

Revision of Part C, Phase 2—Proposed Section 340 (Revised Extant 260) (Mark-up)

This document includes revisions to the proposed Section 250 (i.e., revised inducements provisions for professional accountants in business set out in Agenda Item 4-B.1) tailored for professional accountants in public practice. The Task Force is proposing that its proposals replace the [agreed-in-principle text](#) version of Section 340.

Part 2 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

...

Section 340, Gifts, Hospitality and other Inducements

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.
- 340.2 A professional accountant offering or accepting inducements might create a self-interest, familiarity or intimidation threat to compliance with the principles of integrity, objectivity and professional behavior or might create threats to compliance with the other fundamental principles.
- 340.3 The requirements in R340.7 apply when a professional accountant offers or accepts inducements that might constitute non-compliance with laws and regulations. Section 340 focuses on requirements and application material relevant to applying the conceptual framework in circumstances other than non-compliance with laws and regulations when an accountant offers or accepts inducements.
- 340.4 To the extent that the professional accountant is able to do so, taking into account their position and seniority in the ~~firm~~organization, the accountant is encouraged to complement the requirements and application material in Section 340 with more specific policies and procedures related to the offer and acceptance of inducements.

Requirements and Application Material

General

- 340.5 A1 An inducement is an object, situation, or action that is used as a means to influence another individual's behavior. Inducements can range from minor acts of hospitality between ~~business colleagues~~professional accountants and a client to non-compliance with law and regulations.

Types of Inducements

- 340.6 A1 Depending on the circumstances, the offering or accepting of inducements might affect the professional accountant's ability to comply with the fundamental principles. Such inducements can take many different forms, for example as:
- Gifts.

- Hospitality.
- Entertainment.
- Facilitation payments
- Political or charitable donations.
- Preferential treatment.
- Appeals to friendship and loyalty.
- Employment opportunities.

R340.7 Offering or accepting inducements to or from a client might lead to non-compliance with laws and regulations. In most jurisdictions, there are legal or regulatory provisions governing bribery and corruption. The professional accountant shall obtain an understanding of relevant legal or regulatory provisions governing bribery and corruption and comply with them.

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

Application of the Conceptual Framework to Inducements

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

R340.10 A professional accountant shall evaluate whether the offering or accepting of an inducement to or from a client might be made, or might be perceived by a reasonable and informed third party to be made, with the intention of improperly influencing behavior.

340.10 A1 Factors that are relevant in evaluating whether there exists an actual or perceived intent to improperly influence the ~~recipient's professional accountant's or the client's~~ behavior include the following:

- The value, frequency and nature of the inducements. For example, inducements offered or accepted on a regular basis, especially to or from the same ~~party~~ client, might result in the professional accountant becoming less mindful to the fact that such inducements, in totality, might create a threat.
- The occasion that has given rise to the inducements, for example, a religious holiday or wedding.
- ~~Whether the inducement offered or accepted can be associated with a professional activity.~~
- Whether the inducements is specific to ~~an individual a~~ client or available to a broader group. For example the client might offer hospitality to a ~~The broader group that includes the professional accountant as well might be internal to the employing organization or external to the employing organization, such as other customers or vendors~~ to the client.

- The roles and positions of the individuals at the firm or the client offering or accepting the inducements.
- Whether the inducement is offered or accepted in a transparent manner.
- Whether the professional accountant offers or accepts an inducement knowing that it would breach the client's policies and procedures ~~of the counterparty's employing organization~~.

R340.11 A professional accountant shall not accept, or encourage others to accept, any inducement from a client that the accountant has reason to believe is, or might be perceived by a reasonable and informed third party to be, made with the intention of improperly influencing the accountant.

R340.12 A professional accountant shall not offer, or encourage others to offer, any inducement to a client that is, or might be perceived by a reasonable and informed third party to be, made with the intention of improperly influencing the client/recipient.

Identifying Threats

R340.13 The professional accountant shall identify threats to compliance with the fundamental principles, even when the accountant believes that there is no actual or perceived intent, unless the inducement is trivial and inconsequential, both individually and in the aggregate.

340.13 A1 Self-interest threats might be created from the offering or accepting of inducements, if the inducement can influence the professional accountant's professional judgment or behavior. For example, a professional accountant accepting hospitality from a client/vendor during a procurement process shortly before submitting the client's tax return.

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

340.13 A3 Intimidation threats might be created if the offering or accepting of an inducement is followed by threats to make that offer or acceptance public and damage the reputation of either the professional accountant or an immediate or close family member. For example, an immediate or close family member/an accountant accepting an inappropriate inducement from an individual or entity that subsequently conducts sensitive business transactions with the professional accountant/a client and the acceptance of the inducement subsequently being made public.

Evaluating Threats

340.14 A1 Factors that are relevant to evaluating the level of any threats created by offering or accepting an inducement are the same factors that the professional accountant would consider in evaluating whether there might exist an intent to improperly influence the accountant's or client's/another individual's behavior. Accordingly the accountant should refer to the factors listed in paragraph 340.10 A1 for purposes of evaluating the level of any threats.

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

Addressing Threats

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

- Registering the inducement, whether offered, accepted or declined, in a log monitored by those charged with governance of the firm or another individual responsible for the firm's ethics compliance to ensure transparency.
- Obtaining advice from senior management ~~or those charged with governance of within the firm employing organization~~ on whether to accept or decline the inducement.
- Having another professional accountant ~~an appropriate individual perform a secondary review of any work performed or decisions made by the accountant with respect to the client individual or organization~~ from which the accountant offered or accepted the inducement.

340.15 A2 Other actions that might address threats created by offering or accepting an inducement include:

- Not being involved in any business-related decisions involving the client ~~counterparty~~, provided that the professional accountant is satisfied that the professional accountant individual who will be making such decisions can do so in an objective manner.
- Donating the inducement to charity after receipt and disclosing the donation, as appropriate.

R340.16 If the level of the threat created cannot be reduced to an acceptable level, the professional accountant shall not offer or accept the inducement to or from the client.

Immediate or Close Family Members

R340.17 A professional accountant shall:

- (a) Remain alert to potential threats to compliance with the fundamental principles arising from inducements being offered or accepted by the accountant's immediate or close family members to or from a client ~~counterparty with whom the accountant has a relationship~~.
- (b) Discuss any such threats with the relevant immediate or close family members.
- (c) Comply with paragraphs R340.10 to R340.12 when such threats arise.

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

340.17 A2 In addition to the factors set out in paragraph 340.10 A1, another factor that is relevant in evaluating whether there exists an actual or perceived intent is the nature of the relationship, between each of:

- (a) The professional accountant;

- (b) The immediate or close family member; and
- (c) The client ~~counterparty~~ offering or accepting the inducement.

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

R340.18 The professional accountant shall advise the immediate or close family member not to offer or accept the inducement to or from the client where an actual or perceived intent exists.

R340.19 In all circumstances where the immediate or close family member offers or accepts an inducement to or from a client, threats to the professional accountant's compliance with the fundamental principles might arise. Therefore, where the accountant is aware of such inducements, the accountant shall identify possible threats unless the inducement is trivial and inconsequential, both individually and in the aggregate.

340.19 A1 Relevant factors to be considered in identifying, evaluating and addressing threats are set out in paragraphs R340.13 to 340.15 A2. These are the same factors that a professional accountant would consider if the inducement was being offered or received directly. In addition, the factor set out in paragraph 340.17 A2 is also relevant

340.19 A2 Circumstances might exist, including where the immediate or close family member does not accept the advice pursuant to R340.18, where the only action to address the threats is for the professional accountant to not be involved in any business-related decisions involving the client ~~counterparty~~.

Other Considerations

340.20A1 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 ~~the firm or under the employing organization~~, Section ~~360~~260 is also relevant.

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

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