

AN OVERVIEW OF APES 110 CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS

The objective of this publication is to provide an overview of the framework of APES 110 *Code of Ethics for Professional Accountants* and to assist Members in accessing the relevant sections of the Code more efficiently.

This publication is not a replacement of the Code and therefore should be used in conjunction with and not instead of the Code.

BE HEARD.
BE RECOGNISED.



April 2014

CPA Australia Legal Notice

CPA Australia Ltd ('CPA Australia') is one of the world's largest accounting bodies representing more than 150,000 members of the financial, accounting and business profession in 121 countries.

ISBN 978-1-921742-57-6

For information about CPA Australia, visit our website cpaaustralia.com.au

First published 2014

CPA Australia Ltd

ACN 008 392 452

Level 20, 28 Freshwater Place

Southbank Vic 3006

Australia

Copyright © CPA Australia Ltd 2014. CPA Australia owns all copyright in these materials or uses it under licence or applicable law. For permission to reproduce any material, a request in writing is to be made to the Legal Business Unit, CPA Australia Ltd, Level 20, 28 Freshwater Place, Southbank, Victoria 3006.

DISCLAIMER: CPA Australia Ltd has used reasonable care and skill in compiling the content of these materials. However, CPA Australia Ltd makes no warranty that the materials are accurate and up to date. These materials do not constitute the provision of professional advice whether legal or otherwise. Users should seek their own independent advice prior to relying on or entering into any commitment based on the materials. The materials are purely published for reference purposes alone. CPA Australia, their employees, agents and consultants exclude completely all liability to any person for loss or damage of any kind including but not limited to legal costs, indirect, special or consequential loss or damage (however caused, including by negligence) arising from or relating in any way to the materials and/or any use of the materials. Where any law prohibits the exclusion of such liability, then to the maximum extent permitted by law, CPA Australia's liability for breach of the warranty will, at CPA Australia's option, be limited to the supply of the materials again, or the payment of the cost of having them supplied again.

CPA Australia limits its liability to the resupply of the information.

CONTENTS

About the author	4
Introduction	5
Part A General application of the Code	5
Acting in the public interest	5
Figure 1: The conceptual framework	7
Threats	8
Safeguards	9
Ethical conflict resolution	9
Part B – Members in public practice	10
Section 210 Professional Appointment	10
Section 220 Conflicts of Interest	10
Section 230 Second Opinions	10
Section 240 Fees and Other Types of Remuneration	10
Section 250 Marketing Professional Services	11
Section 260 Gifts and Hospitality	11
Section 270 Custody of Client Assets	11
Section 280 Objectivity – All Services	11
Sections 290 and 291 – Independence	11
Section 290 Independence – Audit and Review Engagements	12
Section 291 Independence – Other Assurance Engagements	12
Part C – Members in business	13
Section 310 Conflicts of Interest	13
Section 320 Preparation and Reporting of Information	14
Section 330 Acting with Sufficient Expertise	14
Section 340 Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making	14
Section 350 Inducements	14
APES GN 40 Ethical Conflicts in the Workplace – Considerations for Members in Business	15

ABOUT THE AUTHOR

Eva Tsahuridu, PhD, MBA, BBus, is CPA Australia's Team Leader of Accounting Policy and the Professional Standards and Governance Policy Adviser. She oversees the accounting policy team and is responsible for research, policy and resource development in professional and ethical standards and governance. She participates in a number of forums on ethics and governance and contributes to CPA Australia's publications INTHEBLACK and INPRACTICE.

If you have any comments about this publication please contact Dr Eva Tsahuridu at eva.tsahuridu@cpaustralia.com.au

INTRODUCTION

The APES 110 *Code of Ethics for Professional Accountants* (Code) and all other Accounting Professional and Ethical Standards can be found at cpaaustralia.com.au/apes

The Code is issued by the Accounting Professional and Ethical Standards Board (APESB). APESB is an independent body established in 2006 as an initiative of CPA Australia and the Institute of Chartered Accountants in Australia. CPA Australia, the Institute of Chartered Accountants in Australia and the Institute of Public Accountants are all members of the APESB. The role of APESB is to develop and issue professional and ethical standards in the public interest that apply to members of CPA Australia and the other two Australian accounting bodies.

The Code is based on the *Code of Ethics for Professional Accountants* issued by the International Ethics Standards Board for Accountants (IESBA) of the International Federation of Accountants (IFAC). Additional Australian definitions or paragraphs in the Code contain the prefix AUST.

Members practising in Australia or abroad must comply with the Code unless they are prevented from doing so by applicable laws or regulations.

In applying the requirements outlined in the Code, Members shall be guided not only by the words, but also by the spirit, of the Code.

THE CODE USES THE WORD 'SHALL' TO IMPOSE A REQUIREMENT ON THE MEMBER OR FIRM.

The Code is divided in three parts:

- Part A applies to all Members
- Part B applies to Members in public practice
- Part C applies to Members in business, but Members in public practice may also find it relevant.

PART A GENERAL APPLICATION OF THE CODE

ACTING IN THE PUBLIC INTEREST

The overarching responsibility for professional accountants is the public interest. Paragraph 100.1 of the Code explains that 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 to exclusively satisfy the needs of an individual client or employer.

IN ACTING IN THE PUBLIC INTEREST MEMBERS SHALL OBSERVE AND COMPLY WITH THE CODE.

The fundamental principles of the Code

The fundamental principles of professional accountants are outlined in paragraph 100.5. They are:

- Integrity* – to be straightforward and honest in all professional and business relationships.
- 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 or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.
 - 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 action that discredits the profession.

The fundamental principles are described in more detail in sections 110 to 150.

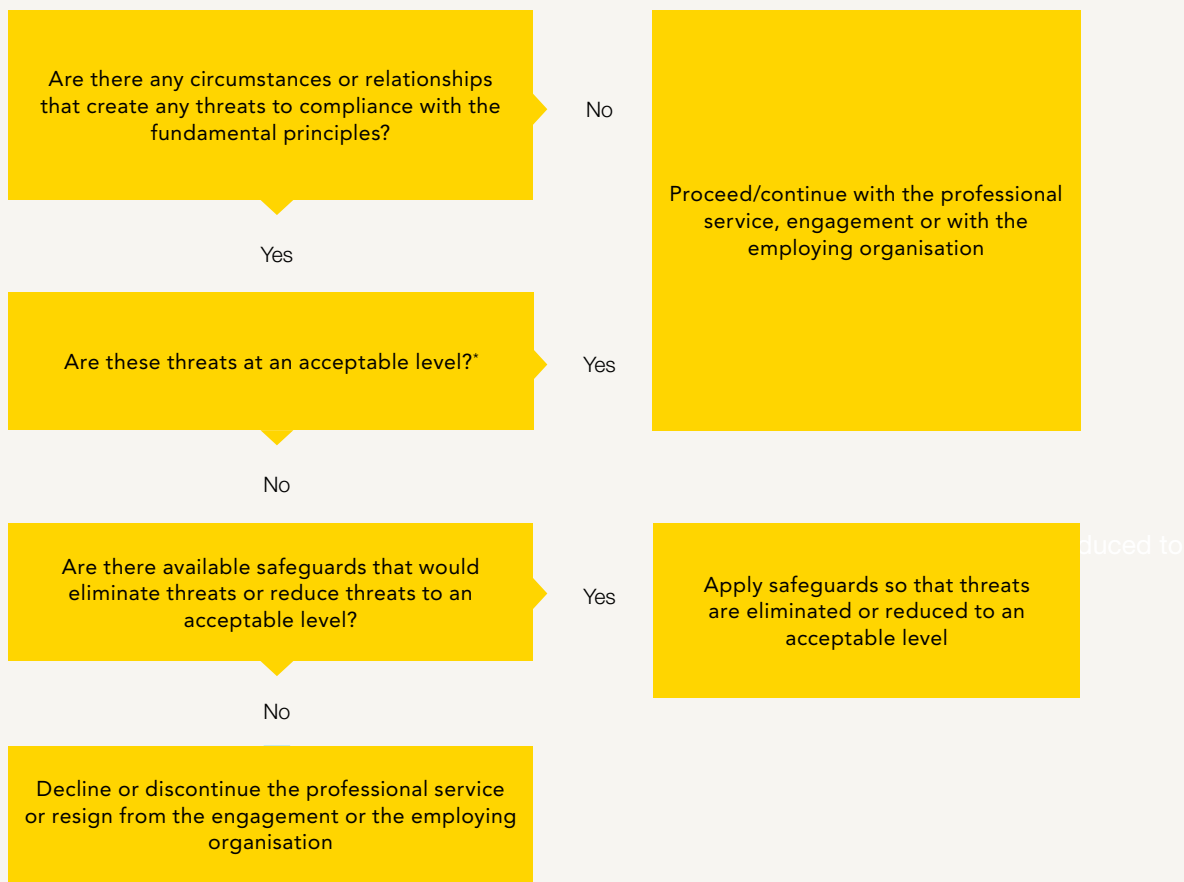
The Code's conceptual framework

Paragraphs 100.6 to 100.11 describe the framework that Members must use to identify, evaluate and address any threats to compliance with the fundamental principles.

The Code is based on a conceptual framework that requires active consideration of issues based on the fundamental principles. The framework can be applied to differing circumstances and relies on professional judgement rather than on specific rules.

THE FRAMEWORK OF THE CODE RELIES ON PROFESSIONAL JUDGEMENT.

FIGURE 1: THE CONCEPTUAL FRAMEWORK



“Acceptable level” in the Code is defined by using the third party test. It means 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.

The conceptual framework requires Members to use their professional judgement in order to:

- identify any threats to compliance with the fundamental principles;
- evaluate the significance of the identified threats
- apply safeguards to eliminate threats or reduce them to an acceptable level

If threats cannot be eliminated or reduced to an acceptable level because the threats are too significant or safeguards are not available or cannot be applied to address the threats, then the circumstance or relationship creating the threats must be avoided.

The Member in such circumstances is required to decline or discontinue the professional service and, when necessary, a Member in public practice is required to resign from the engagement and a Member in business is required to resign from the employing organisation.

THREATS

Paragraph 100.12 states that 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.

Threats fall into one or more of the following categories (paragraph 100.12):

- 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 or employing organisation, 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 or employer'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 or employer, a Member will be too sympathetic to their interests or too accepting of their work
- 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

A CIRCUMSTANCE OR RELATIONSHIP MAY CREATE MORE THAN ONE THREAT, AND A THREAT MAY AFFECT COMPLIANCE WITH MORE THAN ONE FUNDAMENTAL PRINCIPLE.

SAFEGUARDS

Paragraph 100.13 defines safeguards as 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 profession, legislation or regulation
- b. safeguards in the work environment

Paragraph 100.2 explains that safeguards are necessary when the Member determines that the threats are not at an acceptable level. An acceptable level is the level at which a reasonable and informed third party would be likely to conclude, weighing all specific facts and circumstances available to the Member at that time, that compliance with the fundamental principles is not compromised.

ETHICAL CONFLICT RESOLUTION

Paragraphs 100.17 to 100.22 deal with ethical conflict resolution. They explain that a Member may be required to resolve a conflict in complying with the fundamental principles.

In resolving ethical conflict, paragraph 100.18 states that the following factors may be relevant:

- Relevant facts
- Ethical issues involved
- Fundamental principles related to the matter in question
- Established internal procedures
- Alternative courses of action

Having considered the relevant factors, a Member must determine the appropriate course of action, weighing the consequences of each possible course of action, and whether other persons and those charged with governance must be consulted.

Paragraph 100.22 states that, in the best interests of Members the substance of the issue, details of discussions held and decisions made regarding the issue should be documented.

If a significant conflict cannot be resolved, paragraph 100.21 states that Members may consider obtaining professional advice from the relevant professional body or from legal advisers ensuring that the fundamental principle of confidentiality is not breached. This can be achieved by discussing the issue on an anonymous basis with the professional body or under the protection of legal privilege with a legal advisor.

Paragraph 100.22 states that if, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a Member shall, where possible, refuse to remain associated with the matter creating the conflict.

In addition to the fundamentals described above that apply to all members, the Code provides specific requirements for Members in public practice in Part B and Members in business in Part C.

PART B – MEMBERS IN PUBLIC PRACTICE

Part B of the Code describes how the conceptual framework described in Part A applies to Members in public practice.

Members in public practice may face a number of circumstances that threaten compliance with the fundamental principles. For example, when a firm has undue dependence on total fees from a client a self-interest threat will be created.

Section 200 provides examples of threats that may be created in public practice and the relevant safeguards that may be applied to eliminate the threats or reduce them to an acceptable level.

SECTION 210 PROFESSIONAL APPOINTMENT

This section includes the obligations Members in public practice have in accepting a client, accepting an engagement or in changes in professional appointment. Please also see CPA Australia's *Client Relationship Guide*.

SECTION 220 CONFLICTS OF INTEREST

Conflicts of interest create threats to compliance with a number of fundamental principles, such as objectivity, confidentiality and professional behaviour. Conflicts of interest may arise by business interests or relationships with clients or third parties.

If conflicts of interest are identified, Members in public practice are required to apply appropriate safeguards to eliminate them or reduce them to an acceptable level.

When a conflict of interest creates a threat that cannot be eliminated or reduced to an acceptable level, the Member must not accept, or must resign from, the conflicting engagement.

SECTION 230 SECOND OPINIONS

Requests for second opinions on the application of standards or principles by an entity who is not an existing client may create threats to compliance with such fundamental principles as professional competence and due care. A Member in public practice must evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level.

SECTION 240 FEES AND OTHER TYPES OF REMUNERATION

A Member in public practice must evaluate any threats to compliance with the fundamental principles that may arise from the level of fees quoted to clients and apply safeguards to eliminate the threat or reduce it to an acceptable level. A self-interest threat may be created, for example, if the quoted fee is so low that it makes it difficult to perform the engagement in accordance with applicable standards.

Contingent fees¹ and referral fees and commissions used for non-assurance engagements may create threats to compliance with fundamental principles, such as objectivity.

APESB has prohibited the use of contingent fees in certain circumstances, described in the following APESB Standards: APES 215 Forensic Accounting Services; APES 225 Valuation Services; APES 330 Insolvency Services; APES 345 Reporting on Prospective Financial Information Prepared in Connection with a Disclosure Document; and APES 350 Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document.

This section requires Members in public practice to inform clients in writing of any referral fee or commission received, who it is received from and how it has been calculated.

No such fees or commissions can be accepted for assurance engagements because there is no available safeguard that can reduce the threat to independence to an acceptable level.

SECTION 250 MARKETING PROFESSIONAL SERVICES

Marketing (including advertising) of professional services may create threats to compliance with the fundamental principles. Members in public practice must ensure that when they market their professional services they do not bring the profession into disrepute.

SECTION 260 GIFTS AND HOSPITALITY

Members in public practice or their families may be offered gifts or hospitality from clients that may create threats to compliance with the fundamental principles. A self-interest threat may be created for example when a gift from a client is accepted. The nature, value and intent of the offer will affect the existence and significance of the threat.

If a reasonable and informed third party, weighing all the specific facts and circumstances, would consider the offer trivial and inconsequential, then it can be concluded that any threat to compliance with the fundamental principles is at an acceptable level.

A Member in public practice must 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 must not accept such an offer.

SECTION 270 CUSTODY OF CLIENT ASSETS

A Member in public practice must not assume custody of any client assets unless permitted to do so by law because it creates threats to compliance with the fundamental principles. Assuming custody of client assets may, for example, create a self-interest threat to professional behaviour and objectivity.

SECTION 280 OBJECTIVITY – ALL SERVICES

When providing any professional service, a Member in public practice must determine whether there are any 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.

SECTIONS 290 AND 291 – INDEPENDENCE

Sections 290 and 291 of the Code address independence requirements for audit, review and other assurance engagements.

Independence is fundamental to compliance with the principles of integrity and objectivity. Any threats to independence must be evaluated by Members in practice and appropriate safeguards applied to eliminate the threats or reduce them to an acceptable level. If safeguards cannot eliminate or reduce the threat to an acceptable level, the Member in public practice shall decline or terminate the relevant engagement. Independence comprises of:

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.

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 audit team's, integrity, objectivity or professional scepticism has been compromised.

A Member in public practice who provides an assurance service shall be of independent mind and independent in appearance of the assurance client.

In addition, Members in public practice must ensure that they refer to the *Corporations Act 2001* and other relevant legislation to determine additional independence obligations.

SECTION 290 INDEPENDENCE – AUDIT AND REVIEW ENGAGEMENTS

Section 290 addresses independence requirements for audit and review engagements which are assurance engagements where a Member in public practice expresses a conclusion on historical financial information.

SECTION 291 INDEPENDENCE – OTHER ASSURANCE ENGAGEMENTS

Section 291 addresses independence requirements for assurance engagements that are not audit or review engagements of historical financial information, referred in the Code as Other Assurance Engagements.

CPA Australia, together with the Institute of Chartered Accountants in Australia and the Institute of Public Accountants (the Joint Accounting Bodies), publish the *Independence Guide*. This guide provides examples of the application of the conceptual approach set out in sections 290 and 291 of the Code to independence issues.

PART C – MEMBERS IN BUSINESS

This part of the Code explains how Part A and its conceptual framework apply to Members in business. Members in public practice may also find this information relevant.

Members in business are members who are employed or engaged in commerce, industry, service, the public sector, education, the not-for-profit sector, regulatory bodies or professional bodies.

Members in business may encounter threats to compliance with the fundamental principles. Part C of the Code describes examples of threats that may be encountered and possible safeguards (created by the profession, legislation, regulation or the work environment), which can be applied to ensure that threats are either eliminated or reduced to an acceptable level. It does not describe all possible circumstances or relationships that Members in business may encounter that could create threats to compliance with the fundamental principles.

Members are encouraged to be alert in order to identify potential threats to compliance with the fundamental principles.

Members may consider obtaining legal advice if they believe unethical behaviour will continue to occur within the employing organisation.

If despite the application of all possible safeguards, threats cannot be reduced to an acceptable level and unethical behaviour in the organisation continues, the Member may conclude it is appropriate to resign from the employing organisation.

SECTION 310 CONFLICTS OF INTEREST

Members in business are expected to support the legitimate and ethical objectives and the rules and procedures of their employing organisations. If a Member in business faces pressure to behave in ways that could create threats to the fundamental principles, the conceptual framework described in Section A must be applied.

Examples of pressure a Member in business may encounter that may create threats to compliance with the fundamental principles include (paragraph 310.2):

- Acting contrary to law or regulation
- Acting contrary to technical or professional standards
- Facilitating unethical or illegal earnings management strategies
- Lying to or otherwise intentionally misleading others
- Issuing, or otherwise being associated with, a financial or non-financial report that materially misrepresents the facts

The significance of any threats must be evaluated and safeguards applied to eliminate the threats or reduce them to an acceptable level.

Examples of safeguards include (paragraph 310.3):

- Obtaining advice, where appropriate, from within the employing organisation, an independent professional adviser or a relevant professional body
- Using a formal dispute resolution process within the employing organisation
- Seeking legal advice

SECTION 320 PREPARATION AND REPORTING OF INFORMATION

A Member in business is required to prepare or present information, which may be used internally or externally, fairly, honestly and in accordance with relevant professional standards. Where a Member in business is not satisfied that the financial statements of the employing organisation have been prepared in accordance with the Australian Accounting Standards, the Member is required to notify those charged with governance and qualify any declarations given by the Member.

SECTION 330 ACTING WITH SUFFICIENT EXPERTISE

A Member in business must not intentionally mislead an employer regarding the level of experience or expertise possessed, nor fail to seek appropriate expert advice and assistance when required.

SECTION 340 FINANCIAL INTERESTS, COMPENSATION AND INCENTIVES LINKED TO FINANCIAL REPORTING AND DECISION MAKING

The financial interests of a Member in business, or those of their close family, may in some circumstances create threats to compliance with the fundamental principles. For example, a self-interest threat may be created when the decisions made by Members in business affect their eligibility for, and value of, a profit-related bonus.

If threats are identified, their significance must be evaluated and safeguards applied to eliminate the threat or reduce it to an acceptable level.

Members in business cannot manipulate information or use confidential information for personal gain.

SECTION 350 INDUCEMENTS

Members in business or their families may be offered gifts, hospitality, preferential treatment or inappropriate appeals to friendship or loyalty may be made to them. Offers of such inducements may create threats to compliance with the fundamental principles, such as self-interest threats. Self-interest threats or intimidation threats may be created if inducements are offered or accepted. The nature, value and intent of the offer will affect the existence and significance of the threat.

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.

A Member in business must 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 business shall not accept the inducement.

Members in business cannot offer inducements to influence the judgement or decision-making process of an individual or organisation or to obtain confidential information.

APES GN 40 ETHICAL CONFLICTS IN THE WORKPLACE – CONSIDERATIONS FOR MEMBERS IN BUSINESS

In 2012, the APESB issued guidance note APES GN 40 *Ethical Conflicts in the Workplace – Considerations for Members in Business*.

APES GN 40 provides guidance to Members in business on the application of the fundamental principles contained within Part A: General Application and Part C: Members in Business of the Code. The guidance note provides examples for Members in business of situations that require professional judgement in the application of the principles of the Code.

Members in business should follow the guidance in APES GN 40 when they provide services to their employer unless they are prevented from so doing by specific requirements of local laws and/or regulations.

CPAH0905_04.2014

cpaaustralia.com.au