

# Code of Ethics

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## New Zealand Institute of Chartered Accountants

Application 07/2017

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Code of Ethics

### **Notice of Legal Status of the *Code of Ethics***

The *Code of Ethics* of the New Zealand Institute of Chartered Accountants is made pursuant to section 7 of the [New Zealand Institute of Chartered Accountants Act 1996](#). The Act states, in section 8, that the *Code of Ethics* is a disallowable instrument for the purposes of the [Legislation Act 2012](#).

The New Zealand Institute of Chartered Accountants has prescribed the following *Code of Ethics* to be binding on all members of the Institute.

This *Code of Ethics* replaces all previous Codes of Ethics issued by the Council of the Institute.

This *Code of Ethics* is effective from 15 July 2017

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### **New Zealand Preface**

The *Code of Ethics* ("the Code"), amended by the New Zealand Institute of Chartered Accountants in – May 2017, is based on the *Code of Ethics for Professional Accountants* from the *Handbook of the Code of Ethics for Professional Accountants* of the International Ethics Standards Board for Accountants, published by the International Federation of Accountants (IFAC) in May 2013 and is used with permission of IFAC.<sup>1</sup>

The Code has been amended to include the Final Pronouncement *Responding to Non Compliance to Laws and Regulations* of the International Ethics Standards Board for Accountants published by IFAC in July 2016 and is used with permission of IFAC<sup>2</sup>.

New Zealand additions and definitions are prefixed with NZ in this Code.

The Code is based on a number of fundamental principles that express the basic tenets of professional and ethical behaviour and conduct. Members must abide by these fundamental principles in their professional activities and when providing professional services.

The requirements set out in this Code apply to all members. If the fundamental principles are threatened and no safeguards can be effectively implemented, the member or firm shall terminate or decline the engagement.

### Interaction between NZAuASB's *Code of Ethics for Assurance Practitioners* and the Code

The New Zealand Auditing and Assurance Standards Board (NZAuASB) is New Zealand's independent standard setting body for audit and assurance standards, including the professional and ethical standards applying to assurance practitioners.

In September 2011, a pronouncement was approved by the New Zealand Institute of Chartered Accountants Council that made it a requirement for all members providing assurance services to adhere to the standards issued by the NZAuASB. Therefore assurance practitioners must comply with both PES 1 (Revised) *Code of Ethics for Assurance Practitioners* issued by the NZAuASB; and the New Zealand Institute of Chartered Accountants Code.

In PES 1 (Revised) the independence requirements relating to assurance engagements are incorporated within two sections:

- Section 290, dealing with audit and review engagements; and
- Section 291, dealing with other assurance engagements.

These two sections are not replicated in the Code, instead members are referred to Sections 290 and 291 of PES 1 (Revised) issued by NZAuASB.

In PES 1 (Revised) the requirements relating to responding to non-compliance with laws and regulations for assurance engagements are in Paragraphs 225.12–225.38.

These paragraphs have not been replicated in the Code instead members are referred to Paragraphs 225.12–225.38 of PES 1 (Revised) issued by NZAuASB.

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## NEW ZEALAND SCOPE AND APPLICATION

**NZ1.1** The amended Code is effective from 15 July 2017 and has been revised to incorporate the IESBA standard on *Responding to Non-Compliance with the Laws and Regulations*. This supersedes the Code (effective 1 January 2014).

**NZ1.2** Compliance with the Code is mandatory for all members; the requirements are equally applicable to all members, whether they are in public practice, industry, commerce, the public sector or education and also when undertaking professional activities or providing professional services in an honorary capacity. The Code is designed to provide members with authoritative guidance on minimum acceptable standards of professional conduct. Non-compliance with the Code may expose a member to disciplinary action.

The Code focuses on essential matters of principle and is not to be taken as a definitive statement on all matters. Members must be able to demonstrate at all times that their actions, behaviour, and conduct comply with the Code.

**NZ1.3** The Code is not intended to detract from responsibilities which may be imposed by law or regulation.

- NZ1.4** All members practicing outside of New Zealand shall comply with the Code to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.
- NZ1.5** All references to professional standards and legislation are references to those provisions as amended from time to time.
- NZ1.6** In applying the requirements outlined in the Code, members shall be guided, not merely by the words, but also by the spirit of the Code. The fact that particular behaviour or conduct does not receive a mention within the Code, does not prevent it from amounting to a breach of the Code.
- NZ1.7** For the purpose of NZ 140.9, at the time of issue, the New Zealand Country Head is the most senior executive of the New Zealand Institute of Chartered Accountants.

## Part A: Fundamental principles

### Section 100 Introduction and Fundamental Principles

- 100.1** A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore, a member's responsibility is not exclusively to satisfy the needs of an individual client. In acting in the public interest, a member shall observe and comply with this Code. If a member is prohibited from complying with certain parts of this Code by law or regulation, the member shall comply with all other parts of this Code.
- 100.2** This Code contains three parts. Part A establishes the fundamental principles of ethics for members and provides a conceptual framework that members shall apply to:
- (a) Identify threats to compliance with the fundamental principles;
  - (b) Evaluate the significance of the threats identified; and
  - (c) Apply safeguards, when necessary, to eliminate the threats or reduce them to an acceptable level. safeguards are necessary when the member determines that the threats are not at a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the member at that time, that compliance with the fundamental principles is not compromised.
  - (d) A member shall use professional judgement in applying this conceptual framework.
- 100.3** Parts B and C describe how the conceptual framework applies in certain situations. It provides examples of safeguards that may be appropriate to address threats to compliance with the fundamental principles. It also describes situations where safeguards are not available to address the threats, and consequently, the circumstance or relationship creating the threats shall be avoided.

- 100.4** The use of the word "shall" in this Code imposes a requirement on the member or firm to comply with the specific provision in which "shall" has been used. Compliance is required unless an exception is permitted by this Code.

### Fundamental Principles

- 100.5** A member shall comply with the following fundamental principles:
- (a) *Integrity* – to be straightforward and honest in all professional and business relationships.
  - (b) *Objectivity* – to not allow bias, conflict of interest or undue influence of others to override professional or business judgements.
  - (c) *Professional Competence and Due Care* – to maintain professional knowledge and skill at the level required to ensure that a client receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with the standards issued by the New Zealand Institute of Chartered Accountants, the External Reporting Board, the New Zealand Auditing and Assurance Standards Board, the New Zealand Accounting Standards Board and other statutory requirements or authoritative guidance applicable to the task or engagement.
  - (d) *Confidentiality* – to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the member or third parties.
  - (e) *Professional Behaviour* – to comply with relevant laws and regulations and avoid any conduct that discredits the member's profession.

Each of these fundamental principles is discussed in more detail in Sections 110–150.

### Non-Member Partners or Directors

- NZ100.5.1** Non-members who are permitted to practise in partnership or as directors in a corporate practice with members shall comply with this Code. Members who practise in partnership with non-members or have non-members as fellow directors in a corporate practice shall ensure that their non-member partners or directors comply with this Code.

- NZ100.5.2** When there is a reference in this Code to "member" it shall also be deemed to include a reference to a non-member partner or director, in so far as it is not inconsistent with the Rules and this Code.

### Members' Responsibility for the Conduct of Others

- NZ100.5.3** A member shall not permit others to carry out on the member's behalf acts which if carried out by the member, would place the member in breach of the Rules or this Code [NZ100.5.4](#) Members may be held responsible for the compliance with the Code of all persons associated with the member, who are either under the member's supervision or are the member's partners or fellow directors in a corporate practice.

- NZ100.5.4** Members may be held responsible for the compliance with the Code of all persons associated with the member, who are either under the member's supervision or are the member's partners or fellow directors in a corporate practice.

### Conceptual Framework Approach

- 100.6** The circumstances in which members operate may create specific threats to compliance with the fundamental principles. It is impossible to define every situation that creates threats to compliance with the fundamental principles and specify the appropriate action. In addition, the nature of engagements may differ and, consequently, different threats may be created, requiring the application of different safeguards. Therefore, this Code establishes a conceptual framework that requires a member to identify, evaluate, and address threats to compliance with the fundamental principles. The conceptual framework approach assists members in complying with the ethical requirements of this Code and meeting their responsibility to act in the public interest. It accommodates many variations in circumstances that create threats to compliance with the fundamental principles and can deter a member from concluding that a situation is permitted if it is not specifically prohibited.
- 100.7** When a member identifies threats to compliance with the fundamental principles and, based on an evaluation of those threats, determines that they are not at an acceptable level, the member shall determine whether appropriate safeguards are available and can be applied to eliminate the threats or reduce them to an acceptable level. In making that determination, the member shall exercise professional judgement and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the member at the time, would be likely to conclude that the threats would be eliminated or reduced to an acceptable level by the application of the safeguards, such that compliance with the fundamental principles is not compromised.
- 100.8** A member shall evaluate any threats to compliance with the fundamental principles when the member knows, or could reasonably be expected to know, of circumstances or relationships that may compromise compliance with the fundamental principles.
- 100.9** A member shall take qualitative as well as quantitative factors into account when evaluating the significance of a threat. When applying the conceptual framework, a member may encounter situations in which threats cannot be eliminated or reduced to an acceptable level, either because the threat is too significant or because appropriate safeguards are not available or cannot be applied. In such situations, the member shall decline or discontinue the specific professional service involved or, when necessary, resign from the engagement.
- 100.10** Sections 290 and 291 (refer to PES 1 issued by the NZAuASB) contain provisions with which a member shall comply if the member identifies a breach of an independence provision of the Code. If a member identifies a breach of any other provision of this Code, the member shall evaluate the significance of the breach and its impact on the member's ability to comply with the fundamental principles. The member shall take whatever actions that may be available, as soon as possible, to satisfactorily address the consequences of the breach. The member shall determine whether to report the breach, for example, to those who may have been affected by the breach, a professional body, relevant regulator or oversight authority.

- 100.11** When a member encounters unusual circumstances in which the application of a specific requirement of the Code would result in a disproportionate outcome or an outcome that may not be in the public interest, it is recommended that the member consult with a professional body or the relevant regulator.

### Threats and Safeguards

- 100.12** Threats may be created by a broad range of relationships and circumstances. When a relationship or circumstance creates a threat, such a threat could compromise, or could be perceived to compromise, a member's compliance with the fundamental principles. A circumstance or relationship may create more than one threat, and a threat may affect compliance with more than one fundamental principle. Threats fall into one or more of the following categories:
- (a) Self-interest threat – the threat that a financial or other interest will inappropriately influence the member's judgement or behaviour;
  - (b) Self-review threat – the threat that a member will not appropriately evaluate the results of a previous judgement made or service performed by the member, or by another individual within the member's firm, on which the member will rely when forming a judgement as part of providing a current service;
  - (c) Advocacy threat – the threat that a member will promote a client's position to the point that the member's objectivity is compromised;
  - (d) Familiarity threat – the threat that due to a long or close relationship with a client, a member will be too sympathetic to their interests or too accepting of their work; and
  - (e) Intimidation threat – the threat that a member will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the member.

Parts B and C of this Code explain how these categories of threats may be created for members in public practice, and members in business, respectively. Members in public practice may also find Part C relevant to their particular circumstances.

- 100.13** Safeguards are actions or other measures that may eliminate threats or reduce them to an acceptable level. They fall into two broad categories:
- (a) Safeguards created by the member's profession, legislation or regulation; and
  - (b) Safeguards within the firm's own systems and procedures.

- 100.14** Safeguards created by the member's profession, legislation or regulation include:
- Educational, training and experience requirements for entry into the member's profession.
  - Continuing professional development requirements.
  - Corporate governance regulations.
  - Professional standards.
  - Professional or regulatory monitoring and disciplinary procedures.
  - External review by a legally empowered third party of the reports, communications or information produced by a member.

**100.15** Part B and C of this Code discuss safeguards in the work environment for members in public practice and members in business, respectively.

**100.16** Certain safeguards may increase the likelihood of identifying or deterring unethical behaviour. Such safeguards, which may be created by the member's profession, legislation, regulation, or within the firm's own systems and procedures include:

- Effective, well-publicised complaint systems operated by the firm, the member's profession or a regulator, which enable colleagues and members of the public to draw attention to unprofessional or unethical behaviour.
- An explicitly stated duty to report breaches of ethical requirements.

### Conflicts of Interest

**100.17** A member may be faced with a conflict of interest when undertaking a professional activity. A conflict of interest creates a threat to objectivity and may create threats to the other fundamental principles. Such threats may be created when:

- The member undertakes a professional activity related to a particular matter for two or more parties whose interests with respect to that matter are in conflict; or
- The interests of the member with respect to a particular matter, and the interests of a party for whom the member undertakes a professional activity related to that matter are in conflict.

**100.18** Parts B and C of this Code discuss conflicts of interest for members in public practice and members in business, respectively.

### Ethical Conflict Resolution

**100.19** A member may be required to resolve a conflict in complying with the fundamental principles.

**100.20** When initiating either a formal or informal conflict resolution process, the following factors, either individually or together with other factors, may be relevant to the resolution process:

- (a) Relevant facts;
- (b) Ethical issues involved;
- (c) Fundamental principles related to the matter in question;
- (d) Established internal procedures; and
- (e) Alternative courses of action.

Having considered the relevant factors, a member shall determine the appropriate course of action, weighing the consequences of each possible course of action. If the matter remains unresolved, the member may wish to consult with other appropriate persons within the firm for help in obtaining resolution.

**100.21** Where a matter involves a conflict with, or within, an organisation, a member shall determine whether to consult with those charged with governance of the organisation, such as the board of directors or the audit committee.

**100.22** It may be in the best interests of the member to document the substance of the issue, the details of any discussions held, and the decisions made concerning that issue.

**100.23** If a significant conflict cannot be resolved, a member may consider obtaining professional advice from the relevant professional body or from legal advisors.

The member generally can obtain guidance on ethical issues without breaching the fundamental principle of confidentiality if the matter is discussed with the relevant professional body on an anonymous basis or with a legal advisor under the protection of legal privilege.

**100.24** If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a member shall, unless prohibited by law, refuse to remain associated with the matter creating the conflict. The member shall determine whether, in the circumstances, it is appropriate to withdraw from the engagement team or specific assignment, or to resign altogether from the engagement, or the firm.

#### **Communicating with Those Charged with Governance**

**100.25** When communicating with those charged with governance in accordance with the provisions of this Code, the member or firm shall determine, having regard to the nature and importance of the particular circumstances and matter to be communicated, the appropriate person(s) within the entity's governance structure with whom to communicate. If the member or firm communicates with a subgroup of those charged with governance, for example, an audit committee or an individual, the member or firm shall determine whether communication with all of those charged with governance is also necessary so that they are adequately informed.

**100.26** In some cases, all of those charged with governance are involved in managing the entity, for example, a small business where a single owner manages the entity and no one else has a governance role. In these cases, if matters are communicated with person(s) with management responsibilities, and those person(s) also have governance responsibilities, the matters need not be communicated again with those same person(s) in their governance role. The member or firm shall nonetheless be satisfied that communication with person(s) with management responsibilities adequately informs all of those with whom the member or firm would otherwise communicate in their governance capacity.

## Section 110 Integrity

**110.1** The principle of integrity imposes an obligation on all members to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness.

**110.2** A member shall not knowingly be associated with reports, returns, communications or other information where the member believes that the information:

- (a) Contains a materially false or misleading statement;
- (b) Contains statements or information furnished recklessly; or
- (c) Omits or obscures information required to be included where such omission or obscurity would be misleading.

When a member becomes aware that the member has been associated with such information, the member shall take steps to be disassociated from that information.

**110.3** A member will be deemed not to be in breach of paragraph [110.2](#) if the member provides a modified report in respect of a matter contained in paragraph [110.2](#).

## Section 120 Objectivity

**120.1** The principle of objectivity imposes an obligation on all members not to compromise their professional or business judgement because of bias, conflict of interest or the undue influence of others.

**120.2** A member may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. A member shall not perform a professional service if a circumstance or relationship biases or unduly influences the member's professional judgement with respect to that service.

## Section 130 Professional Competence and Due Care

**130.1** The principle of professional competence and due care imposes the following obligations on all members:

- (a) To maintain professional knowledge and skill at the level required to ensure that clients receive competent professional service; and
- (b) To act diligently in accordance with the standards issued by the New Zealand Institute of Chartered Accountants, the External Reporting Board, the New Zealand Auditing and Assurance Standards Board, the New Zealand Accounting Standards Board, and other statutory requirements or authoritative guidance applicable to the task or engagement when providing professional services.

**130.2** Competent professional service requires the exercise of sound judgement in applying professional knowledge and skill in the performance of such service. Professional competence may be divided into two separate phases:

- (a) Attainment of professional competence; and
- (b) Maintenance of professional competence.

- 130.3** The maintenance of professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continuing professional development enables a member to develop and maintain the capabilities to perform competently within the professional environment.
- 130.4** Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis. Timeliness also extends to a member's obligation to respond in a timely manner to the New Zealand Institute of Chartered Accountants.
- 130.5** A member shall take reasonable steps to ensure that those working under the member's authority in a professional capacity have appropriate training and supervision.
- 130.6** Where appropriate, a member shall make clients or other users of the member's professional services aware of the limitations inherent in the services.

#### **Section 140 Confidentiality**

- 140.1** The principle of confidentiality imposes an obligation on all members to refrain from:
- (a) Disclosing outside the firm confidential information acquired as a result of professional and business relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and
  - (b) Using confidential information acquired as a result of professional and business relationships to their personal advantage or the advantage of third parties.
- 140.2** A member shall maintain confidentiality, including in a social environment, being alert to the possibility of inadvertent disclosure, particularly to a close business associate or a close or immediate family member.
- 140.3** A member shall maintain confidentiality of information disclosed by a prospective client.
- 140.4** A member shall maintain confidentiality of information within the firm.
- 140.5** A member shall take reasonable steps to ensure that staff under the member's control and persons from whom advice and assistance is obtained respect the member's duty of confidentiality.

**140.6** The need to comply with the principle of confidentiality continues even after the end of relationships between a member and a client. When a member acquires a new client, the member is entitled to use prior experience. The member shall not, however, use or disclose any confidential information either acquired or received as a result of a professional or business relationship.

**140.7** As a fundamental principle, confidentiality serves the public interest because it facilitates the free flow of information from the member's client or employing organisation to the member. Nevertheless, the following are circumstances where members are or may be required to disclose confidential information or when such disclosure may be appropriate:

- (a) Disclosure is permitted by law and is authorised by the client;
- (b) Disclosure is required by law, for example:
  - (i) Production of documents or other provision of evidence in the course of legal proceedings; or
  - (ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and
- (c) There is a professional duty or right to disclose, when not prohibited by law:
  - (i) To comply with the quality review of a professional body;
  - (ii) To respond to an enquiry or investigation by a professional body or regulatory body;
  - (iii) To protect the professional interests of a member in legal proceedings; or
  - (iv) To comply with technical and professional standards, including ethical requirements.

**NZ140.7.1** The circumstances in paragraph [140.7](#) do not take into account New Zealand legal and regulatory requirements. A member considering disclosing confidential information about a client without their consent is advised to first obtain legal advice.

**140.8** In deciding whether to disclose confidential information, relevant factors to consider include:

- Whether the interests of all parties, including third parties whose interests may be affected, could be harmed if the client consents to the disclosure of information by the member;
- Whether all the relevant information is known and substantiated, to the extent it is practicable; when the situation involves unsubstantiated facts, incomplete information or unsubstantiated conclusions, professional judgement shall be used in determining the type of disclosure to be made, if any;
- The type of communication that is expected and to whom it is addressed; and
- Whether the parties to whom the communication is addressed are appropriate recipients.

### **Duty to Disclose Unethical Behaviour**

**NZ140.9** Members have a professional duty to report unethical behaviour of other members to the New Zealand Institute of Chartered Accountants. Any member who encounters or becomes aware of a matter which provides reasonable grounds for suspecting defalcation, fraud, dishonesty or other unethical behaviour by any other member shall make a report immediately to the most senior executive of the New Zealand Institute of Chartered Accountants.

**NZ140.10** In circumstances where a member has made a report to the New Zealand Institute of Chartered Accountants, the member should be aware that:

- (a) The information disclosed may form the basis of a complaint by the New Zealand Institute of Chartered Accountants, and in certain circumstances the member who made the report may be requested and/or required to participate in any disciplinary proceedings;
- (b) The information disclosed, including the name and other information which might enable identification of the member who has made the report, may be made available to the member about whom the report relates pursuant to the Privacy Act 1993;
- (c) In all situations where the member considers disclosing confidential information, the member must consider:
  - (i) The interests of all parties who may be affected; and
  - (ii) The need to obtain legal advice and consult the New Zealand Institute of Chartered Accountants.

**NZ140.11** The duty to report also extends to the member's own conduct. In the event of disciplinary proceedings the fact that a member has made such a report may count in the member's favour.

### Section 150 Professional Behaviour

**150.1** The principle of professional behaviour imposes an obligation on all members to comply with relevant laws and regulations and avoid any conduct that the member knows or should know may discredit the member's profession. This includes conduct that a reasonable and informed third party, weighing all the specific facts and circumstances available to the member at that time, would be likely to conclude adversely affects the good reputation of the member's profession.

**150.2** In marketing and promoting themselves and their work, members shall not bring the member's profession into disrepute. Members shall be honest and truthful and not:

- (a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or
- (b) Make disparaging references or unsubstantiated comparisons to the work of others.

**NZ150.3** A member shall act with courtesy and consideration.

## Part B: Members in public practice contents

### Section 200 Introduction

**200.1** This Part of the Code describes how the conceptual framework contained in Part A applies in certain situations to members in public practice. This Part does not describe all of the circumstances and relationships that could be encountered by a member in public practice that create or may create threats to compliance with the fundamental principles. Therefore, the member in public practice is encouraged to be alert for such circumstances and relationships.

**200.2** A member in public practice shall not knowingly engage in any professional activity that impairs or might impair integrity, objectivity or the good reputation of the profession and as a result would be incompatible with the fundamental principles.

## Threats and Safeguards

**200.3** Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances and relationships. The nature and significance of the threats may differ depending on whether they arise in relation to the provision of services to an audit or review client and whether the audit or review client is a public interest entity, to an assurance client that is not an audit or review client, or to a non-assurance client.

Threats fall into one or more of the following categories:

- (a) Self-interest;
- (b) Self-review;
- (c) Advocacy;
- (d) Familiarity; and
- (e) Intimidation.

These threats are discussed further in Part A of this Code.

**200.4** Examples of circumstances that create self-interest threats for a member in public practice include:

- A member of the engagement team having a direct financial interest in a client.
- A firm having undue dependence on total fees from a client.
- A firm having material amounts of fees remaining unpaid by a client.
- A member of the engagement team having a significant close business relationship with a client.
- A firm being concerned about the possibility of losing a significant client.
- A member of the engagement team entering into employment negotiations with a client.
- A firm entering into a contingent fee arrangement.
- A member discovering a significant error when evaluating the results of a previous professional service performed by a member of the member's firm.

**200.5** Examples of circumstances that create self-review threats for a member in public practice include:

- A firm issuing an assurance report on the effectiveness of the operation of financial systems after designing or implementing the systems.
- A firm having prepared the original data used to generate records that are the subject matter of the assurance engagement.
- A member of the assurance team being, or having recently been, a director or officer of the client.
- A member of the assurance team being, or having recently been, employed by the client in a position to exert significant influence over the subject matter of the engagement.
- The firm performing a service for an assurance client that directly affects the subject matter information of the assurance engagement.

**200.6** Examples of circumstances that create advocacy threats for a member in public practice include:

- The firm promoting shares in an audit client.

- A member acting as an advocate on behalf of an audit client in litigation or disputes with third parties.

**200.7** Examples of circumstances that create familiarity threats for a member in public practice include:

- A member of the engagement team having a close or immediate family member who is a director or officer of the client.
- A member of the engagement team having a close or immediate family member who is an employee of the client who is in a position to exert significant influence over the subject matter of the engagement.
- A director or officer of the client or an employee in a position to exert significant influence over the subject matter of the engagement having recently served as the engagement partner.
- A member accepting gifts or preferential treatment from a client, unless the value is trivial or inconsequential.
- Senior personnel having a long association with the assurance client.

**200.8** Examples of circumstances that create intimidation threats for a member in public practice include:

- A firm being threatened with dismissal from a client engagement.
- An audit client indicating that it will not award a planned non-assurance contract to the firm if the firm continues to disagree with the client's accounting treatment for a particular transaction.
- A firm being threatened with litigation by the client.
- A firm being pressured to reduce inappropriately the extent of work performed in order to reduce fees.
- A member feeling pressured to agree with the judgement of a client employee because the employee has more expertise on the matter in question.
- A member of the engagement team being informed by a partner of the firm that a planned promotion will not occur unless the engagement team member agrees with an audit client's inappropriate accounting treatment.

**200.9** Safeguards that may eliminate or reduce threats to an acceptable level fall into two broad categories:

- (a) Safeguards created by the profession, legislation or regulation; and
- (b) Safeguards within the firm's own systems and procedures.

Examples of safeguards created by the profession, legislation or regulation are described in paragraph [100.14](#) of Part A of this Code.

**200.10** A member in public practice shall exercise judgement to determine how best to deal with threats that are not at an acceptable level, whether by applying safeguards to eliminate the threat or reduce it to an acceptable level, or by terminating or declining the relevant engagement. In exercising this judgement, a member in public practice shall consider whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the member at that time, would be likely to conclude that the threats would be eliminated or reduced to an acceptable level by the application of safeguards, such that compliance with the fundamental principles is not compromised. This consideration will be affected by matters such as the significance of the threat, the nature of the engagement, and the structure of the firm.

**200.11** Within the firm's own systems and procedures, the relevant safeguards will vary depending on the circumstances. These safeguards comprise firm-wide safeguards and engagement-specific safeguards.

**200.12** Examples of firm-wide safeguards include:

- Leadership of the firm that stresses the importance of compliance with the fundamental principles.
- Leadership of the firm that establishes the expectation that members of an assurance team will act in the public interest.
- Policies and procedures to implement and monitor quality control of engagements.
- Documented policies regarding the need to identify threats to compliance with the fundamental principles, evaluate the significance of those threats, and apply safeguards to eliminate or reduce the threats to an acceptable level or, when appropriate safeguards are not available or cannot be applied, terminate or decline the relevant engagement.
- Documented internal policies and procedures requiring compliance with the fundamental principles.
- Policies and procedures that will enable the identification of interests or relationships between the firm or members of engagement teams and clients.
- Policies and procedures to monitor and, if necessary, manage the reliance on revenue received from a single client.
- Using different partners and engagement teams with separate reporting lines for the provision of non-assurance services to an assurance client.
- Policies and procedures to prohibit individuals who are not members of an engagement team from inappropriately influencing the outcome of the engagement.
- Timely communication of a firm's policies and procedures, including any changes to them, to all partners and professional staff, and appropriate training and education on such policies and procedures.
- Designating a member of senior management to be responsible for overseeing the adequate functioning of the firm's quality control system.
- Advising partners and professional staff of assurance clients and related entities from which independence is required.
- A disciplinary mechanism to promote compliance with policies and procedures.
- Published policies and procedures to encourage and empower staff to communicate to senior levels within the firm any issue relating to compliance with the fundamental principles that concerns them.

**200.13** Examples of engagement-specific safeguards include:

- Having a member who was not involved with the non-assurance service review the non-assurance work performed or otherwise advise as necessary.
- Having a member who was not a member of the assurance team review the assurance work performed or otherwise advise as necessary.
- Consulting an independent third party, such as a committee of independent directors, a professional or regulatory body, or another member.
- Discussing ethical issues with those charged with governance of the client.
- Disclosing to those charged with governance of the client the nature of services provided and extent of fees charged.
- Involving another firm to perform or re-perform part of the engagement.
- Rotating senior assurance team personnel.

**200.14** Depending on the nature of the engagement, a member in public practice may also be able to rely on safeguards that the client has implemented. However it is not possible to rely solely on such safeguards to reduce threats to an acceptable level.

**200.15** Examples of safeguards within the client's systems and procedures include:

- The client requires persons other than management to ratify or approve the appointment of a firm to perform an engagement.
- The client has competent employees with experience and seniority to make managerial decisions.
- The client has implemented internal procedures that ensure objective choices in commissioning non-assurance engagements.
- The client has a corporate governance structure that provides appropriate oversight and communications regarding the firm's services.

## Section 210 Professional Appointment

### Client Acceptance and Continuance

**210.1** Before accepting a new client relationship, a member in public practice shall determine whether acceptance would create any threats to compliance with the fundamental principles. Potential threats to integrity or professional behaviour may be created from, for example, issues associated with the client (its owners, management or activities) that, if known, could threaten compliance with the fundamental principles. These include, for example, client involvement in illegal activities (such as money laundering), dishonesty, questionable financial reporting practices or other unethical behaviour.

**210.2** A member in public practice shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level.

Examples of such safeguards include:

- Obtaining knowledge and understanding of the client, its owners, managers and those responsible for its governance and business activities; or
- Securing the client's commitment to address the questionable issues, for example, through improving corporate governance practices or internal controls.

**210.3** Where it is not possible to reduce the threats to an acceptable level, the member in public practice shall decline to enter into the client relationship.

**210.4** Potential threats to compliance with the fundamental principles may have been created after acceptance that would have caused the member to decline the engagement had that information been available earlier. A member in public practice shall, therefore, periodically review whether to continue with a recurring client engagement. For example, a

threat to compliance with the fundamental principles may be created by a client's unethical behaviour such as improper earnings management or balance sheet valuations. If a member in public practice identifies a threat to compliance with the fundamental principles, the member shall evaluate the significance of the threats and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level. Where it is not possible to reduce the threat to an acceptable level, the member in public practice shall consider terminating the client relationship where termination is not prohibited by law or regulation.

## Engagement Acceptance

**210.5** The fundamental principle of professional competence and due care imposes an obligation on a member in public practice to provide only those services that the member in public practice is competent to perform. Before accepting a specific client engagement, a member in public practice shall determine whether acceptance would create any threats to compliance with the fundamental principles. For example, a self-interest threat to professional competence and due care is created if the engagement team does not possess, or cannot acquire, the competencies necessary to properly carry out the engagement.

**210.6** A member in public practice shall evaluate the significance of threats and apply safeguards, when necessary, to eliminate them or reduce them to an acceptable level. Examples of such safeguards include:

- Acquiring an appropriate understanding of the nature of the client's business, the complexity of its operations, the specific requirements of the engagement, and the purpose, nature and scope of the work to be performed.
- Acquiring knowledge of relevant industries or subject matters.
- Possessing or obtaining experience with relevant regulatory or reporting requirements.
- Assigning sufficient staff with the necessary competencies.
- Using experts where necessary.
- Agreeing on a realistic time frame for the performance of the engagement.
- Complying with quality control policies and procedures designed to provide reasonable assurance that specific engagements are accepted only when they can be performed competently.

**210.7** When a member in public practice intends to rely on the advice or work of an expert, the member shall determine whether such reliance is warranted. Factors to consider include: reputation, expertise, resources available, and applicable standards issued by the New Zealand Institute of Chartered Accountants, the External Reporting Board, the New Zealand Auditing and Assurance Standards Board, the New Zealand Accounting Standards Board and other statutory requirements or authoritative guidance applicable to the task or engagement. Such information may be gained from prior association with the expert or from consulting others

## Changes in a Professional Appointment

**210.8** A member in public practice who is asked to replace another accountant, or who is considering tendering for an engagement currently held by another accountant, shall determine whether there are any reasons, professional or otherwise, for not accepting the engagement, such as circumstances that create threats to compliance with the fundamental principles that cannot be eliminated or reduced to an acceptable level by the application of safeguards.

For example, there may be a threat to professional competence and due care if a member in public practice accepts the engagement before knowing all the pertinent facts.

**210.9** A member in public practice shall evaluate the significance of any threats.

Safeguards shall be applied when necessary to eliminate any threats or reduce them to an acceptable level. Examples of such safeguards include:

- When replying to requests to submit tenders, stating in the tender that, before accepting the engagement, contact with the existing or predecessor accountant will be requested so that enquiries may be made as to whether there are any professional or other reasons why the appointment should not be accepted;
- Asking the predecessor accountant to provide known information on any facts or circumstances that, in the predecessor accountant's opinion, the proposed successor accountant needs to be aware of before deciding whether to accept the engagement. For example, the apparent reasons for the change in appointment may not fully reflect the facts and may indicate disagreements with the predecessor accountant that may influence the decision to accept the appointment; or
- Obtaining necessary information from other sources.

**210.10** When the threats cannot be eliminated or reduced to an acceptable level through the application of safeguards, a member in public practice shall, unless there is satisfaction as to necessary facts by other means, decline the engagement.

**210.11** A member in public practice may be asked to undertake work that is complementary or additional to the work of the existing accountant. Such circumstances may create threats to professional competence and due care resulting from, for example, a lack of or incomplete information. The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is notifying the existing accountant of the proposed work, which would give the existing accountant the opportunity to provide any relevant information needed for the proper conduct of the work.

**210.12** An existing or predecessor accountant is bound by confidentiality. Whether that member is permitted or required to discuss the affairs of a client with a proposed accountant will depend on the nature of the engagement and on:

- (a) Whether the client's permission to do so has been obtained; or
- (b) The legal or ethical requirements relating to such communications and disclosure, which may vary by jurisdiction.

Circumstances where the member is or may be required to disclose confidential information or where such disclosure may otherwise be appropriate are set out in Section 140 of Part A of this Code.

**210.13** A member in public practice will generally need to obtain the client's permission, preferably in writing, to initiate discussion with an existing or predecessor accountant. Once that permission is obtained, the existing or predecessor accountant shall comply with relevant laws and other regulations governing such requests. Where the existing or predecessor accountant provides information, it shall be provided honestly and unambiguously. If the proposed accountant is unable to communicate with the existing or predecessor accountant, the proposed accountant shall take reasonable steps to

obtain information about any possible threats by other means, such as through enquiries of third parties or background investigations of senior management or those charged with governance of the client.

**NZ210.13.1** The existing accountant, on receipt of the communication referred to in paragraph [210.13](#) shall promptly reply, preferably in writing, advising whether there are professional reasons why the proposed accountant should not accept the appointment.

**NZ210.13.2** The existing accountant shall promptly transfer the documents belonging to the client whenever or however obtained, to the client or, where the client so instructs, to the proposed accountant, and should advise the client accordingly, unless the existing accountant has a legal right to withhold them, for example, when a valid lien for unpaid fees exists.

**210.14** [Amended. Refer to [NZ210.14](#)].

**NZ210.14** In the case of an assurance engagement, a member in public practice shall request the predecessor accountant to provide known information regarding any facts or other information that, in the predecessor accountant's opinion, the proposed successor accountant needs to be aware of before deciding whether to accept the engagement. Except for the circumstances involving identified or suspected non-compliance with laws and regulations set out in paragraph 225.31:

- (a) If the client consents to the predecessor accountant disclosing any such facts or other information, the predecessor accountant shall provide the information honestly and unambiguously; and
- (b) If the client fails or refuses to grant the predecessor accountant permission to discuss the client's affairs with the proposed successor accountant, the predecessor accountant shall disclose this fact to the proposed successor accountant, who shall carefully consider such failure or refusal when determining whether or not to accept the appointment.

## Section 220 Conflicts of Interest

**220.1** A member in public practice may be faced with a conflict of interest on the engagement when performing a professional service. A conflict of interest creates a threat to objectivity and may create threats to the other fundamental principles. Such threats may be created when:

- The member provides a professional service related to a particular matter for two or more clients whose interests with respect to that matter are in conflict; or
- The interests of the member with respect to a particular matter and the interests of the client for whom the member provides a professional service related to that matter are in conflict.

A member shall not allow a conflict of interest to compromise professional or business judgement.

When the professional service is an assurance service, compliance with the fundamental principle of objectivity also requires being independent of assurance clients in accordance with Sections 290 or 291 (refer to PES 1 issued by the NZAuASB) as appropriate.

**220.2** Examples of situations in which conflicts of interests may arise include:

- Providing a transaction advisory service to a client seeking to acquire an audit client of the firm, where the firm has obtained confidential information during the course of the audit that may be relevant to the transaction;
- Advising two clients at the same time who are competing to acquire the same company where the advice might be relevant to the parties' competitive positions;
- Providing services to both a vendor and a purchaser in relation to the same transaction;
- Preparing valuations of assets for two parties in an adversarial position with respect to the assets;
- Representing two clients regarding the same matter who are in a legal dispute with each other, such as during divorce proceedings or the dissolution of a partnership;
- Providing an assurance report for a licensor on royalties due under a license agreement when at the same time advising the licensee of the correctness of the amounts payable;
- Advising a client to invest in a business in which, for example, the spouse of the member in public practice has a financial interest;
- Providing strategic advice to a client on its competitive position while having a joint venture or similar interest with a major competitor of the client;
- Advising a client on the acquisition of a business which the firm is also interested in acquiring; and
- Advising a client on the purchase of a product or service while having a royalty or commission agreement with one of the potential vendors of that product or service.

**220.3** When identifying and evaluating the interests and relationships that might create a conflict of interest and implementing safeguards, when necessary, to eliminate or reduce any threat to compliance with the fundamental principles to an acceptable level, a member in public practice shall exercise professional judgement and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the member at that time, would be likely to conclude that compliance with the fundamental principles is not compromised.

**220.4** When addressing conflicts of interest, including making disclosures or sharing information within the firm or network and seeking guidance of third parties, the member in public practice shall remain alert to the fundamental principle of confidentiality.

**220.5** If the threat created by a conflict of interest is not at an acceptable level, the member in public practice shall apply safeguards to eliminate the threat or reduce it to an acceptable level. If safeguards cannot reduce the threat to an acceptable level, the member shall decline to perform or shall discontinue professional services that would result in the conflict of interest, or shall terminate relevant relationships or dispose of relevant interests to eliminate the threat or reduce it to an acceptable level.

**220.6** Before accepting a new client relationship, engagement, or business relationship, a member in public practice shall take reasonable steps to identify circumstances that might create a conflict of interest including identification of:

- The nature of the relevant interests and relationships between the parties involved; and
- The nature of the service and its implication for relevant parties.

The nature of the services and the relevant interests and relationships may change during the course of the engagement. This is particularly true when a member in public practice is asked to conduct an engagement in a situation that may become adversarial, even though the parties who engage the member may not initially be involved in a dispute. The member shall remain alert to such changes for the purposes of identifying circumstances that might create a conflict of interest.

**220.7** For the purposes of identifying interests and relationships that might create a conflict of interest, having an effective conflict identification process assists a member in public practice to identify actual or potential conflicts of interest prior to determining whether to accept an engagement and throughout an engagement. This includes matters identified by external parties, for example clients or potential clients. The earlier an actual or potential conflict of interest is identified, the greater the likelihood of the member in public practice being able to apply safeguards, when necessary, to eliminate the threat to objectivity and any threat to compliance with other fundamental principles or reduce it to an acceptable level. The process to identify actual or potential conflicts of interest depends on such factors as:

- The nature of the professional services provided;
- The size of the firm;
- The size and nature of the client base; and
- The structure of the firm, for example the number and geographic location of offices.

**220.8** If the firm is a member of a network, conflict identification shall include any conflicts of interest that the member knows or has reason to believe may exist or might arise due to interests and relationships of a network firm. Reasonable steps to identify such interests and relationships involving a network firm will depend on factors such as the nature of the professional services provided, the clients served by the network, and the geographic locations of all relevant parties.

**220.9** If a conflict of interest is identified, the member in public practice shall evaluate:

- The significance of relevant interests or relationships; and
- The significance of the threats created by performing the professional service or services.

In general, the more direct the connection between the professional service and the matter on which the parties' interest are in conflict, the more significant the threat to objectivity and compliance with the other fundamental principles will be.

**220.10** The member in public practice shall apply safeguards, when necessary, to eliminate the threats to compliance with the fundamental principles created by the conflict of interest or reduce them to an acceptable level. Examples of safeguards include:

- Implementing mechanisms to prevent unauthorised disclosure of confidential information when performing professional services related to the matter for two or more clients whose interests with respect to that matter are in conflict. This could include:
  - using separate engagement teams who are provided with clear policies and procedures on maintaining confidentiality;
  - creating separate areas of practice for specialty functions within the firm, which may act as a barrier to the passing of confidential client information from one practice area to another within a firm;

- establishing policies and procedures to limit access to client files, the use of confidentiality agreements signed by employees and partners of the firm and/or the physical and electronic separation of confidential information;
- Regular review of the application of safeguards by a senior individual not involved with the client engagement or engagements;
- Having a member who is not involved in providing the service, or otherwise affected by the conflict, review the work performed to assess whether the key judgements and conclusions are appropriate; and
- Consulting with third parties, such as a professional body, legal counsel or another member.

**NZ220.10.1** Where a member in public practice has a conflict of interest but can apply safeguards to eliminate the threat or reduce it to an acceptable level, the member in public practice shall disclose the nature of the conflict of interest and the related safeguards, if any, to all clients or potential clients affected by the conflict. When safeguards are required to reduce the threat to an acceptable level, the member in public practice shall obtain the client's consent to the member in public practice performing the professional services.

**220.11** [Amended. Refer to [NZ220.10.1](#)].

**NZ220.11** Disclosure and consent may take different forms, for example:

- General disclosure to clients of circumstances where the member in public practice, in keeping with common commercial practice, does not provide services exclusively for any one client (for example, in a particular service in a particular market sector) in order for the client to provide general consent accordingly. Such disclosure might, for example, be made in the member's standard terms and conditions for the engagement.
- Specific disclosure to affected clients of the circumstances of the particular conflict, including a detailed presentation of the situation and a comprehensive explanation of any planned safeguards and the risks involved, sufficient to enable the client to make an informed decision with respect to the matter and to provide explicit consent accordingly.
- In certain circumstances consent may be implied by the client's conduct where the member in public practice has sufficient evidence to conclude that clients know the circumstances at the outset and have accepted the conflict of interest if they do not raise an objection to the existence of the conflict.
- The member in public practice shall determine whether the nature and significance of the conflict of interest is such that specific disclosure and explicit consent is necessary. For this purpose the member in public practice shall exercise professional judgement in weighing the outcome of the evaluation of the circumstances that create a conflict of interest, including the parties that might be affected, the nature of the issues that might arise, and the potential for the particular matter to develop in an unexpected manner.

**220.12** Where a member in public practice has requested explicit consent from a client and that consent has been refused by the client, the member in public practice shall decline to perform or shall discontinue professional services that would result in a conflict of interest, or shall terminate relevant relationships or dispose of relevant interest to eliminate the threat or reduce it to an acceptable level, such that consent can be obtained, after applying any additional safeguards if necessary.

**220.13** When disclosure is verbal, or consent is verbal or implied, the member in public practice is encouraged to document the nature of the circumstances giving rise to the conflict of interest, the safeguards applied to reduce the threats to an acceptable level and the consent obtained.

**220.14** [Deleted. Refer to [NZ220.14](#)].

**NZ220.14** In those circumstances where adequate disclosure is not possible by reason of constraints of confidentiality, the member in public practice shall withdraw or resign from the relevant engagement.

### **Section 225 Responding to Non-Compliance with Laws and Regulations Purpose**

**225.1** A member in public practice may encounter or be made aware of non-compliance or suspected non-compliance with laws and regulations in the course of providing a professional service to a client. The purpose of this section is to set out the member in public practice's responsibilities when encountering such non-compliance or suspected non-compliance, and guide the member in public practice in assessing the implications of the matter and the possible courses of action when responding to it. This section applies regardless of the nature of the client, including whether or not it is a public interest entity.

**225.2** Non-compliance with laws and regulations ("non-compliance") comprises acts of omission or commission, intentional or unintentional, committed by a client, or by those charged with governance, by management or by other individuals working for or under the direction of a client which are contrary to the prevailing laws or regulations.

**225.3** In some cases, there are legal or regulatory provisions governing how members in public practice should address non-compliance or suspected non-compliance which may differ from or go beyond this section. When encountering such non-compliance or suspected non-compliance, the member in public practice has a responsibility to obtain an understanding of those provisions and comply with them, including any requirement to report the matter to an appropriate authority and any prohibition on alerting the client prior to making any disclosure, for example, pursuant to anti-money laundering legislation.

**225.4** A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to non-compliance or suspected non-compliance, the objectives of the member are:

- (a) To comply with the fundamental principles of integrity and professional behaviour;
- (b) By alerting management or, where appropriate, those charged with governance of the client, to seek to:
  - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
  - (ii) Deter the commission of the non-compliance where it has not yet occurred; and
- (c) To take such further action as appropriate in the public interest.

### **Scope**

**225.5** This section sets out the approach to be taken by a member in public practice who encounters or is made aware of non-compliance or suspected non-compliance with:

- (a) Laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the client's financial statements; and
- (b) Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the client's financial statements but compliance with which may be fundamental to the operating aspects of the client's business, to its ability to continue its business, or to avoid material penalties.

**225.6** Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

**225.7** Non-compliance may result in fines, litigation or other consequences for the client that may have a material effect on its financial statements. Importantly, such non-compliance may have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

**225.8** A member in public practice who encounters or is made aware of matters that are clearly inconsequential, judged by their nature and their impact, financial or otherwise, on the client, its stakeholders and the general public, is not required to comply with this section with respect to such matters.

**225.9** This section does not address:

- (a) Personal misconduct unrelated to the business activities of the client; and
- (b) Non-compliance other than by the client or those charged with governance, management or other individuals working for or under the direction of the client. This includes, for example, circumstances where a member in public practice has been engaged by a client to perform a due diligence assignment on a third party entity and the identified or suspected non-compliance has been committed by that third party.

The member in public practice may nevertheless find the guidance in this section helpful in considering how to respond in these situations.

## **Responsibilities of the Client's Management and Those Charged with Governance**

**225.10** It is the responsibility of the client's management, with the oversight of those charged with governance, to ensure that the client's business activities are conducted in accordance with laws and regulations. It is also the responsibility of management and those charged with governance to identify and address any non-compliance by the client, by an individual charged with governance of the entity, by a member of management, or by other individuals working for or under the direction of the client.

### **Responsibilities of Members in Public Practice**

**225.11** Where a member in public practice becomes aware of a matter to which this section applies, the steps that the member in public practice takes to comply with this section shall be taken on a timely basis, having regard to the member in public practice's understanding of the nature of the matter and the potential harm to the interests of the entity, investors, creditors, employees or the general public.

### **Assurance Engagements**

Refer to paragraphs 225.12–225.38 of the NZAuASB's Professional and Ethical Standard 1 (Revised) Code of Ethics for Assurance Practitioners (PES 1).

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### **Professional Services Other than Assurance Engagements**

#### **Obtaining an Understanding of the Matter and Addressing It with Management and Those Charged with Governance**

**225.39** If a member in public practice engaged to provide a professional service other than an assurance engagement becomes aware of information concerning an instance of non-compliance or suspected non-compliance, the member in public practice shall seek to obtain an understanding of the matter, including the nature of the act and the circumstances in which it has occurred or may be about to occur.

**225.40** The member in public practice is expected to apply knowledge, professional judgement and expertise, but is not expected to have a level of understanding of laws and regulations beyond that which is required for the professional service for which the member in public practice was engaged. Whether an act constitutes actual non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the member in public practice may consult on a confidential basis with others within the firm, a network firm or a professional body, or with legal counsel.

**225.41** If the member in public practice identifies or suspects that non-compliance has occurred or may occur, the member in public practice shall discuss the matter with the appropriate level of management and, if the member in public practice has access to them and where appropriate, those charged with governance.

**225.42** Such discussion serves to clarify the member in public practice's understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also may prompt management or those charged with governance to investigate the matter.

**225.43** The appropriate level of management with whom to discuss the matter is a question of professional judgement. Relevant factors to consider include:

- The nature and circumstances of the matter.
- The individuals actually or potentially involved.
- The likelihood of collusion.
- The potential consequences of the matter.
- Whether that level of management is able to investigate the matter and take appropriate action.

#### Communicating the Matter to the Entity's External Auditor

**225.44** If the member in public practice is performing a non-audit service for an audit client of the firm, or a component of an audit client of the firm, the member in public practice shall communicate the non-compliance or suspected non-compliance within the firm, unless prohibited from doing so by law or regulation. The communication shall be made in accordance with the firm's protocols or procedures or, in the absence of such protocols and procedures, directly to the audit engagement partner.

**225.45** If the member in public practice is performing a non-audit service for an audit client of a network firm, or a component of an audit client of a network firm, the member in public practice shall consider whether to communicate the non-compliance or suspected non-compliance to the network firm. Where the communication is made, it shall be made in accordance with the network's protocols or procedures or, in the absence of such protocols and procedures, directly to the audit engagement partner.

**225.46** If the member in public practice is performing a non-audit service for a client that is not:

- (a) An audit client of the firm or a network firm; or
- (b) A component of an audit client of the firm or a network firm;

the member in public practice shall consider whether to communicate the non-compliance or suspected non-compliance to the firm that is the client's external auditor, if any.

**225.47** Factors relevant to considering the communication in accordance with paragraphs [225.45](#) and [225.46](#) include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the entity to enable it to take appropriate action.
- Whether management or those charged with governance have already informed the entity's external auditor about the matter.

- The likely materiality of the matter to the audit of the client's financial statements or, where the matter relates to a component of the group, its likely materiality to the audit of the group financial statements.

**225.48** In all cases, the communication is to enable the audit engagement partner to be informed about the non-compliance or suspected non-compliance and to determine whether and, if so, how it should be addressed in accordance with the provisions of this section.

### Considering Whether Further Action Is Needed

**225.49** The member in public practice shall also consider whether further action is needed in the public interest.

**225.50** Whether further action is needed, and the nature and extent of it, will depend on factors such as:

- The legal and regulatory framework.
- The appropriateness and timeliness of the response of management and, where applicable, those charged with governance.
- The urgency of the matter.
- The involvement of management or those charged with governance in the matter.
- The likelihood of substantial harm to the interests of the client, investors, creditors, employees or the general public.

**225.51** Further action by the member in public practice may include:

- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Withdrawing from the engagement and the professional relationship where permitted by law or regulation.

**225.52** In considering whether to disclose to an appropriate authority, relevant factors to take into account include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the entity to enable it to take appropriate action.

**225.53** If the member in public practice determines that disclosure of the non-compliance or suspected non-compliance to an appropriate authority is an appropriate course of action in the circumstances, this will not be considered a breach of confidentiality under Section 140 of this Code. When making such disclosure, the member in public practice shall act in good faith and exercise caution when making statements and assertions. The member in public practice shall also

consider when it is appropriate to inform the client of the member in public practice's intentions before disclosing the matter.

**225.54** In exceptional circumstances, the member in public practice may become aware of actual or intended conduct that the member in public practice had reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to investors, creditor, employees or the general public. Having considered whether it would be appropriate to discuss the matter with management or those charged with governance of the entity, the member in public practice shall exercise professional judgement and may immediately disclose the matter to an appropriate authority in order to prevent or mitigate the consequences of such an imminent breach of law or regulation. Such disclosure will not be considered a breach of the duty of confidentiality under section 140 of this Code.

**225.55** The member in public practice may consider consulting internally, obtaining legal advice to understanding the professional or legal implications of taking any particular course of action, or consulting on a confidential basis with a regulator or professional body.

## Documentation

**225.56** In relation to an identified or suspected act of non-compliance that falls within the scope of this section, the member in public practice shall document:

- The matter.
- The results of discussions with management and, where applicable, those charged with governance and other parties.
- How management and, where applicable, those charged with governance have responded to the matter.
- The course of action the member in public practice considered, the judgements made and the decision that were taken.
- How the member in public practice is satisfied that the member has fulfilled the responsibility set out in paragraph [225.49](#).

## Section 230 Second Opinions

**230.1** Situations where a member in public practice is asked to provide a second opinion on the application of accounting, auditing, reporting, or other standards or principles to specific circumstances or transactions by or on behalf of a company or an entity that is not an existing client may create threats to compliance with the fundamental principles. For example, there may be a threat to professional competence and due care in circumstances where the second opinion is not based on the same set of facts that were made available to the existing accountant or is based on inadequate evidence. The existence and significance of any threat will depend on the circumstances of the request and all the other available facts and assumptions relevant to the expression of a professional judgment.

**230.2** When asked to provide such an opinion, a member in public practice shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level. Examples of such safeguards

include seeking client permission to contact the existing accountant, describing the limitations surrounding any opinion in communications with the client and providing the existing accountant with a copy of the opinion.

- 230.3** If the company or entity seeking the opinion will not permit communication with the existing accountant, a member in public practice shall determine whether, taking all the circumstances into account, it is appropriate to provide the opinion sought.

## Section 240 Fees and Other Types of Remuneration

- 240.1** When entering into negotiations regarding professional services, a member in public practice may quote whatever fee is deemed appropriate. The fact that one member in public practice may quote a fee lower than another is not in itself unethical. Nevertheless, there may be threats to compliance with the fundamental principles arising from the level of fees quoted. For example, a self-interest threat to professional competence and due care is created if the fee quoted is so low that it may be difficult to perform the engagement in accordance with the standards issued by the New Zealand Institute of Chartered Accountants, the External Reporting Board, the New Zealand Auditing and Assurance Standards Board, the New Zealand Accounting Standards Board and other statutory requirements or authoritative guidance applicable to the task or engagement for that price.

- 240.2** The existence and significance of any threats created will depend on factors such as the level of fee quoted and the services to which it applies. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Making the client aware of the terms of the engagement and, in particular, the basis on which fees are charged and which services are covered by the quoted fee.
- Assigning appropriate time and qualified staff to the task.

- 240.3** Contingent fees are widely used for certain types of non-assurance engagements.<sup>3</sup> They may, however, create threats to compliance with the fundamental principles in certain circumstances. They may create a self-interest threat to objectivity. The existence and significance of such threats will depend on factors including:

- The nature of the engagement.
- The range of possible fee amounts.
- The basis for determining the fee.
- Whether the outcome or result of the transaction is to be reviewed by an independent third party.

- 240.4** The significance of any such threats shall be evaluated and safeguards applied when necessary to eliminate or reduce them to an acceptable level. Examples of such safeguards include:

- An advance written agreement with the client as to the basis of remuneration.
- Disclosure to intended users of the work performed by the member in public practice and the basis of remuneration.
- Quality control policies and procedures.

- Review by an independent third party of the work performed by the member in public practice.

**240.5** In certain circumstances, a member in public practice may receive a referral fee or commission relating to a client. For example, where the member in public practice does not provide the specific service required, a fee may be received for referring a continuing client to another accountant or other expert. A member in public practice may receive a commission from a third party (for example, a software vendor) in connection with the sale of goods or services to a client. Accepting such a referral fee or commission creates a self-interest threat to objectivity and professional competence and due care.

**240.6** A member in public practice may also pay a referral fee to obtain a client, for example, where the client continues as a client of another accountant but requires specialist services not offered by the existing accountant. The payment of such a referral fee also creates a self-interest threat to objectivity, and professional competence and due care.

**240.7** The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Disclosing to the client any arrangements to pay a referral fee to another accountant for the work referred;
- Disclosing to the client any arrangements to receive a referral fee for referring the client to another accountant; or
- Obtaining advance agreement from the client for commission arrangements in connection with the sale by a third party of goods or services to the client.

**240.8** A member in public practice may purchase all or part of another firm on the basis that payments will be made to individuals formerly owning the firm or to their heirs or estates. Such payments are not regarded as commissions or referral fees for the purpose of paragraphs [240.5–240.7](#) above, and [NZ240.9](#) below.

**NZ240.9** The receipt or payment of referral fees, commissions or other similar benefits in connection with an assurance engagement creates a threat to independence that no safeguards could reduce to an acceptable level. Accordingly, a member in public practice shall not accept such a fee arrangement in respect of an assurance engagement.

## Section 250 Marketing Professional Services

**250.1** When a member in public practice solicits new work through advertising or other forms of marketing, there may be a threat to compliance with the fundamental principles. For example, a self-interest threat to compliance with the principle of professional behaviour is created if services, achievements, or products are marketed in a way that is inconsistent with that principle.

**250.2** A member in public practice shall not bring the profession into disrepute when marketing professional services. The member in public practice shall be honest and truthful and not:

- (a) Make exaggerated claims for services offered, qualifications possessed, or experience gained; or

- (b) Make disparaging references or unsubstantiated comparisons to the work of another.

If the member in public practice is in doubt about whether a proposed form of advertising or marketing is appropriate, the member in public practice shall consider consulting with the relevant professional body.

### Section 260 Gifts and Hospitality

- 260.1** A member in public practice, or an immediate or close family member, may be offered gifts and hospitality from a client. Such an offer may create threats to compliance with the fundamental principles. For example, a self-interest or familiarity threat to objectivity may be created if a gift from a client is accepted; an intimidation threat to objectivity may result from the possibility of such offers being made public.
- 260.2** The existence and significance of any threat will depend on the nature, value, and intent of the offer. Where gifts or hospitality are offered that a reasonable and informed third party, weighing all the specific facts and circumstances, would consider trivial and inconsequential, a member in public practice may conclude that the offer is made in the normal course of business without the specific intent to influence decision making or to obtain information. In such cases, the member in public practice may generally conclude that any threat to compliance with the fundamental principles is at an acceptable level.
- 260.3** A member in public practice shall evaluate the significance of any threats and apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level. When the threats cannot be eliminated or reduced to an acceptable level through the application of safeguards, a member in public practice shall not accept such an offer.

### Section 270 Custody of Client Assets

- 270.1** A member in public practice shall not assume custody of client monies or other assets unless permitted to do so by law and, if so, in compliance with any additional legal duties imposed on a member in public practice holding such assets.
- 270.2** The holding of client assets creates threats to compliance with the fundamental principles; for example, there is a self-interest threat to professional behaviour and may be a self-interest threat to objectivity arising from holding client assets. A member in public practice entrusted with money (or other assets) belonging to others shall therefore:
- (a) Keep such assets separately from personal or firm assets;
  - (b) Use such assets only for the purpose for which they are intended;
  - (c) At all times be ready to account for those assets and any income, dividends, or gains generated, to any persons entitled to such accounting; and
  - (d) Comply with all relevant laws and regulations relevant to the holding of, and accounting for, such assets.
- 270.3** As part of client and engagement acceptance procedures for services that may involve the holding of client assets, a member in public practice shall make appropriate enquiries about the source of such assets and consider legal and regulatory obligations. For example, if the assets were derived from illegal activities, such as money laundering, a threat

to compliance with the fundamental principles would be created. In such situations, the member in public practice shall comply with the provisions of section 225.

## Section 280 Objectivity—All Services

- 280.1** A member in public practice shall determine when providing any professional service whether there are threats to compliance with the fundamental principle of objectivity resulting from having interests in, or relationships with, a client or its directors, officers or employees. For example, a familiarity threat to objectivity may be created from a family or close personal or business relationship.
- 280.2** A member in public practice who provides an assurance service shall be independent of the assurance client. Independence of mind and in appearance is necessary to enable the member in public practice to express a conclusion, and be seen to express a conclusion, without bias, conflict of interest, or undue influence of others. Sections 290 and 291 (refer to PES 1 issued by the NZAuASB) provide specific guidance on independence requirements for members in public practice when performing assurance engagements.
- NZ280.2.1** Independence is also important for some other professional services, including some insolvency engagements, independent business valuations, appraisal reports under New Zealand Stock Exchange Listing Rules, and expert witness engagements.
- NZ280.2.2** Where specific independence requirements have been established for engagements other than assurance engagements, they are set out in the appropriate Professional Engagement Standard.
- NZ280.2.3** Where there is no relevant Professional Engagement Standard, members must have regard to:
- (a) Any other authoritative independence requirements applicable to that engagement, such as the New Zealand Stock Exchange Market Surveillance Panel's *Policy on the Approval of Independent Reporters*; and
  - (b) Any requirements from legislation.
- 280.3** The existence of threats to objectivity when providing any professional service will depend upon the particular circumstances of the engagement and the nature of the work that the member in public practice is performing.
- 280.4** A member in public practice shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level. Examples of such safeguards include:
- Withdrawing from the engagement team.
  - Supervisory procedures.
  - Terminating the financial or business relationship giving rise to the threat.
  - Discussing the issue with higher levels of management within the firm.

- Discussing the issue with those charged with governance of the client.

If safeguards cannot eliminate or reduce the threat to an acceptable level, the member shall decline or terminate the relevant engagement.

### **Section 290 Independence–Audit and Review Engagements**

Refer to Section 290 of the NZAuASB's Professional and Ethical Standard 1 (Revised) *Code of Ethics for Assurance Practitioners* (PES 1).

### **Section 291 Independence–Other Assurance Engagements**

Refer to Section 291 of the NZAuASB's Professional and Ethical Standard 1 (Revised) *Code of Ethics for Assurance Practitioners* (PES 1).

### **Interpretation 2005-01**

Refer to Interpretation 2005-01 of the NZAuASB's Professional and Ethical Standard 1 (Revised) *Code of Ethics for Assurance Practitioners* (PES 1).

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## **Part C: Members in business**

### **Section 300 Introduction**

- 300.1** This Part of the Code describes how the conceptual framework contained in Part A applies in certain situations to members in business. This Part does not describe all of the circumstances and relationships that could be encountered by a member in business that create or may create threats to compliance with the fundamental principles. Therefore, the member in business is encouraged to be alert for such circumstances and relationships.
- 300.2** Investors, creditors, employers and other sectors of the business community, as well as governments and the public at large, all may rely on the work of members in business. Members in business may be solely or jointly responsible for the preparation and reporting of financial and other information, which both their employing organisations and third parties may rely on. They may also be responsible for providing effective financial management and competent advice on a variety of business-related matters.
- 300.3** A member in business may be a salaried employee, a partner, director (whether executive or non-executive), an owner manager, a volunteer, or another working for one or more employing organisation. The legal form of the relationship with the employing organisation, if any, has no bearing on the ethical responsibilities incumbent on the member in business.

**300.4** A member in business has a responsibility to further the legitimate aims of the member's employing organisation. This Code does not seek to hinder a member in business from properly fulfilling that responsibility, but addresses circumstances in which compliance with the fundamental principles may be compromised.

**300.5** A member in business may hold a senior position within an organisation. The more senior the position, the greater will be the ability and opportunity to influence events, practices and attitudes. A member in business is expected, therefore, to encourage an ethics-based culture in an employing organisation that emphasises the importance that senior management places on ethical behaviour. Established ethics policies and whistle-blowing procedures that have been communicated to all employees may be useful to achieve the objective of establishing and maintaining an ethics-based culture. Such procedures help to encourage ethical behaviour and increase the likelihood of senior management being alerted to a problem in time to prevent serious damage.

**300.6** A member in business shall not knowingly engage in any business, occupation, or activity that:

- Would be incompatible with the member's responsibility to act in the public interest.
- A reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the member at the time, impairs or might impair integrity, objectivity or the good reputation of the profession.

Examples include improper earnings management or balance sheet valuations.

**300.7** Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances and relationships. Threats fall into one or more of the following categories:

- (a) Self-interest;
- (b) Self-review;
- (c) Advocacy;
- (d) Familiarity; and
- (e) Intimidation.

These threats are discussed further in Part A of this Code.

**300.8** Examples of circumstances that may create self-interest threats for a member in business include:

- Holding a financial interest in, or receiving a loan or guarantee from, the employing organisation.
- Participating in incentive compensation arrangements offered by the employing organisation.
- Inappropriate personal use of corporate assets.
- Concern over employment security.
- Commercial pressure from outside the employing organisation.

- 300.9** An example of a circumstance that creates a self-review threat for a member in business is determining the appropriate accounting treatment for a business combination after performing the feasibility study that supported the acquisition decision.
- 300.10** When furthering the legitimate goals and objectives of their employing organisations, members in business may promote the organisation's position, provided any statements made are neither false nor misleading. Such actions generally would not create an advocacy threat.
- 300.11** Examples of circumstances that may create familiarity threats for a member in business include:
- Being responsible for the employing organisation's financial reporting when an immediate or close family member employed by the entity makes decisions that affect the entity's financial reporting.
  - Long association with business contacts influencing business decisions.
  - Accepting a gift or preferential treatment, unless the value is trivial and inconsequential.
- 300.12** Examples of circumstances that may create intimidation threats for a member in business include:
- Threat of dismissal or replacement of the member in business or a close or immediate family member over a disagreement about the application of an accounting principle or the way in which financial information is to be reported.
  - A dominant personality attempting to influence the decision-making process, for example with regard to the awarding of contracts or the application of an accounting principle.
- 300.13** Safeguards that may eliminate or reduce threats to an acceptable level fall into two broad categories:
- (a) Safeguards created by the profession, legislation or regulation; and
  - (b) Safeguards in the work environment.
- Examples of safeguards created by the profession, legislation or regulation are detailed in paragraph 100.14 of Part A of this Code.
- 300.14** Safeguards in the work environment include:
- The employing organisation's systems of corporate oversight or other oversight structures.
  - The employing organisation's ethics and conduct programs.
  - Recruitment procedures in the employing organisation emphasising the importance of employing high calibre, competent staff.
  - Strong internal controls.
  - Appropriate disciplinary processes.
  - Leadership that stresses the importance of ethical behaviour and the expectation that employees will act in an ethical manner.
  - Policies and procedures to implement and monitor the quality of employee performance.

- Timely communication of the employing organisation's policies and procedures, including any changes to them, to all employees, and appropriate training and education on such policies and procedures.
- Policies and procedures to empower and encourage employees to communicate to senior levels within the employing organisation any ethical issues that concern them without fear of retribution.
- Consultation with another appropriate member.

**300.15** If a member in business believes that unethical behaviour has occurred within the employing organisation, the member shall discuss the matter with the appropriate level of management. If the response to the matter is not appropriate, the member shall escalate the matter to higher levels of management to the extent possible. If the response is still not appropriate, the member shall discuss the matter with those charged with governance, or a sub-group thereof, if possible. If, in the member's judgement, the response to the matter is not appropriate, the member may consider consulting with a relevant professional body on an anonymous basis or obtaining legal advice, and may conclude that it is appropriate to resign from the employing organisation.

### Section 310 Conflicts of Interest

**310.1** A member in business may be faced with a conflict of interest when undertaking a professional activity. A conflict of interest creates a threat to objectivity and may create threats to the other fundamental principles. Such threats may be created when:

- The member undertakes a professional activity related to a particular matter for two or more parties whose interest with respect to that matter are in conflict; or
- The interests of the member with respect to a particular matter and the interests of a party for whom the member undertakes a professional activity related to that matter are in conflict.

A party may include an employing organisation, a vendor, a customer, a lender, a shareholder, or another party.

A member shall not allow a conflict of interest to compromise professional or business judgment.

**310.2** Examples of situations in which conflicts of interest may arise include:

- Serving in a management or governance position for two employing organisations and acquiring confidential information from one employing organisation that could be used by the member to the advantage or disadvantage of the other employing organisation;
- Undertaking a professional activity for each of two parties in a partnership employing the member to assist them to dissolve their partnership;
- Preparing financial information for certain members of management of the entity employing the member who are seeking to undertake a management buy-out;
- Being responsible for selecting a vendor for the member's employing organisation when an immediate family member of the member could benefit financially from the transaction; and

- Serving in a governance capacity in an employing organisation that is approving certain investments for the company where one of those specific investments will increase the value of the personal investment portfolio of the member or an immediate family member.

**310.3** When identifying and evaluating the interests and relationships that might create a conflict of interest and implementing safeguards, when necessary, to eliminate or reduce any threat to compliance with the fundamental principles to an acceptable level, a member in business shall exercise professional judgement and be alert to all interests and relationships that a reasonable and informed third party, weighing all the specific facts and circumstances available to the member at that time, would be likely to conclude might compromise compliance with the fundamental principles.

**310.4** When addressing a conflict of interest, a member in business is encouraged to seek guidance from within the employing organisation or from others, such as a professional body, legal counsel or another member. When making disclosures or sharing information within the employing organisation and seeking guidance of third parties, the member shall remain alert to the fundamental principle of confidentiality.

**310.5** If the threat created by a conflict of interest is not at an acceptable level, the member in business shall apply safeguards to eliminate the threat or reduce it to an acceptable level. If safeguards cannot reduce the threat to an acceptable level, the member shall decline to undertake or discontinue the professional activity that would result in the conflict of interest; or shall terminate the relevant relationships or dispose of relevant interests to eliminate the threat or reduce it to an acceptable level.

**310.6** In identifying whether a conflict of interest exists or may be created, the member in business shall take all reasonable steps to determine:

- The nature of the relevant interests and relationships between the parties involved; and
- The nature of the activity and its implications to relevant parties.

The nature of the activities and the relevant interests and relationships may change over time. The member shall remain alert to such changes for the purposes of identifying circumstances that might create a conflict of interest.

**310.7** If a conflict of interest is identified, the member in business shall evaluate:

- The significance of relevant interests or relationships; and
- The significant of the threats created by undertaking the professional activity or activities.

In general, the more direct the connection between the professional activity and the matter on which the parties' interests are in conflict, the more significant the threat to objectivity and compliance with the other fundamental principles will be.

- 310.8** The member in business shall apply safeguards, when necessary, to eliminate the threats to compliance with the fundamental principles created by the conflict of interest or reduce it to an acceptable level. Depending on the circumstances giving rise to the conflict of interest, application of one or more of the following safeguards may be appropriate:
- Restructuring or segregating certain responsibilities and duties;
  - Obtaining appropriate oversight, for example, acting under the supervision of an executive or non-executive director;
  - Withdrawing from the decision making process related to the matter giving rise to the conflict of interest; or
  - Consulting with third parties, such as a professional body, legal counsel or another professional accountant.
- 310.9** In addition, it is generally necessary to disclose the nature of the conflict to the relevant parties, including to the appropriate levels within the employing organisation and, when safeguards are required to reduce the threat to an acceptable level, to obtain their consent to the member in business undertaking the professional activity. In certain circumstances, consent may be implied by a party's conduct where the member has sufficient evidence to conclude that parties know the circumstances at the outset and have accepted the conflict of interest if they do not raise an objection to the existence of the conflict.
- 310.10** When disclosure is verbal, or consent is verbal or implied, the member in business is encouraged to document the nature of the circumstances giving rise to the conflict of interest, the safeguards applied to reduce the threats to an acceptable level and the consent obtained.
- 310.11** A member in business may encounter other threats to compliance with the fundamental principles. This may occur, for example, when preparing or reporting financial information as a result of undue pressure from others within the employing organisation or financial, business, or personal relationships that close or immediate family members of the member have with the employing organisation. Guidance on managing such threats is covered by Sections 320 and 340 of the Code.

## **Section 320 Preparation and Reporting of Information**

- 320.1** Members in business are often involved in the preparation and reporting of information that may either be made public or used by others inside or outside the employing organisation. Such information may include financial or management information, for example, forecasts and budgets, financial statements, management's discussion and analysis, and the management letter of representation provided to the auditors during the audit of the entity's financial statements. A member in business shall prepare or present such information fairly, honestly and in accordance with relevant professional standards so that the information will be understood in its context.
- 320.2** A member in business who has responsibility for the preparation or approval of the general purpose financial statements of an employing organisation shall be satisfied that those financial statements are presented in accordance with the applicable financial reporting standards.

**NZ320.2.1** Where a member in business referred to in paragraph 320.2 is not satisfied that the financial statements of an employing organisation are presented in accordance with the applicable Financial Reporting Standards, the member in business shall:

- (a) Notify those charged with governance and document the communication; and
- (b) Qualify any declarations given by the member in business in compliance with legislative and regulatory requirements or the organisation's reporting requirements.

**320.3** A member in business shall take reasonable steps to maintain information for which the member in business is responsible in a manner that:

- (a) Describes clearly the true nature of business transactions, assets, or liabilities;
- (b) Classifies and records information in a timely and proper manner; and
- (c) Represents the facts accurately and completely in all material respects.

**320.4** Threats to compliance with the fundamental principles, for example, self-interest or intimidation threats to integrity, objectivity or professional competence and due care, are created where a member in business is pressured (either externally or by the possibility of personal gain) to prepare or report information in a misleading way, or to become associated with misleading information through the actions of others.

**320.5** The significance of such threats will depend on factors such as the source of the pressure and the culture within the employing organisation. The member in business shall be alert to the principle of integrity, which imposes an obligation on all members to be straightforward and honest in all professional and business relationships. Where the threats arise from compensation and incentive arrangements the guidance in section 340 is relevant.

**320.6** The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Such safeguards include consultation with superiors within the employing organisation, those charged with governance of the organisation, or a subgroup thereof, or with a relevant professional body.

**320.7** Where it is not possible to reduce the threat to an acceptable level, a member in business shall refuse to be or remain associated with information the member determines is misleading. A member in business may have been unknowingly associated with misleading information. Upon becoming aware of this, the member in business shall take steps to be disassociated from that information. In determining whether there is a requirement to report the circumstances to a proper authority, the member in business may consider obtaining legal advice. In addition, the member may consider whether to resign.

### **Section 330 Acting with Sufficient Expertise**

**330.1** The fundamental principle of professional competence and due care requires that a member in business only undertake significant tasks for which the member in business has, or can obtain, sufficient specific training or experience. A member

in business shall not intentionally mislead an employer as to the level of expertise or experience possessed, nor shall a member in business fail to seek appropriate expert advice and assistance when required.

**330.2** Circumstances that create a threat to a member in business performing duties with the appropriate degree of professional competence and due care includes having:

- Insufficient time for properly performing or completing the relevant duties.
- Incomplete, restricted or otherwise inadequate information for performing the duties properly.
- Insufficient experience, training and/or education.
- Inadequate resources for the proper performance of the duties.

**330.3** The significance of the threat will depend on factors such as the extent to which the member in business is working with others, relative seniority in the business, and the level of supervision and review applied to the work. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Obtaining additional advice or training;
- Ensuring that there is adequate time available for performing the relevant duties;
- Obtaining assistance from someone with the necessary expertise;
- Consulting, where appropriate, with:
  - superiors within the employing organisation;
  - independent experts; or
  - a relevant professional body.

**330.4** When threats cannot be eliminated or reduced to an acceptable level, members in business shall determine whether to refuse to perform the duties in question. If the member in business determines that refusal is appropriate, the reasons for doing so shall be clearly communicated.

### **Section 340 Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making**

**340.1** Members in business may have financial interests, including those arising from compensation or incentive arrangements, or may have immediate or close family members with such interests, that, in certain circumstances, may create threats to compliance with the fundamental principles. For example, self-interest threats to objectivity or confidentiality may be created through the existence of the motive and opportunity to manipulate price sensitive information in order to gain financially. Examples of circumstances that may create self-interest threats include situations where the member in business or an immediate or close family member:

- Holds a direct or indirect financial interest in the employing organisation and the value of that financial interest could be directly affected by decisions made by the member in business;
- Is eligible for a profit related bonus and the value of that bonus could be directly affected by decisions made by the member in business;
- Holds, directly or indirectly, deferred bonus share entitlements or share options in the employing organisation, the value of which could be directly affected by decisions made by the member in business; and

- Otherwise participates in compensation arrangements which provide incentives to achieve performance targets or to support efforts to maximise the value of the employing organisations shares, for example through participation in long-term incentive plans which are linked to certain performance conditions being met.

**340.2** Self-interest threats arising from compensation or incentive arrangements may be further compounded by pressure from superiors or peers in the employing organisation who participate in the same arrangements. Such arrangements often entitle participants to be awarded shares in the employing organisation at no cost to the employee, provided certain performance criteria are met. In some cases these may be awarded at multiples of base salary.

**340.3** A member in business shall not manipulate information for personal gain or for the financial gain of others. The more senior the position that the member in business holds, the greater the ability and opportunity to influence financial reporting and decision-making, and the greater the pressure there might be from superiors and peers to manipulate information. In such situations, the member in business shall be particularly alert to the principle of integrity, which imposes an obligation on all members to be straightforward and honest in all professional and business relationships.

**340.4** The significance of any threat arising from compensation or incentive arrangements shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. In evaluating the significance of any threat, and, when necessary, determining the appropriate safeguards to be applied, a member in business shall evaluate the nature of the interest arising from compensation or incentive arrangements. This includes evaluating the significance of the interest. What constitutes an interest will depend on personal circumstances. Examples of such safeguards include:

- Policies and procedures for a committee independent of management to determine the level or form of remuneration of senior management.
- Disclosure of all relevant interests and of any plans to exercise entitlements or trade in relevant shares to those charged with the governance of the employing organisation, or a subgroup thereof, in accordance with any internal policies.
- Consultation, where appropriate, with superiors within the employing organisation.
- Consultation, where appropriate, with those charged with the governance of the employing organisation, or a subgroup thereof, or relevant professional bodies.
- Internal and external audit procedures.
- Up-to-date education on ethical issues and on the legal restrictions and other regulations around potential insider trading.

## Section 350 Inducements

### Receiving Offers

**350.1** A member in business or an immediate or close family member may be offered an inducement. Inducements may take various forms, including gifts, hospitality, preferential treatment, and inappropriate appeals to friendship or loyalty.

- 350.2** Offers of inducements may create threats to compliance with the fundamental principles. When a member in business or an immediate or close family member is offered an inducement, the situation shall be evaluated. Self-interest threats to objectivity or confidentiality are created when an inducement is made in an attempt to unduly influence actions or decisions, encourage illegal or dishonest behaviour, or obtain confidential information. Intimidation threats to objectivity or confidentiality are created if such an inducement is accepted and it is followed by threats to make that offer public and damage the reputation of either the member in business or an immediate or close family member.
- 350.3** The existence and significance of any threats will depend on the nature, value and intent behind the offer. If a reasonable and informed third party, weighing all the specific facts and circumstances, would consider the inducement insignificant and not intended to encourage unethical behaviour, then a member in business may conclude that the offer is made in the normal course of business and may generally conclude that there is no significant threat to compliance with the fundamental principles.
- 350.4** The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate them or reduce them to an acceptable level. When the threats cannot be eliminated or reduced to an acceptable level through the application of safeguards, a member in business shall not accept the inducement. As the real or apparent threats to compliance with the fundamental principles do not merely arise from acceptance of an inducement but, sometimes, merely from the fact of the offer having been made, additional safeguards shall be adopted. A member in business shall evaluate any threats created by such offers and determine whether to take one or more of the following actions:
- (a) Informing higher levels of management or those charged with governance of the employing organisation, or a subgroup thereof, immediately when such offers have been made;
  - (b) Informing third parties of the offer – for example, a professional body or the employer of the individual who made the offer; a member in business may however, consider seeking legal advice before taking such a step;
  - (c) Advising immediate or close family members of relevant threats and safeguards where they are potentially in positions that might result in offers of inducements, for example, as a result of their employment situation; and
  - (d) Informing higher levels of management or those charged with governance of the employing organisation, or a subgroup thereof, where immediate or close family members are employed by competitors or potential suppliers of that organisation.

## **Making Offers**

- 350.5** A member in business may be in a situation where the member in business is expected, or is under other pressure, to offer inducements to influence the judgement or decision-making process of an individual or organisation, or obtain confidential information.
- 350.6** Such pressure may come from within the employing organisation, for example, from a colleague or superior. It may also come from an external individual or organisation suggesting actions or business decisions that would be advantageous to the employing organisation, possibly influencing the member in business improperly.

**350.7** A member in business shall not offer an inducement to improperly influence professional judgment of a third party.

**350.8** Where the pressure to offer an unethical inducement comes from within the employing organisation, the member shall follow the principles and guidance regarding ethical conflict resolution set out in Part A of this Code.

## **Section 360 Responding to Non-Compliance with Laws and Regulations**

### **Purpose**

**360.1** A member in business may encounter or be made aware of non-compliance or suspected non-compliance with laws and regulations in the course of carrying out professional activities. The purpose of this section is to set out the member in business' responsibilities when encountering such non-compliance or suspected non-compliance, and guide the member in business in assessing the implications of the matter and the possible courses of action when responding to it. This section applies regardless of the nature of the employing organisation, including whether or not it is a public interest entity.

**360.2** Non-compliance with laws and regulations ("non-compliance") comprises acts of omission or commission, intentional or unintentional, committed by the member in business' employing organisation or by those charged with governance, by management, or by other individuals working for or under the direction of the employing organisation which are contrary to the prevailing laws or regulations.

**360.3** In some jurisdictions, there are legal or regulatory provisions governing how members in business should address non-compliance or suspected non-compliance which may differ from or go beyond this section. When encountering such non-compliance or suspected non-compliance, the member in business has a responsibility to obtain an understanding of those provisions and comply with them, including any requirement to report the matter to an appropriate authority and any prohibition on alerting the relevant party prior to making any disclosure, for example, pursuant to anti-money laundering legislation.

**360.4** A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to non-compliance or suspected non-compliance, the objectives of the member in business are:

- (a) To comply with the fundamental principles of integrity and professional behaviour;
- (b) By alerting management or, where appropriate, those charged with governance or the employing organisation, to seek to:
  - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
  - (ii) Deter the commission of the non-compliance where it has not yet occurred; and
- (c) To take such further action as appropriate in the public interest.

### **Scope**

- 360.5** This section sets out the approach to be taken by a member in business who encounters or is made aware of non-compliance or suspected non-compliance with:
- (a) Laws and regulations generally recognised to have a direct effect on the determination of material amounts and disclosures in the employing organisation's financial statements; and
  - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the employing organisation's financial statements, but compliance with which may be fundamental to the operating aspects of the employing organisation's business, to its ability to continue its business, or to avoid material penalties.

**360.6** Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

**360.7** Non-compliance may result in fines, litigation or other consequences for the employing organisation that may have a material effect on its financial statements. Importantly, such non-compliance may have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environments laws and regulations endangering the health or safety of employees or the public.

**360.8** A member in business who encounters or is made aware of matters that are clearly inconsequential, judged by their nature and their impact, financial or otherwise, on the employing organisation, its stakeholders and the general public, is not required to comply with this section with respect to such matters.

**360.9** This section does not address:

- (a) Personal misconduct unrelated to the business activities of the employing organisation; and
- (b) Non-compliance other than by the employing organisation or those charged with governance, management, or other individuals working for or under the direction of the employing organisation.

The member in business may nevertheless find the guidance in this section helpful in considering how to respond in these situations.

## **Responsibilities of the Employing Organisation's Management and Those Charged with Governance**

**360.10** It is the responsibility of the employing organisation's management, with the oversight of those charged with governance, to ensure that the employing organisation's business activities are conducted in accordance with laws and regulations. It is also the responsibility of management and those charged with governance to identify and address any non-compliance by the employing organisation or by an individual charged with governance of the entity, by a member of management, or by other individuals working for or under the direction of the employing organisation.

### **Responsibilities of Members in Business**

**360.11** Many employing organisations have established protocols and procedures (for example, an ethics policy or internal whistle-blowing mechanism) regarding how non-compliance or suspected non-compliance by the employing organisation should be raised internally. Such protocols and procedures may allow for matters to be reported anonymously through designated channels. If these protocols and procedures exist within the member in business' employing organisation, the member in business shall consider them in determining how to respond to such non-compliance.

**360.12** Where a member in business becomes aware of a matter to which this section applies, the steps that the member in business takes to comply with this section shall be taken on a timely basis, having regard to the member in business' understanding of the nature of the matter and the potential harm to the interests of the employing organisation, investors, creditors, employees or the general public.

### **Responsibilities of Senior Members in Business**

**360.13** Senior members in business are directors, officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the employing organisation's human, financial, technological, physical and intangible resources. Because of their roles, positions and spheres of influence within the employing organisation, there is a greater expectation for them to take whatever action is appropriate in the public interest to respond to non-compliance or suspected non-compliance than other members in business within the employing organisation.

### **Obtaining an Understanding of the Matter**

**360.14** If, in the course of carrying out professional activities, a senior member in business becomes aware of information concerning an instance of non-compliance or suspected non-compliance, the senior member in business shall obtain an understanding of the matter, including:

- (a) The nature of the act and the circumstances in which it has occurred or may occur;
- (b) The application of the relevant laws and regulations to the circumstances; and
- (c) The potential consequences to the employing organisation, investors, creditor, employees or the wider public.

**360.15** A senior member in business is expected to apply knowledge, professional judgement and expertise, but is not expected to have a level of understanding of laws and regulations beyond that which is required for the senior member in business' role within the employing organisation. Whether an act constitutes non-compliance is ultimately a matter to be determined

by the court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the senior member in business may cause, or take appropriate steps to cause, the matter to be investigated internally. The senior member in business may also consult on a confidential basis with others within the employing organisation or a professional body, or with legal counsel.

### Addressing the Matter

**360.16** If the senior member in business identifies or suspects that non-compliance has occurred or may occur, the senior member in business shall, subject to paragraph 360.11, discuss the matter with the senior member in business' immediate superior, if any, to enable a determination to be made as to how the matter should be addressed. If the senior member in business' immediate superior appears to be involved in the matter, the senior member in business shall discuss the matter with the next higher level of authority within the employing organisation.

**360.17** The senior member in business shall also take appropriate steps to:

- (a) Have the matter communicated to those charged with governance to obtain their concurrence regarding appropriate actions to take to respond to the matter and to enable them to fulfil their responsibilities;
- (b) Comply with applicable laws and regulations, including legal or regulatory provisions governing the reporting of non-compliance or suspected non-compliance to an appropriate authority;
- (c) Have the consequences of the non-compliance or suspected non-compliance rectified, remediated or mitigated;
- (d) Reduce the risk or re-occurrence; and
- (e) Seek to deter the commission of the non-compliance if it has not yet occurred.

**360.18** In addition to responding to the matter in accordance with the provision of this section, the senior member in business shall determine whether disclosure of the matter to the employing organisation's external auditor, if any, is needed pursuant to the senior member in business' duty or legal obligation to provide all information necessary to enable the auditor to perform the audit.

### Determining Whether Further Action Is Needed

**360.19** The senior member in business shall assess the appropriateness of the response of the senior member in business' superiors, if any, and those charged with governance.

**360.20** Relevant factors to consider in assessing the appropriateness of the response of the senior member in business' superiors, if any, and those charged with governance include whether:

- The response is timely.
- They have taken or authorised appropriate action to seek to rectify, remediate or mitigate the consequences of the non-compliance, or to avert the non-compliance if it has not yet occurred.

- The matter has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

**360.21** In light of the response of the senior member in business' superiors, if any, and those charged with governance, the senior member in business shall determine if further action is needed in the public interest.

**360.22** The determination of whether further action is needed, and the nature and extent of it, will depend on various factors, including:

- The legal and regulatory framework.
- The urgency of the matter.
- The pervasiveness of the matter throughout the employing organisation.
- Whether the senior member in business continues to have confidence in the integrity of the senior member in business' superiors and those charged with governance.
- Whether the non-compliance or suspected non-compliance is likely to recur.
- Whether there is credible evidence of actual or potential substantial harm to the interests of the employing organisation, investors, creditors, employees or the general public.

**360.23** Examples of circumstances that may cause the senior member in business no longer to have confidence in the integrity of the senior member in business' superiors and those charged with governance include situations where:

- The senior member in business suspects or has evidence of their involvement or intended involvement in any non-compliance.
- Contrary to legal or regulatory requirements, they have not reported the matter, or authorised the matter to be reported, to an appropriate authority within a reasonable period.

**360.24** In determining the need for, and nature and extent of any further action needed, the senior member in business shall exercise professional judgement and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the senior member in business at the time, would be likely to conclude that the senior member in business has acted appropriately in the public interest.

**360.25** Further action by the senior member in business may include:

- Informing the management of the parent entity of the matter if the employing organisation is a member of a group.
- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.

**360.26** Where the senior member in business determines that resigning from the employing organisation would be appropriate, doing so would not be a substitute for taking other actions that may be needed to achieve the senior member in business'

objectives under this section. In some jurisdictions, however, there may be limitations as to the further actions available to the senior member in business and resignation may be the only course of action.

**360.27** As consideration of the matter may involve complex analysis and judgements, the senior member in business may consider consulting internally, obtaining legal advice to understand the senior member in business' options and the professional or legal implications of taking any particular course of action, or consulting on a confidential basis with a regulator or professional body.

### **Determining Whether to Disclose the Matter to an Appropriate Authority**

**360.28** Disclosure of the matter to an appropriate authority would be precluded if doing so would be contrary to law or regulation. Otherwise, the purpose of making disclosure is to enable an appropriate authority to cause the matter to be investigated and action to be taken in the public interest.

**360.29** The determination of whether to make such a disclosure depends in particular on the nature and extent of the actual or potential harm that is or may be caused by the matter to investors, creditors, employees or the general public. For example, the senior member in business may determine that disclosure of the matter to an appropriate authority is an appropriate course of action if:

- The employing organisation is engaged in bribery (for example, of local or foreign governance officials for the purposes of securing large contracts).
- The employing organisation is a regulated entity and the matter is of such significance as to threaten its license to operate.
- The employing organisation is listed on a securities exchange and the matter could result in adverse consequences to the fair and orderly market in the employing organisation's securities or pose a systemic risk to the financial markets.
- Products that are harmful to public health or safety would likely be sold by the employing organisation.
- The employing organisation is promoting a scheme to its clients to assist them in evading taxes.

The determination of whether to make such a disclosure will also depend on external factors such as:

- Whether there is an appropriate authority that is able to receive the information, and cause the matter to be investigated and action to be taken. The appropriate authority will depend upon the nature of the matter, for example, a securities regulator in the case of fraudulent financial reporting or an environmental protection agency in the case of a breach of environmental laws and regulations.
- Whether there exists robust and credible protection from civil, criminal or professional liability or retaliation afforded by legislation or regulation, such as under whistle-blowing legislation or regulation.
- Whether there are actual or potential threats to the physical safety of the senior member in business or other individuals.

**360.30** If the senior member in business determines that disclosure of the matter to an appropriate authority is an appropriate course of action in the circumstances, this will not be considered a breach of the duty of confidentiality under section 140

of this Code. When making such disclosure, the senior member in business shall act in good faith and exercise caution when making statements and assertions.

- 360.31** In exceptional circumstances, the senior member in business may become aware of actual or intended conduct that the senior member in business has reason to believe would constitute an imminent breach of a law or regulation that would cause harm to investors, creditors, employees or the general public. Having considered whether it would be appropriate to discuss the matter with management or those charged with governance of the entity, the senior member in business shall exercise professional judgement and may immediately disclose the matter to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach of law or regulation. Such disclosure will not be considered a breach of the duty of confidentiality under section 140 of this Code.

## Documentation

- 360.32** In relation to an identified or suspected act of non-compliance that falls within the scope of this section, the senior member in business shall have the following matters documented:
- The matter.
  - The results of discussions with the senior member in business' superiors, if any, and those charged with governance and other parties.
  - How the senior member in business' superiors, if any, and those charged with governance have responded to the matter.
  - The courses of action the senior member in business considered, the judgements made and the decisions that were taken.
  - How the senior member in business is satisfied that the senior member in business has fulfilled the responsibility set out in paragraph [360.21](#).

## Responsibilities of Members Other than Senior Members in Business

- 360.33** If, in the course of carrying out professional activities, a member in business becomes aware of information concerning an instance of non-compliance or suspected non-compliance, the member in business shall seek to obtain an understanding of the matter, including the nature of the act and the circumstances in which it has occurred or may occur.
- 360.34** The member in business is expected to apply knowledge, professional judgement and expertise, but is not expected to have a level of understanding of laws and regulations beyond that which is required for the member in business' role within the employing organisation. Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the member in business may consult on a confidential basis with others within the employing organisation or a professional body, or with legal counsel.
- 360.35** If the member in business identifies or suspects that non-compliance has occurred or may occur, the member in business shall, subject to paragraph 360.11, inform an immediate superior to enable the superior to take appropriate action. If the

member in business' immediate superior appears to be involved in the matter, the member in business shall inform the next higher level of authority within the employing organisation.

**360.36** In exceptional circumstances, the member in business may decide that disclosure of the matter to an appropriate authority is an appropriate course of action. If the member in business does so pursuant to paragraph 360.29, this will not be considered a breach of the duty of confidentiality under section 140 of this Code. When making such disclosure, the member in business shall act in good faith and exercise caution when making statements and assertions.

## Documentation

**360.37** In relation to an identified or suspected act of non-compliance that falls within the scope of this section, the member in business shall have the following matters documented:

- The matter.
- The results of discussions with the member in business' superior, management and, where applicable, those charged with governance and other parties.
- How the member in business' superior has responded to the matter.
- The courses of action the member in business considered, the judgements made and the decisions that were taken.

## Definitions

In this Code the following expressions have the following meanings assigned to them:

**Acceptable level** A level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the member at that time, that compliance with the fundamental principles is not compromised.

**Advertising** The communication to the public of information as to the services or skills provided by members with a view to procuring business.

**[NZ] Assurance client** An entity in respect of which a firm conducts an assurance engagement.

**Assurance engagement** An engagement in which a member expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.

(For guidance on assurance engagements see Explanatory Guide Au1 *Overview of Auditing and Assurance Standards* which describes the elements and objectives of an assurance engagement and identifies engagements to which International Standards on Auditing (New Zealand) (ISAs (NZ)), International Standard on Review Engagements (New Zealand) (ISRE (NZ)), New Zealand Standard on Review Engagements (NZ SRE) and International Standards on Assurance Engagements (New Zealand) (ISAEs (NZ)) apply.)

**[NZ] Assurance practitioner** A person or an organisation, whether in public practice, industry, commerce or the public sector, appointed or engaged to undertake assurance engagements.

**[NZ] Assurance services** Comprise of any assurance engagements performed by an assurance practitioner.

**[NZ] Assurance team**

- (a) All members of the engagement team for the assurance engagement;
- (b) All others within a firm who can directly influence the outcome of the assurance engagement, including:
  - (i) those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the assurance engagement partner in connection with the performance of the assurance engagement, including those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent);
  - (ii) those who provide consultation regarding technical or industry specific issues, transactions or events for the assurance engagement; and
  - (iii) those who provide quality control for the assurance engagement, including those who perform the engagement quality control review for the assurance engagement.

**Audit client** An entity in respect of which a firm conducts an audit engagement. When the client is a FMC reporting entity considered to have a higher level of public accountability, audit client will always include its related entities. When the audit client is not a FMC reporting entity considered to have a higher level of public accountability, audit client includes those related entities over which the client has direct or indirect control.

**Audit engagement** A reasonable assurance engagement in which a member expresses an opinion whether financial statements are prepared, in all material respects (or give a true and fair view, or are presented fairly, in all material respects), in accordance with an applicable financial reporting framework, such as an engagement conducted in accordance with International Standards on Auditing (New Zealand). This includes a Statutory Audit, which is an audit required by legislation or other regulation.

**Audit team**

- (a) All members of the engagement team for the audit engagement;
- (b) All others within a firm who can directly influence the outcome of the audit engagement, including:
  - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner in connection with the performance of the audit engagement including those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent);
  - (ii) Those who provide consultation regarding technical or industry- specific issues, transactions or events for the engagement; and
  - (iii) Those who provide quality control for the engagement, including those who perform the engagement quality control review for the engagement; and
- (c) All those within a network firm who can directly influence the outcome of the audit engagement.

**Close family** A parent, non-dependent child or sibling.

**Contingent fee** A fee calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm. A fee that is established by a court or other public authority is not a contingent fee.

**Direct financial interest** A financial interest:

- (a) Owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others); or
- (b) Beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control, or the ability to influence investment decisions.

**Director or officer** Those charged with the governance of an entity, or acting in an equivalent capacity, regardless of their title.

**Engagement partner<sup>4</sup>** The partner or other person in the firm who is responsible for the engagement and its performance, and for the report that is issued on behalf of the firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body.

**Engagement quality control review** A process designed to provide an objective evaluation, on or before the date the report is issued, of the significant judgements the engagement team made and the conclusions it reached in formulating the report.

**Engagement team** All partners and staff performing the engagement, and any individuals engaged by the firm or a network firm who perform procedures on the engagement. This excludes external experts engaged by the firm or by a network firm.

**Existing accountant** An accountant currently holding an audit appointment or carrying out accounting, taxation, consulting or similar non-assurance services for a client.

**External expert** An individual (who is not a partner or a member of the professional staff, including temporary staff, of the firm or a network firm) or organisation possessing skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the member in obtaining sufficient appropriate evidence.

**Financial interest** An interest in an equity or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.

**Financial statements** A structured representation of historical financial information, including related notes, intended to communicate an entity's economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The term can relate to a complete set of financial statements, but it can also refer to a single financial statement, for example, a statement of financial position, or a statement of comprehensive income, and related explanatory notes.

**Financial statements on which the firm will express an opinion** In the case of a single entity, the financial statements of that entity. In the case of consolidated financial statements, also referred to as group financial statements, the consolidated financial statements.

#### **Firm**

- (a) A sole practitioner, partnership or corporation undertaking professional services;
- (b) An entity that controls such parties, through ownership, management or other means; and
- (c) An entity controlled by such parties, through ownership, management or other means.

**[NZ] FMC reporting entity considered to have a higher level of public accountability** A FMC reporting entity, or class of FMC reporting entity that is considered to have a higher level of public accountability than other FMC reporting entities:

- under section 461K of the Financial Markets Conduct Act 2013; or
- by notice issued by the Financial Markets Authority (FMA) under section 461L(1)(1) of the Financial Markets Conduct Act 2013.

**Historical financial information** Information expressed in financial terms in relation to a particular entity, derived primarily from that entity's accounting system, about economic events occurring in past time periods or about economic conditions or circumstances at points in time in the past.

**Immediate family** A spouse (or equivalent) or dependent.

**Independence** Independence is:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism; and
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm's, or a member of the engagement team's, integrity, objectivity or professional scepticism has been compromised.

**Indirect financial interest** A financial interest beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has no control or ability to influence investment decisions.

**Key audit partner** The engagement partner, the individual responsible for the engagement quality control review, and other audit partners, if any, on the engagement team who make key decisions or judgements on significant matters with respect to the audit of the financial statements on which the firm will express an opinion. Depending upon the circumstances and the role of the individuals on the audit, "other audit partners" may include, for example, audit partners responsible for significant subsidiaries or divisions.

**[NZ] Key assurance partner** The engagement partner, the individual responsible for the engagement quality control review, and other assurance partners, if any, on the engagement team who make key decisions or judgements on significant matters with respect to the assurance engagement.

**Listed entity** [Deleted]

**[NZ] Member** An individual who is a member of the New Zealand Institute of Chartered Accountants and recorded on the Register of Members under Rule 4.1 of the New Zealand Institute of Chartered Accountants Rules.

**[NZ] Member in business** A member employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not-for-profit sector, regulatory bodies or professional bodies, or a member contracted by such entities.

**[NZ] Member in public practice** A member, irrespective of functional classification (for example, audit, tax or consulting) employed in a firm that provides professional services.

**Network** A larger structure:

- (a) That is aimed at co-operation; and
- (b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand- name, or a significant part of professional resources.

**Network firm** A firm or entity that belongs to a network.

**[NZ] Offer document** A document, such as a product disclosure statement or a disclosure document, required by legislation to be prepared by an entity when financial products are offered to the public.

**Office** A distinct sub-group, whether organised on geographical or practice lines.

**Professional accountant** [Deleted]

**Professional accountant in public practice** [Deleted]

**Professional accountant in business** [Deleted]

**[NZ] Professional activity** An activity requiring accountancy or related skills undertaken by a member, including accounting, auditing, taxation, management consulting, and financial management.

**Professional services** Professional activities performed for clients.

**[NZ] Public benefit entity** A reporting entity whose primary objective is to provide goods or services for community or social benefit and where any equity has been provided with a view to supporting that primary objective rather than for a financial return to equity holders.

**[NZ] Public interest** The collective well-being of the community and institutions the profession serves.

**[NZ] Public interest entity** Any entity that is required or opts to prepare financial statements to comply with Tier 1 For-profit Accounting Requirements or Tier 1 PBE Accounting Requirements in accordance with XRB A1<sup>5</sup>.

**Related entity** An entity that has any of the following relationships with the client:

- (a) An entity that has direct or indirect control over the client if the client is material to such entity;
- (b) An entity with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity;
- (c) An entity over which the client has direct or indirect control;
- (d) An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest that gives it significant influence over such entity and the interest is material to the client and its related entity in (c); and
- (e) An entity which is under common control with the client (a "sister entity") if the sister entity and the client are both material to the entity that controls both the client and sister entity.

**Review client** An entity in respect of which a firm conducts a review engagement.

**Review engagement** An assurance engagement<sup>6</sup> in which an assurance practitioner expresses a conclusion on whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the assurance practitioner's attention that causes the assurance practitioner to believe that the financial statements are not prepared, in all material respects, in accordance with an applicable financial reporting framework.

**Review team**

- (a) Others within a firm who can directly influence All members of the engagement team for the review engagement; and
- (b) All the outcome of the review engagement, including:
  - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner in connection with the performance of the review engagement including

- those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent);
- (ii) Those who provide consultation regarding technical or industry specific issues, transactions or events for the engagement; and
  - (iii) Those who provide quality control for the engagement, including those who perform the engagement quality control review for the engagement; and
- (c) All those within a network firm who can directly influence the outcome of the review engagement.

**Special purpose financial statements** Financial statements prepared in accordance with a financial reporting framework designed to meet the financial information needs of specified users.

**Those charged with governance** The person(s) or organisation(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process. For some entities, those charged with governance may include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.

## Effective date

The amended Code is effective on 15 July 2017.

## Withdrawal of CODE OF ETHICS

This amended supersedes the *Code of Ethics* (effective 1 January 2014).

## CONFORMITY WITH INTERNATIONAL PRONOUNCEMENTS

This conformity statement accompanies but is not part of this *Code of Ethics*; it is given for information purposes only.

*Code of Ethics* (Revised) incorporates the *Code of Ethics for Professional Accountants* (IESBA Code) issued by the International Ethics Standards Board for Accountants (IESBA) in July 2009.

The principles and requirements of this *Code of Ethics* and the IESBA Code are consistent except for the following:

- The addition of a Scope and Application section in this *Code of Ethics*;
- The addition of paragraphs and definitions prefixed as NZ in this *Code of Ethics*;
- The additional definitions are of assurance practitioner, assurance services, FMC reporting entity considered to have a higher level of public accountability, key assurance partner, professional activity, offer document, public benefit entity and public interest;
- This *Code of Ethics* generally refers to members whereas the IESBA Code refers to professional accountants;
- This *Code of Ethics* tailors the following IESBA defined terms to the New Zealand environment: assurance client, assurance team, professional services and public interest entity;
- Paragraphs [NZ100.5.1–NZ100.5.4](#) establish a responsibility for members over the conduct of non-member partners or directors, and others under the supervision of the member;
- The principle of timeliness in paragraph [130.4](#) is extended to members' obligation to respond to the New Zealand Institute of Chartered Accountants;
- Paragraphs [NZ140.9–NZ140.11](#) establish a duty for members to report unethical behaviour of other members or themselves to the most senior executive of the New Zealand Institute of Chartered Accountants;
- Paragraph [NZ150.3](#) requires a member to behave professionally at all times;

- Paragraphs [NZ210.13.1–NZ210.13.2](#) provide additional guidance for existing accountants;
- The requirement in Paragraph [NZ210.14](#) is extended from an audit of financial statements to all assurance engagements;
- Paragraph [NZ220.10.1](#) requires the member in public practice to disclose the nature of the conflict of interest in writing, the related safeguards applied to eliminate the threat or reduce it to an acceptable level and the opportunity to take independent advice, to
- all clients or potential clients affected by the conflict. It also requires the member in public practice to obtain the clients consent to perform the professional services when safeguards are applied. The IESBA Code states that disclosure is generally necessary;
- Paragraph [NZ220.14](#) requires a member in public practice to disengage from the relevant engagement if adequate disclosure to the client of a conflict of interest is restricted as a result of confidentiality requirements. The IESBA Code allows the engagement to proceed in limited circumstances;
- Paragraphs 225.12–225.38 are cross-referenced to PES 1 as issued by the NZAuASB. Refer to PES 1 to see how these paragraphs differ to the IESBA Code.
- Paragraphs [NZ280.2.1–NZ280.2.3](#) outline independence requirements for non-assurance engagements; and
- Sections 290 and 291 are cross-referenced to PES 1 as issued by the NZAuASB. Refer to PES 1 issued by the NZAuASB to see how sections 290 and 291 differ to the IESBA Code.

## CONFORMITY WITH NATIONAL PRONOUNCEMENTS

This conformity statement accompanies but is not part of this Code of Ethics; it is given for information purposes only.

This is a comparison between PES 1 (Revised) *Code of Ethics for Assurance Practitioners* issued by the New Zealand Auditing and Assurance Standards Board (NZAuASB) and the *Code of Ethics* issued by the New Zealand Institute of Chartered Accountants. The New Zealand Institute of Chartered Accountants *Code of Ethics* has a broader scope but has the same requirements where the codes overlap.

An overview of the key differences between PES 1 (Revised) and this *Code of Ethics* are as follows:

- The term "assurance practitioner" has been amended to "member";
- References to "performing assurance engagements" have been amended to "providing professional services";
- Part C relating to members in business has been included;
- Refers to standards issued by the New Zealand Institute of Chartered Accountants and other statutory requirements or authoritative guidance applicable to the task or engagement in relation to of compliance with professional and technical standards;
- Paragraphs [NZ100.5.1–NZ100.5.4](#) establish a responsibility for members over the conduct of non- member partners or directors, and others under the supervision of the member;
- Paragraphs [NZ140.9–NZ140.11](#) establish a duty for members to report unethical behaviour of other members or themselves to the most senior executive of the New Zealand Institute of Chartered Accountants;
- Paragraphs [NZ210.13.1–NZ210.13.2](#) provide additional guidance for existing accountants;
- Paragraphs 225.44–225.48 covering communicating the matter to the entity's external auditor have been moved and amended by the NZAuASB in paragraphs [NZ225.17.1–NZ225.17.5](#).
- Section 230 *Second Opinions*, dealing with situations where a member in public practice provides a second opinion on the application of accounting principles has been included;
- Paragraphs [240.5–240.7](#) dealing with referral fees have been included; and
- Paragraphs [NZ280.2.1–NZ280.2.3](#) outline independence requirements for non-assurance engagements.

## Footnotes

- 1 *Handbook of the Code of Ethics for Professional Accountants* © May 2013 by the International Federation of Accountants.
- 2 *Responding to Non Compliance of Laws and Regulations* © July 2016 by the International Federation of Accountants
- 3 Contingent fees for non-assurance services provided to audit or review clients and other assurance clients are discussed in
- 4 "Engagement partner": should be read as referring to their public sector equivalents where relevant.
- 5 XRB A1, Application of the Accounting Standards Framework.
- 6 Conducted in accordance with NZ SRE 2410, *Review of Financial Statements Performed by the Independent Auditor of the Entity* ; or ISRE (NZ) 2400, *Review of Historical Financial Statements Performed by an Assurance Practitioner Who is Not the Auditor of the Entity* .