

Revision of Part C, Phase 2—Proposed Section 250 (Revised Extant Section 350) (Mark-up from May 2017 IESBA Discussion)

Part 2 – PROFESSIONAL ACCOUNTANTS IN BUSINESS

Section 250, Inducements, including Gifts and Hospitality

Introduction

- 250.1 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.
- 250.2 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.
- 250.3 Section 250 sets out requirements and application material relevant to applying the conceptual framework in relation to the offering or accepting of inducements that does not constitute non-compliance with laws and regulations. ~~However, t~~This section also requires a professional accountant to comply with relevant laws and regulations when offering or accepting inducements.

Requirements and Application Material

General

- 250.4 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 an~~the intent to improperly influence that individual's ~~behavior~~behavior. Inducements can range from minor acts of hospitality between business colleagues 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

- R250.5** In many jurisdictions, there are laws and regulations ~~concerned with~~related to bribery and corruption that prohibit the offering or accepting of inducements in certain circumstances. ~~Where t~~Where the professional accountant ~~encounters such circumstances, the accountant~~ shall

obtain an understanding of ~~the~~ relevant laws and regulations and comply with them when the accountant encounters such circumstances.

Inducements Not Prohibited by Laws and Regulations

250.6 A1 The offering or accepting of inducements that ~~are~~is not prohibited by laws and regulations might still create threats to compliance with the fundamental principles.

Inducements with Intent to Improperly Influence Behavior

R250.7 A professional accountant shall not offer, or encourage others to offer, any inducement 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.

R250.8 A professional accountant shall not accept, or encourage others to accept, any inducement 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.

250.9 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 activity, 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 employing organization, such as other customers or vendors.
- The roles and positions of the individuals offering or being offered the inducements ~~and individuals to whom the offer is made~~.
- Whether the professional accountant knows, or has reason to believe, that accepting the inducement would breach the policies and procedures of the counterparty's employing organization.

Applying the Conceptual Framework Where There is Inducements with No Intent to Improperly Influence Behavior

250.10 A1 Unless an inducement is trivial and inconsequential, the requirements and application material set out in the conceptual framework apply when a professional accountant believes there is no actual or perceived intent to improperly influence behavior.

250.11 A1 The following are examples ~~of facts and circumstances in which~~ where threats might be created from offering or accepting an inducement:

- a) Self-interest threats

- A professional accountant accepts hospitality from a vendor during a procurement process.
 - b) Familiarity threats
 - A professional accountant regularly offers complimentary tickets to attend sporting events to a customer or supplier.
 - c) Intimidation threats
 - A professional accountant accepts hospitality that would be perceived to be inappropriate were it to be publically disclosed.
- 250.11 A2 The factors that are relevant in evaluating the level of any threats created by offering or accepting an inducement are the same ~~as the factors that are relevant in determining whether there is actual or perceived intent to improperly influence behavior, as~~ set out in paragraph 250.9 A1 for determining intent.
- 250.11 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 for the purposes of transparency.
 - Having an appropriate individual, who is not otherwise involved in the professional activity, review any work performed or decisions made by the professional accountant with respect to the individual or organization 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 or the individual who offered the inducement.
- 250.11 A4 An example of an action that might eliminate threats created by offering or accepting an inducement is transferring responsibility for any business-related decision involving the counterparty to another individual who the professional accountant has no reason to believe would be, or would be perceived to be, improperly influenced in making the decision.

Immediate or Close Family Members

- R250.12** 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 counterparty with whom the accountant has a professional relationship; or
 - (b) To an immediate or close family member of the accountant from a counterparty with whom the accountant has a professional relationship.

~~Inducements with Intent to Improperly Influence Behavior~~

- R250.13** Where the professional accountant has reason to believe ~~that~~ there is intent to improperly influence the behavior of the accountant or the counterparty, or believes ~~that~~ 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.

250.13 A1 The factors set out in paragraph 250.9 A1 are relevant in determining whether there is actual or perceived intent to improperly influence the behavior of the professional accountant or the counterparty~~recipient's behavior~~. ~~A further~~ 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 counterparty offering or being offered the inducement~~or to whom the inducement is being offered~~; and
- (c) The accountant and the counterparty offering or being offered the inducement~~or to whom the inducement is being offered~~.

For example, the offer of employment, outside of the normal recruitment process, to ~~an immediate family member~~ a spouse of the professional accountant by a counterparty with whom the accountant is negotiating a significant contract might indicate such intent.

~~Applying the Conceptual Framework in Other Circumstances~~

250.14 A1 Unless the inducement is trivial and inconsequential, the application material in paragraphs 250.10 A1 to 250.11 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 R250.13; 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 counterparty exists.

250.14 A2 ~~Relevant f~~Factors ~~that are relevant to consider~~ in evaluating the level of threats in these circumstances include the nature or closeness of the relationships referred to in paragraph 250.13 A1.

Other Considerations

250.15 A1 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 or under the direction of the employing organization, Section 260 is also relevant.

250.15 A2 ~~If a~~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.

250.15 A3 If a professional accountant is offered an inducement by the employing organization relating to financial interests, compensation and incentives linked to performance, Section 240 is also relevant.