

# Agenda Item 3-F

## Pressure to ~~Engage in Unethical or Illegal Acts—Straw Man~~Breach the Fundamental Principles

### Proposed Section ~~3x0370~~

#### Description

1. ~~—A professional accountant in business may be faced with~~face pressure to ~~engage in unethical or illegal activities~~breach the fundamental principles when undertaking a professional activity. ~~Such situations— Pressure may create threats~~risks to ~~all of~~ the fundamental principles. ~~Pressure to engage in unethical or illegal activities and~~ may be explicit or implicit. Pressure may come from within the ~~employing~~ organization, for example, from a colleague or superior, ~~or~~ from an external individual or organization such as a vendor, customer, or lender.
2. ~~Determining whether an activity is unethical is a matter of professional judgment. An unethical activity is one that breaches any of the fundamental principles contained in Part A of the Code and the interpretative guidance contained in Part C.~~
3. ~~Determining whether an activity is illegal is a matter for legal determination by a court of law.~~
- 4.1. ~~In determining whether an activity would be unethical or potentially illegal, the professional accountant may wish to consult with others within the organization, the relevant professional body on an anonymous basis or legal counsel. For example, the professional accountant may want to understand the application of the relevant laws, or from meeting internal or external targets and regulations to the circumstances and whether the act is potentially illegal~~expectations.
- 5.2. The professional accountant shall not yield to pressure ~~to engage in activities~~ that the professional accountant knows or has reason to believe ~~are unethical or illegal~~would lead to a breach of the fundamental principles. In addition, the professional accountant shall not place pressure on others ~~to engage in activities~~ that the professional accountant knows or has reason to believe ~~are unethical or illegal~~would lead to a breach of the fundamental principles.

#### Examples

- 6.3. Examples of pressure that could lead to ~~engage in unethical or illegal activities~~a breach of the fundamental principles include:

##### Potential Conflicts

- Pressure from the remuneration committee and from the executive whose interests are in conflict.

##### Presenting Information

- Pressure from superiors to process expenditures that are not legitimate business expenses.
- Pressure to manipulate performance indicators from superiors, peers or others, for example, those who may benefit from participation in compensation or incentive arrangements.
- ~~Pressure from superiors to process expenditures that are not legitimate business expenses.~~
- ~~Pressure from superiors to inappropriately reduce the extent of work performed in order to reduce costs.~~
- Pressure to report misleading financial results to meet investor and analyst expectations.

- Pressure to manipulate information in order to obtain or maintain financing from lenders.
- Pressure from elected officials on public sector accountants to misrepresent programs or projects to voters.
- Pressure from colleagues to misstate income, expenditure or rates of return to bias decision-making on capital projects and acquisitions.

#### Acting with sufficient expertise

- Pressure from superiors to inappropriately reduce the extent of work performed in order to reduce costs.
- Pressure from superiors to perform a task without sufficient skills or training or without sufficient time.

#### Financial Interests

- Implicit or explicit pressure from colleagues to present information that has been altered in order to increase their compensation.

#### Inducements

- Pressure from others, either internal or external to the employing organization, to offer inducements to influence the judgment or decision-making process of an individual or organization.
- Pressure from colleagues to accept a bribe or other ~~inducements~~ inducement, for example to accept inappropriate gifts and entertainment from potential vendors in a bidding process.
- ~~Pressure from elected officials on public sector accountants to misrepresent programs or projects to voters.~~
- ~~Pressure from colleagues to misstate income, expenditure or rates of return to bias decision-making on capital projects and acquisitions.~~
- ~~Pressure from the remuneration committee and from the executive whose interests are in conflict.~~

#### Identification of Threats to **Non-Compliance**

~~Threats to compliance~~ with laws and regulations

- Pressure to engage in activities or transactions that may violate laws or regulations.

#### Determine whether the Pressure would lead to a breach of the Fundamental Principles

7. ~~In determining whether the pressure could lead to a breach of the fundamental principles, such as intimidation and familiarity threats, are created when a the professional accountant in business is pressured to engage in unethical or illegal activities. Threats to engage in unethical or illegal activities may come in many forms, including:~~

- ~~Intimidation threats due to fear of job loss.~~
- ~~Intimidation threats due to harassment by peers, superiors or third parties.~~

- ~~• Intimidation threats due to a desire to be a team player, to fit a perceived culture, to not rock the boat or raise controversial or uncomfortable issues among colleagues and superiors.~~
- ~~• Familiarity threats due to close relationships with colleagues and others within and outside the employing organization.~~

12. ~~Awareness that familiarity threats may be created as a result of being employed for a long period with the same employer may assist the professional accountant in identifying threats. The culture of some organizations may slowly erode the professional accountant's awareness of unethical activities.~~

### **Evaluation of Threats**

14.4. ~~The professional accountant in business shall evaluate the significance of any threats created by pressure to engage in unethical or illegal activities and apply safeguards, when necessary, to eliminate the threats or reduce them to an acceptable level. The significance of any threats will depend on~~ wish to consider factors such as:

- The position or role of the individual exerting the pressure ~~on the professional accountant, including whether the individual has~~ influence over the professional accountant's compensation, performance evaluation and employment.
- The corporate culture and leadership ~~throughout~~ of the employing organization ~~that stresses~~ including the extent to which it emphasizes the importance of ethical behavior and the expectation that ~~those~~ employees will act in an ethical manner.
- Expected repercussions on the professional accountant for refusing to ~~engage in the unethical or illegal activities~~ yield to the pressure.
- Expected repercussions on the employing organization or colleagues for refusing to ~~engage in the unethical or illegal activities~~ yield to the pressure.

15. ~~Consideration of the effect that the culture of the organization, or subset thereof, the industry and the country may have on ethical norms may assist the professional accountant when evaluating such threats. The professional accountant is encouraged to seek guidance from within the employing organization or from others, such as a professional body, legal counsel or another professional accountant. When making disclosures, or sharing information within the employing organization and seeking guidance of third parties, the professional accountant shall remain alert to the fundamental principle of confidentiality.~~

### **Application of Safeguards**

17. ~~Depending on the circumstances giving rise to the pressure to engage in unethical or illegal activities, application of one or more of the following safeguards may be appropriate:~~

- ~~• Considering the policies and procedures, if any, that the employing organization has established to address such pressures, such as, an ethics policy.~~

5. ~~Discussing~~ In determining whether acceding to the pressure would lead to a breach of the fundamental principles, the professional accountant may wish to:

- Discuss the matter with the person who is exerting the pressure to better understand the situation, and to determine the nature and intent of the pressure.

- Consult, where appropriate, with colleagues or superiors within the employing organization, subject to confidentiality requirements.
- Understand the application of the relevant laws and regulations to the circumstances
- Obtain advice, where appropriate, from within the employing organization, such as through the employing organization's confidential ethics hotline.
- Consult the relevant professional body, on an anonymous basis if appropriate, or legal counsel.

#### Steps to mitigate the Pressure.

6. If the professional accountant in business determines that the pressure would result in a breach of the fundamental principles, the professional accountant shall take the steps that are available to them to mitigate the pressure so that it would not result in a breach of the fundamental principles. Depending on the circumstances giving rise to the pressure, one or more of the following steps may be appropriate:

- Considering the policies and procedures, if any, that the employing organization has established to address pressure, such as, an ethics policy.
- Engaging in constructive challenge and attempting to influence the decision.
- Restructuring or segregating certain responsibilities and duties so that the professional accountant is no longer involved with the individual or entity exerting the pressure.
- Obtaining appropriate oversight, for example, acting under the supervision of an executive or non-executive director.
- ~~Obtaining advice, where appropriate, from within the employing organization, such as through the employing organization's confidential ethics hotline.~~
- ~~Consulting with a relevant professional body on an anonymous basis or legal counsel.~~
- ~~Consulting, where appropriate, with colleagues or superiors within the employing organization, while being mindful of the principle of confidentiality.~~
- Escalating the matter within the entity, for example, with higher levels of management, internal or external auditors, or those charged with governance, including independent directors and, when appropriate, explaining any consequential risks to the organization.
- Disclosing the matter in accordance with any established mechanism such as an ethics policy, a government ombudsman, government agencies, anti-corruption commission, or auditors general for professional accountants in the public sector.
- Consulting with ~~other third parties~~others on an anonymous basis, such as regulators and industry associations, subject to confidentiality requirements.

~~19.7. If the threats created by pressure to engage in unethical or illegal activities are not at an acceptable level, the professional accountant in business shall apply safeguards to eliminate the threats or reduce them to an acceptable level. If safeguards cannot reduce the threats to an acceptable level~~If the professional accountant determines that the pressure would result in a breach of the fundamental principles and the steps have not mitigated that pressure, the professional accountant shall decline to undertake or discontinue the professional activity that would result in ~~an unethical or~~

~~illegal activity. In those extreme situations where a~~ breach of the fundamental principles. Where the PAIB will continue to face pressure that cannot be mitigated by any available safeguards have been exhausted and it is not possible to reduce the threat to an acceptable level, ~~a~~steps, the professional accountant ~~in business~~ may conclude that it is appropriate to resign from the employing organization.

The following paragraphs would move to Section 300 and be redrafted, as appropriate, in the review of Section 300. (The Task Force notes that the second, third and fifth bullets below require rework because the fundamental principles apply to professional accountants and not necessarily to their employers).

#### Creation of an ethics-based culture

4. — The more senior the position that the professional accountant in business holds, the greater the ability and opportunity to influence decision making and the greater the pressure there might be from superiors and peers to ~~engage in unethical or illegal activities~~ yield to pressure that would lead to a breach of the fundamental principles. In such situations, the professional accountant ~~in business~~ shall be particularly alert to the principle of integrity, ~~which imposes an obligation on all professional accountants to be straightforward and honest in all professional and business relationships~~.

In addition, ~~where the~~ professional accountant ~~who~~ holds a senior position, within the employing organization, ~~that provides~~ has the opportunity to influence practices and attitudes. To the extent possible, the professional accountant is expected to encourage an ethics-based culture that emphasizes the importance that senior management places on ethical behavior. For example, to the extent that the professional accountant is in a position to do so, the professional accountant may ~~wish to~~ consider implementing the following types of safeguards in the employing organization, in order to eliminate ~~pressure to engage in an unethical or illegal activity, or to reduce threats caused by pressure to an acceptable level~~ reduce the risk of breaching the fundamental principles:

- Policies that stress the importance of ethical behavior and the expectation that employees will act in an ethical manner.
- Policies and procedures to empower and encourage employees to communicate to senior levels within the employing organization any ~~pressure being exerted on the employee to engage in unethical or illegal activities~~ threats to breach the fundamental principles without fear of retribution.
- An ethics hotline that provides confidential advice to employees on responding to ~~pressure to engage in unethical or illegal activities~~ threats of breaching the fundamental principles.
- ~~• A whistle-blowing hotline that allows employees to report situations without fear of retribution where the employee is pressured, either internally or externally, to engage in unethical or illegal activities.~~
- Ethics and conduct programs, including appropriate training and education on policies and procedures that address responding to ~~pressure, both internally and externally, to engage in unethical or illegal activities~~ threats.
- ~~• Appropriate disciplinary processes for employees who engage in unethical or illegal activities.~~

[breach the fundamental principles](#)