

Agenda Item 2-C (Updated)

Revision of Part C, Phase 2— Proposed Section 340 (Revised)

[Mark-up from Posted Version]

This document includes the proposed consequential amendments arising from the revised text in proposed Section 250 that is set out in Agenda Item 2-B to the related provisions or professional accountants in public practice (PAPPs). Accordingly, the proposals in this document replace the agreed-in-principle text version of proposed Section 340.

The text highlighted in grey illustrates how the proposals for PAIBs in proposed Section 250 has been tailored for PAPPs.

Part ~~2~~3 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

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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.
- 340.2 The offering or accepting of inducements might create a self-interest, familiarity or intimidation threat to compliance with the fundamental principles, especially the principles of integrity, objectivity and professional behavior.
- 340.3 Section 340 sets out requirements and application material relevant to applying the conceptual framework in relation to the offering and accepting of inducements 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.

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

- Gifts.
- Hospitality.
- Entertainment.
- Political or charitable donations.

- Appeals to friendship and loyalty.
- Employment opportunities.
- Preferential treatment.
- Facilitation payments.

Inducements Prohibited by Laws and Regulations

R340.5 In many jurisdictions, there are laws and regulations 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.

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.

Inducements with Intent to Improperly Influence Behavior

R340.7 A professional accountant shall not offer, or encourage others to offer, any inducement ~~to a client~~ that is made, or which the accountant believes a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the recipient's behavior.

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

340.9 A1 Relevant factors to consider in determining whether there is actual or perceived intent to improperly influence behavior include:

- The nature, frequency and value of the inducement.
- Whether there is a special occasion that has given rise to the inducement, for example, whether it is customary practice in relation to a religious holiday or wedding.
- Whether the inducement is an ancillary part of a professional service, for example accepting lunch in connection with a business meeting.
- Whether the offer of the inducement is limited to the 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.

Inducements with No Intent to Improperly Influence Behavior

340.10 A1 Unless an inducement is trivial and inconsequential, the requirements and application material set out in the conceptual framework ~~for identifying, evaluating and addressing threats to the fundamental principles~~ apply when a professional accountant believes an inducement is being offered or accepted with no actual or perceived intent to improperly influence behavior.

340.11 A1 The following are examples where threats might be created from offering or accepting an inducement:

(a) Self-interest threats

- A professional accountant ~~accepts~~ is offered hospitality from a client shortly before submitting the client's tax return.

(b) Familiarity threats

- A professional accountant regularly ~~takes a client offers complimentary tickets to attend~~ sporting events ~~to a client~~.

(c) Intimidation threats

- A professional accountant accepts hospitality from a client that would be perceived to be inappropriate were it to be publically disclosed.

340.11 A2 The factors that are relevant in evaluating the level of any threats created by offering or accepting an inducement are the same factors set out in paragraph 340.9 A1 for determining intent.

340.11 A3 Examples of actions that might be safeguards to address threats created by offering or accepting an inducement include:

- Registering the inducement, whether offered or accepted, in a log monitored by senior management ~~or those charged with governance~~ of the firm or another individual responsible for the firm's ethics compliance for the purposes of transparency.
- Having an appropriate individual, 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 ~~those charged with governance~~ senior management of the firm or the individual who offered the inducement.

340.11 A4 An example of an action that might eliminate threats created by offering or accepting an inducement is transferring responsibility for the provision of any professional services for 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.

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 an inducement being offered:

- (a) By an immediate or close family member of the accountant to a client of the accountant.
- (b) To an immediate or close family member of the accountant from a client of the accountant.

R340.13 Where the professional accountant has reason to believe there is intent to improperly influence the behavior of the accountant or the accountant's client, or believes 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.

340.13 A1 The factors set out in paragraph 340.9 A1 are relevant in determining whether there is actual or perceived intent to improperly influence the behavior of the professional accountant or the 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 client ~~offering or being offered the inducement~~; and
- (c) The accountant and the client ~~offering or being offered the inducement~~.

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

340.14 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:

- (a) The immediate or close family member offers or accepts the inducement contrary to the advice of the professional accountant in accordance with 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 the client exists.

340.14 A2 Factors that are relevant in evaluating the level of threats in these circumstances include the nature or closeness of the relationships referred to in paragraph 340.13 A1.

Other Considerations

340.15 A1 If a firm, network firm or an audit team member is being offered gifts or hospitality from an audit client then the additional requirement set out in Section 420 applies.

340.15 A2 If a firm or an assurance team member is being offered gifts or hospitality from an assurance client then the additional requirement set out in Section 906 applies.

340.15 A3 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 the client, Section 360 is also relevant.