

### Proposed Section 370—Pressure to Breach the Fundamental Principles

#### Mark up from April IESBA

#### Section 370

##### Description

1. A professional accountant in business may face pressure to breach the fundamental principles when undertaking a professional activity. Pressure ~~may create risks to the fundamental principles and~~ may be explicit or implicit. Pressure may come from within the organization, for example, from a colleague or superior, from an external individual or organization such as a vendor, customer, or lender, or from meeting internal or external targets and expectations.
2. This section addresses pressures to breach the fundamental principles. It does not address other pressures encountered in the workplace such as pressure to meet a routine reporting deadline.
3. When faced with pressure the ~~The~~ professional accountant shall not allow such pressure to result in a breach of ~~not yield to pressure that the professional accountant knows or has reason to believe would lead to a breach of the fundamental principles. In addition, the~~ fundamental principles.
- 2.4. The professional accountant shall not place pressure on others that the professional accountant knows or has reason to believe would lead to a breach of the fundamental principles.

##### Examples

- 3.5. Examples of pressure that could lead to a breach of the fundamental principles include:

##### Potential Conflicts

Pressure from ~~the remuneration committee and~~ Conflicts of Interest

- Pressure from the executive whose interests are in conflict parties on opposing sides of a management buy-out.
- Presenting Pressure from a family member bidding to act as a vendor to the professional accountant's employing organization.

##### Pressure to influence presentation of 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 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 Pressure to act without 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.

Pressure related to Financial Interests

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

Pressure related to 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 inducement, for example to accept inappropriate gifts or and entertainment from potential vendors in a bidding process.
- Pressure related to Non-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**

~~4. In determining whether the pressure could lead to a breach of the fundamental principles, the professional accountant may wish to consider factors such as:~~

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

~~5.6. In determining whether acceding to~~ Factors that a PAIB may consider in determining whether the pressure would lead to a breach of the fundamental principles include, the professional accountant may wish to:

- ~~• The position or role of the individual exerting the pressure, including influence over the professional accountant's compensation, performance evaluation and employment.~~
- ~~• The corporate culture and leadership of the employing organization including the extent to which it emphasizes the importance of ethical behavior and the expectation that employees will act in an ethical manner.~~
- ~~• Considering the policies and procedures, if any, that the employing organization has established to address pressure, such as, an ethics policy.~~

- The application of the relevant laws and regulations to the circumstances.
- Discuss the matter with The intent of the person who is exerting the pressure to better understand the situation, and to determine the nature and intent of the pressure.

The professional accountant may also wish to consult with:

- Relevant professional bodies, regulators or industry associations, subject to confidentiality requirements. ~~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.~~
- Engaging in constructive challenge and attempting to influence the decision. ~~Consult, where appropriate, with a trusted friend, colleagues or superiors within the employing organization, subject to the fundamental principle of confidentiality requirements.~~

6.7. If the professional accountant has determined that the pressure would lead to a breach of the fundamental principles, the professional accountant may wish to consider one or more of the following actions:

- Engage in constructive challenge with the individual exerting the pressure.
- ~~Understand~~ Disclose ~~the application of the relevant laws and regulations to the circumstances~~
- ~~Obtain advice, where appropriate, from within the employing organization, matter in accordance with any established mechanism~~ 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**

~~7. 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.~~
- 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 Request restructuring or segregating certain responsibilities and duties so that the professional accountant is no longer involved with the individual or entity exerting the pressure.
  - ~~with others on an anonymous basis, such as regulators and industry associations, subject to confidentiality requirements.~~
  - Consult with legal counsel.
8. ~~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, cannot be alleviated or eliminated,~~ the professional accountant shall decline to undertake or discontinue the professional activity that would result in a breach of the fundamental principles. ~~Where the PAIB will continue to face pressure that cannot be mitigated by any available steps, the professional accountant 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**

~~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 yield to pressure that would lead to a breach of the fundamental principles. In such situations, the professional accountant shall be particularly alert to the principle of integrity. In addition, a professional accountant who holds a senior position within the employing organization 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 consider implementing the following types of safeguards in the employing organization, in order to eliminate or 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 threats to breach the fundamental principles without fear of retribution.~~
- ~~An ethics hotline that provides confidential advice to employees on responding to threats of breaching the fundamental principles.~~
- ~~Ethics and conduct programs, including appropriate training and education on policies and procedures that address responding to threats.~~

8. ~~Appropriate disciplinary processes for employees who breach the fundamental principles~~The professional accountant shall also consider the professional accountant's continuing relationship with the employing organization.
9. Where pressure to breach the fundamental principles:
- Arises from a conflict of interest the guidance in section 310 is relevant.
  - Arises from presenting information the guidance in section 320 is relevant.
  - Arises from a financial interest, compensation or incentive linked to financial reporting and decision making, the guidance in section 340 is relevant.
  - Arises from Inducements the guidance in section 350 is relevant.
  - May constitute acts that are contrary to law or regulation, the guidance in section 360 is relevant.