that the link between the definition of a COI and the fundamental principles should be through objectivity. However, the description of objectivity under section 100.5 of the Code states "to not allow bias, conflicts of interest or undue influence of others to override professional business judgments." To define a COI with the term "objectivity" included would lead the professional accountant back to a definition with the term "conflict of interest" and thus, be circular in nature. It was proposed that the best solution may be to remove the term "conflict of interest" from the description of objectivity and then include "objectivity" directly in the definition of a COI. The Task Force believed it better to propose a different solution to the "circular" dilemma.

It was concluded that when interests of parties are conflicting or competing, the threat was ultimately due to the professional accountant's bias and the threat of the professional accountant not being free from undue influence. While the description of objectivity in section 100.5 does contain the terms "undue influence" and "bias" it was concluded that it would be best to include similar language in the description of objectivity and the definition of a COI as opposed to have the two terms directly in the circular fashion as noted above. Thus, the linkage to the fundamental principle of objectivity would be so with the language "free from bias" and "undue influence."

Action requested

The Task Force requests the Board's feedback on the essential elements of a COI which include the performance of a professional service, the three relationship scenarios described above and the linkage to the fundamental principles.

The Task Force requests feedback from the Board concerning former clients, business relationships and the reasonable third party test.

Proposed Definition of a COI

Based on the discussions and conclusions of the essential elements of a COI, the Task Force proposes the following definition of a COI:

> "A conflict of interest arises if, when performing a professional service for a party the professional accountant has an interest or relationship other than with that party that threatens the accountant's ability to perform the service free of bias and undue restriction or influence."

Linkage to the Essential Elements of a COI

The proposed definition was built upon the essential elements of a COI as concluded by the Task Force.

1. Professional Service – as noted above, a COI begins with a professional service, as such, the definition includes the phrase "…when performing a professional service…"
2. Relationships with one or more parties – as described in the analysis above, the "three scenarios" of relationships and the conflicting interests are all included in the proposed definition with the phrase "…has an interest or relationship other than with that party…" This includes the notion that a professional accountant may have a self interest that causes a potential conflict. It also includes the notion that a professional accountant may have a relationship with another party that he may or may not provide professional services for (scenario 2 and 3) that may be conflicting with the party that he or she is providing professional services.
3. Linkage to the fundamental principles – The proposed definition includes the phrase "…that threatens the accountant's ability to perform the service free of bias and undue restriction or influence." This language leads the user directly to the description of objectivity and thus, links the definition to the fundamental principles while describing the underlying threat. It should also be noted that the language "undue…restriction" was included because there may be instances in which a professional accountant may be able to be objective in performing services, but may not be able to deliver the judgment or work product because two parties are in conflict. For example, a firm may have two audit clients that are litigation. The firm may be requested to perform services for one party in the

litigation. The firm may have put in place safeguards to ensure the individual professional accountants can perform the services objectively, however, the performance of the professional service would be so detrimental to the other client that the firm believes the services cannot be performed.

Categories of a COI

In order to provide guidance to professional accountants beyond defining a COI, the Task Force considered identifying potential categories of COI's. The categories will be examined in conjunction with the management of a COI. The Task Force will attempt to conclude if the different categories require specialized management and if the compiled information is beneficial to provide to professional accountants. Currently, the categories are still in the process of being discussed and examined. Therefore, this information is preliminary. The preliminary categories are as follows:

1. Professional Conflict
2. Commercial Conflict
3. Other Conflicts

Professional Conflicts
Professional conflicts consist of conflicts that may arise due to competing interests of two parties to whom the professional accountant provides professional services. In this situation, a professional accountant would be pursuing the best interests of two parties who are in conflicting positions. The Task Force considered the examples in the project proposal and noted the following would be examples of Professional Conflicts:

1. Acting for two or more parties on a matter in which the parties have a competing interest (i.e. competing bidders in a corporate finance transaction).
2. Acting for two or more parties on a matter in which the parties have an adverse interest (i.e. opposing parties in a dispute).
3. A professional accountant who is a director or two organizations possessing confidential information about one organization that would be useful to the other organization, for example, a professional accountant in business is a director of company X and company Y. The director acquires confidential information from company X that is relevant to company Y.

The Task Force did discuss whether or not a COI may arise from auditing two companies which are direct competitors. The majority of the Task Force members concluded that this is a common occurrence as many firms specialize in certain industries and are expected to apply acquired knowledge and expertise in the performance of professional services. The Code currently describes a professional accountant's duty of confidentiality. Thus, an argument can be made that no conflict exists, and the only true issue is that the auditor strictly adhere to the fundamental principle of confidentiality. This could be done at a firm level by incorporating and monitoring controls such as "Chinese Walls." A professional accountant should have the ability to perform audits for competitors while servicing the client objectively and keeping within the rules on confidentiality.

There was a minority view that the relationship between an auditor and client is such that serving the interests of two competitors and certain circumstances in business environments could create a COI. For example, if a small firm or a sole practitioner is auditing two competitors that are privately held and/or have highly confidential information that is crucial to their business (e.g. pharmaceutical company, food industry, etc.) the minority view felt that this could create a COI if the relationships were not disclosed because the owners of the companies might question the objectivity of the professional accountant. It was noted that there were safeguards that could address this potential COI. For example if the relationship was disclosed to the two competitors or if there were separate audit teams, then the COI could be managed. However, the professional accountant in public practice would need to be mindful of the business environment and the preferences of the clients.

Commercial Conflicts

Commercial conflicts consist of conflicts that may arise due to the competing interests of two parties when the professional accountant performs professional services for one of the parties. This may include providing professional services to a company and having a business relationship with another party that has a conflicting interest. Examples provided by the Task Force include:

1. A course of action by the firm or employer may be contrary to the personal business of one or more members of the firm or company.
2. A professional accountant in business receives discounts personally from suppliers with purchases made on behalf of the employer.

Other Conflicts

This category would potentially cover all other COI's. The Task Force did discuss a category of "legal conflicts" but noted that many of the examples could be categorized within "Professional Conflicts" (i.e., representing two clients in a court of law). It was also noted that legal jurisdictions may differ in opinion on specific topics and therefore, guidance that may be appropriate to a professional accountant in one country may be inappropriate for a professional accountant in another country. The Task Force considered the examples from the Project Proposal and noted the following that would likely fall into the "Other" category:

1. Acting for a party where some aspect of the professional accountant's commercial or business arrangements (such as an investment or a business alliance gives rise to a conflict in relation to the professional activity)

It should be noted that the Task Force considered the remaining examples from the Project Proposal and noted the first example below dealt with former clients where the only fundamental principle that would apply would be confidentiality. The second example also dealt only with the fundamental principle of confidentiality and therefore any conflict arising could be mitigated by implementing safeguards such as Chinese Walls, however, there was a minority view of that this example still contains a duty of loyalty:

1. Acting when a prior engagement could represent a threat to objectivity.
2. A professional accountant possessing confidential information about one party that would be useful to another party, for example: an auditor possessing confidential information about one client that is important to the fulfillment of an engagement for another client

All of the categories will be explored further by the Task Force and considered during deliberations concerning the management of a COI.

Action requested:

The Task Force requests feedback on the preliminary categories proposed.

Nature of the Service Provided

The Task Force considered whether the nature of the service provided affected the potential for a COI.

Professional Accountants in Public Practice
There are services that have a greater potential for a COI than others (e.g., advocacy, fiduciary), however, a COI is created by specific and unique circumstances. One must consider the services performed, the size of the firm, the local setting, etc. With so many variables, the Task Force's preliminary view was that it would like ly not be helpful to categorize conflicts according to the nature of the professional service provided. It was concluded that with each service, each professional accountant must consider the potential for a COI on a case by case basis.

Professional Accountants in Business
The Task Force considered the services performed by the professional accountant in business and the relation to the nature of the services to potential COI's. Most of the services that the Task Force mentioned were of the reporting nature. The recipients of the data and information may be an audit committee, a CFO, a lender or other third parties. Therefore, the professional accountant in business must consider, on a task by task basis, the nature of the task. Also the nature of the relationships with the person who is receiving the employer's information must be considered when the professional accountant is identifying potential COI's. Based on this analysis, it would be difficult to provide guidance to professional accountants in business for COI's based on the nature of the services provided.

Action requested

Does the Board agree that it is likely not useful to provide guidance on COI's based on the nature of the services provided?

Next Steps

Based on the Project Proposal's recommendations, the Task Force has proposed a definition of a COI as the first step of the process and attempted to link the definition to the fundamental principles. Based on the discussions and feedback provided at this Board meeting, the Task Force would like to continue to finalize a definition of a COI while keeping open to the notion that two descriptions may be necessary as opposed to one definition. The Task Force has also considered the examples in the Project Proposal as noted above and will continue to work with these examples and possibly proposing more examples when finalizing potential categories of COI's.

The Task Force also plans to continue to work on the other suggested topics in the project proposal including evaluating a COI, addressing a COI and managing a COI. These topics may be broken out between professional accountants in public practice and in business due to the fact that the guidance will be more specific as the Task Force moves from concentrating on an overall definition to providing detailed guidance on management of COI's.

Action requested

Does the Board have any suggestions for the Task Force on proceeding?

Material Presented

Agenda Paper 2	This Agenda Paper
Agenda Paper 2-A	Project Proposal
Agenda Paper 2-B	Synopsis of Legal Cases