

## **Amendments to APES 110 *Code of Ethics for Professional Accountants* due to revisions to IESBA's *Code of Ethics for Professional Accountants***

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## Contents

	<b>Sections</b>
Scope and Application.....	1
Definitions.....	2
Section 100 Introduction and Fundamental Principles .....	100
Section 220 Conflicts of Interest .....	220
Section 290 Independence – Audit and Review Engagements.....	290
Section 291 Independence – Other Assurance Engagements.....	291
Section 310 Conflicts of Interest.....	310
Section 320 Preparation and Reporting of Information.....	320
Section 340 Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making.....	340
<i>Conformity with International Pronouncements</i>	

## Section 1 Scope and Application

*[Paragraph 1.1 of extant Section 1 remain unchanged.]*

- 1.2 Subject to paragraph 1.4, all Members in Australia shall comply with APES 110 including when providing Professional Services in an honorary capacity.

*[Paragraphs 1.3 – 1.6 of extant Section 1 remain unchanged.]*

## Section 2 Definitions

**Engagement Team** means 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 a Network Firm.

**Professional Activity** means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

**Professional Services** means Professional Activities performed for clients.

**Those Charged with Governance** means 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 in some jurisdictions, 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.

## Section 100 Introduction and Fundamental Principles

*[Paragraphs 100.1 – 100.4 of extant Section 100 remain unchanged.]*

### 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 judgments.
- (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 Activities 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.

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

*[Paragraphs 100.6 – 100.9 of extant Section 100 remain unchanged.]*

- 100.10 Sections 290 and 291 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 member body, relevant regulator or oversight authority.

*[Paragraphs 100.11 – 100.16 of extant Section 100 remain unchanged.]*

### **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.

*[Extant paragraphs 100.17 – 100.22 remain unchanged but will be renumbered as paragraphs 100.19 – 100.24.]*

### **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.

## **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 or employers receive competent Professional Activity; and
  - (b) To act diligently in accordance with applicable technical and professional standards when providing Professional Activities.

*[Paragraphs 130.2 – 130.5 of extant Section 130 remain unchanged.]*

- 130.6 Where appropriate, a Member shall make clients, employers or other users of the Member's Professional Activities aware of the limitations inherent in the services.

## **Section 220 Conflicts of Interest**

### **Conflicts of Interest**

*[Extant Section 220 will be deleted and replaced with the proposed Section 220.]*

- 220.1 A Member in Public Practice may be faced with a conflict of interest 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 as appropriate.

- 220.2 Examples of situations in which conflicts of interest 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 who are 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.
- 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 the 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 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 purpose of identifying circumstances that might create a conflict of interest.

220.7 For the purpose 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 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 will depend on such factors as:

- The nature of the Professional Services provided.
- The size of the Firm.
- The size and nature of the client base.
- 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 in Public Practice 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' interests 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 a particular 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.
- Consulting with third parties, such as a professional body, legal counsel or another Member.

220.11 In addition, it is generally necessary to disclose the nature of the conflict of interest and the related safeguards, if any, to clients affected by the conflict and, when safeguards are

required to reduce the threat to an Acceptable Level, to obtain their consent to the Member in Public Practice performing the Professional Services.

Disclosure and consent may take different forms, for example:

- General disclosure to clients of circumstances where the Member, 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 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 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 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 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, 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 In certain circumstances, making specific disclosure for the purpose of obtaining explicit consent would result in a breach of confidentiality. Examples of such circumstances may include:

- Performing a transaction-related service for a client in connection with a hostile takeover of another client of the Firm.
- Performing a forensic investigation for a client in connection with a suspected fraudulent act where the Firm has confidential information obtained through having performed a Professional Service for another client who might be involved in the fraud.



The Firm shall not accept or continue an engagement under such circumstances unless the following conditions are met:

- The Firm does not act in an advocacy role for one client where this requires the Firm to assume an adversarial position against the other client with respect to the same matter;
- Specific mechanisms are in place to prevent disclosure of confidential information between the Engagement Teams serving the two clients; and
- The Firm is satisfied that a reasonable and informed third party, weighing all the specific facts and circumstances available to the Member in Public Practice at the time, would be likely to conclude that it is appropriate for the Firm to accept or continue the engagement because a restriction on the Firm's ability to provide the service would produce a disproportionate adverse outcome for the clients or other relevant third parties.

The Member shall document the nature of the circumstances, including the role that the Member is to undertake, the specific mechanisms in place to prevent disclosure of information between the Engagement Teams serving the two clients and the rationale for the conclusion that it is appropriate to accept the engagement.

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

*[Paragraphs 290.1 – 290.27 of extant Section 290 remain unchanged.]*

### **Those Charged with Governance**

290.28 Even when not required by the Code, applicable Auditing and Assurance Standards, law or regulation, regular communication is encouraged between the Firm and Those Charged with Governance of the Audit Client regarding relationships and other matters that might, in the Firm's opinion, reasonably bear on Independence. Such communication enables Those Charged with Governance to:

- (a) consider the Firm's judgements in identifying and evaluating threats to Independence,
- (b) consider the appropriateness of safeguards applied to eliminate them or reduce them to an Acceptable Level, and
- (c) take appropriate action.

Such an approach can be particularly helpful with respect to intimidation and familiarity threats.

In complying with requirements in this section to communicate with Those Charged with Governance, the 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 Firm communicates with a subgroup of Those Charged with Governance, for example, an audit committee or an individual, the Firm shall determine whether communication with all of Those Charged with Governance is also necessary so that they are adequately informed.

*[Paragraphs 290.29 – 290.38 of extant Section 290 remain unchanged.]*

## **Breach of a Provision of this Section**

- 290.39 A breach of a provision of this section may occur despite the Firm having policies and procedures designed to provide it with reasonable assurance that Independence is maintained. A consequence of a breach may be that termination of the Audit Engagement is necessary.
- 290.40 When the Firm concludes that a breach has occurred, the Firm shall terminate, suspend or eliminate the interest or relationship that caused the breach and address the consequences of the breach.
- 290.41 When a breach is identified, the Firm shall consider whether there are any legal or regulatory requirements that apply with respect to the breach and, if so, shall comply with those requirements. The Firm shall consider reporting the breach to a member body, relevant regulator or oversight authority if such reporting is common practice or is expected in the particular jurisdiction.
- 290.42 When a breach is identified, the Firm shall, in accordance with its policies and procedures, promptly communicate the breach to the Engagement Partner, those with responsibility for the policies and procedures relating to Independence, other relevant personnel in the Firm, and, where appropriate, the Network, and those subject to the Independence requirements who need to take appropriate action. The Firm shall evaluate the significance of that breach and its impact on the Firm's objectivity and ability to issue an audit report. The significance of the breach will depend on factors such as:
- The nature and duration of the breach;
  - The number and nature of any previous breaches with respect to the current Audit Engagement;
  - Whether a member of the Audit Team had knowledge of the interest or relationship that caused the breach;
  - Whether the individual who caused the breach is a member of the Audit Team or another individual for whom there are independence requirements;
  - If the breach relates to a member of the Audit Team, the role of that individual;
  - If the breach was caused by the provision of a Professional Service, the impact of that service, if any, on the accounting records or the amounts recorded in the Financial Statements on which the Firm will express an Opinion; and
  - The extent of the self-interest, advocacy, intimidation or other threats created by the breach.
- 290.43 Depending upon the significance of the breach, it may be necessary to terminate the Audit Engagement or it may be possible to take action that satisfactorily addresses the consequences of the breach. The Firm shall determine whether such action can be taken and is appropriate in the circumstances. In making this determination, the Firm shall exercise professional judgement and take into account whether a reasonable and informed third party, weighing the significance of the breach, the action to be taken and all the specific facts and circumstances available to the Member at that time, would be likely to conclude that the Firm's objectivity would be compromised and therefore the Firm is unable to issue an audit report.
- 290.44 Examples of actions that the Firm may consider include:
- Removing the relevant individual from the Audit Team;
  - Conducting an additional review of the affected audit work or re-performing that work to the extent necessary, in either case using different personnel;

- Recommending that the Audit Client engage another Firm to review or re-perform the affected audit work to the extent necessary; and
- Where the breach relates to a non-assurance service that affects the accounting records or an amount that is recorded in the Financial Statements, engaging another Firm to evaluate the results of the non-assurance service or having another Firm re-perform the non-assurance service to the extent necessary to enable it to take responsibility for the service.

290.45 If the Firm determines that action cannot be taken to satisfactorily address the consequences of the breach, the Firm shall inform Those Charged with Governance as soon as possible and take the steps necessary to terminate the Audit Engagement in compliance with any applicable legal or regulatory requirements relevant to terminating the Audit Engagement. Where termination is not permitted by law or regulation, the Firm shall comply with any reporting or disclosure requirements.

290.46 If the Firm determines that action can be taken to satisfactorily address the consequences of the breach, the Firm shall discuss the breach and the action it has taken or proposes to take with Those Charged with Governance. The Firm shall discuss the breach and the action as soon as possible, unless Those Charged with Governance have specified an alternative timing for reporting less significant breaches. The matters to be discussed shall include:

- The significance of the breach, including its nature and duration;
- How the breach occurred and how it was identified;
- The action taken or proposed to be taken and the Firm's rationale for why the action will satisfactorily address the consequences of the breach and enable it to issue an audit report;
- The conclusion that, in the Firm's professional judgement, objectivity has not been compromised and the rationale for that conclusion; and
- Any steps that the Firm has taken or proposes to take to reduce or avoid the risk of further breaches occurring.

290.47 The Firm shall communicate in writing with Those Charged with Governance all matters discussed in accordance with paragraph 290.46 and obtain the concurrence of Those Charged with Governance that action can be, or has been, taken to satisfactorily address the consequences of the breach. The communication shall include a description of the Firm's policies and procedures relevant to the breach designed to provide it with reasonable assurance that Independence is maintained and any steps that the Firm has taken, or proposes to take, to reduce or avoid the risk of further breaches occurring. If Those Charged with Governance do not concur that the action satisfactorily addresses the consequences of the breach, the Firm shall take the steps necessary to terminate the Audit Engagement, where permitted by law or regulation, in compliance with any applicable legal or regulatory requirements relevant to terminating the Audit Engagement. Where termination is not permitted by law or regulation, the Firm shall comply with any reporting or disclosure requirements.

290.48 If the breach occurred prior to the issuance of the previous audit report, the Firm shall comply with this section in evaluating the significance of the breach and its impact on the Firm's objectivity and its ability to issue an audit report in the current period. The Firm shall also consider the impact of the breach, if any, on the Firm's objectivity in relation to any previously issued audit reports, and the possibility of withdrawing such audit reports, and discuss the matter with Those Charged with Governance.

290.49 The Firm shall document the breach, the action taken, key decisions made and all the matters discussed with Those Charged with Governance and any discussions with a member body, relevant regulator or oversight authority. When the Firm continues with the Audit Engagement, the matters to be documented shall also include the conclusion that, in the Firm's professional judgement, objectivity has not been compromised and the rationale for why the action taken satisfactorily addressed the consequences of the breach such that the Firm could issue an audit report.

**Paragraphs 290.50 to 290.99 are intentionally left blank**

*[Paragraphs 290.100 – 290.116 of extant Section 290 remain unchanged.]*

*[Paragraphs 290.117 and AUST 290.117.1 of extant Section 290 were deleted.]*

*[Paragraphs 290.118 – 290.132 of extant Section 290 remain unchanged but will be renumbered as paragraphs 290.117 – 290.131.]*

*[Paragraphs 290.133 and AUST 290.133.1 of extant Section 290 were deleted.]*

*[Paragraphs 290.134 – 290.158 of extant Section 290 remain unchanged but will be renumbered as paragraphs 290.132 – 290.156.]*

*[Paragraph 290.159 of extant Section 290 was deleted.]*

*[Paragraphs 290.160 – 290.231 of extant Section 290 remain unchanged but will be renumbered as paragraphs 290.157 – 290.228.]*

**Paragraphs 290.229 to 290.499 are intentionally left blank**

**Section 291 Independence – Other Assurance Engagements**

*[Paragraphs 291.1 – 291.32 of extant Section 291 remain unchanged.]*

*[Paragraphs 291.33 and AUST 291.33.1 of extant Section 290 were deleted.]*

**Breach of a Provision of this Section**

291.33 When a breach of a provision of this section is identified, the Firm shall terminate, suspend or eliminate the interest or relationship that caused the breach, and shall evaluate the significance of that breach and its impact on the Firm's objectivity and ability to issue an assurance report. The Firm shall determine whether action can be taken that satisfactorily addresses the consequences of the breach. In making this determination, the Firm shall exercise professional judgement and take into account whether a reasonable and informed third party, weighing the significance of the breach, the action to be taken and all the specific facts and circumstances available to the Member at that time, would be likely to conclude that the Firm's objectivity would be compromised such that the Firm is unable to issue an assurance report.

- 291.34 If the Firm determines that action cannot be taken to satisfactorily address the consequences of the breach, the Firm shall, as soon as possible, inform the party that engaged the Firm or Those Charged with Governance, as appropriate, and take the steps necessary to terminate the Assurance Engagement in compliance with any applicable legal or regulatory requirements relevant to terminating the Assurance Engagement.
- 291.35 If the Firm determines that action can be taken to satisfactorily address the consequences of the breach, the Firm shall discuss the breach and the action it has taken or proposes to take with the party that engaged the Firm or Those Charged with Governance, as appropriate. The Firm shall discuss the breach and the proposed action on a timely basis, taking into account the circumstances of the engagement and the breach.
- 291.36 If the party that engaged the Firm or Those Charged with Governance, as appropriate, do not concur that the action satisfactorily addresses the consequences of the breach, the Firm shall take the steps necessary to terminate the Assurance Engagement in compliance with any applicable legal or regulatory requirements relevant to terminating the Assurance Engagement.
- 291.37 The Firm shall document the breach, the actions taken, key decisions made and all the matters discussed with the party that engaged the Firm or Those Charged with Governance. When the Firm continues with the Assurance Engagement, the matters to be documented shall also include the conclusion that, in the Firm's professional judgement, objectivity has not been compromised and the rationale for why the action taken satisfactorily addressed the consequences of the breach such that the Firm could issue an assurance report.

**Paragraphs 291.38 to 291.99 are intentionally left blank.**

*[Paragraphs 291.100 – 291.111 of extant Section 291 remain unchanged.]*

*[Paragraphs 291.112 and AUST 291.112.1 of extant Section 291 were deleted.]*

*[Paragraphs 291.113 – 291.126 of extant Section 291 remain unchanged but will be renumbered as paragraphs 291.112 – 290.125.]*

*[Paragraph 291.127 of extant Section 291 was deleted.]*

*[Paragraphs 291.128 – 291.159 of extant Section 291 remain unchanged but will be renumbered as paragraphs 291.126 – 291.157.]*

## **Section 310 Conflicts of Interest**

*[Extant Section 310 will be deleted and replaced with the proposed Section 310.]*

- 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 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.

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 judgement.

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 accountant's employing organisation when an Immediate Family member of the Member could benefit financially from the transaction.
- 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 the 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, a Member in Business shall take reasonable steps to determine:

- The nature of the relevant interests and relationships between the parties involved; and
- The nature of the activity and its implication for 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 significance 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 them 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.
  - Consulting with third parties, such as a professional body, legal counsel or another Member.
- 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**

*[Paragraphs 320.1 – 320.3 of extant Section 320 remain unchanged.]*

- 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.

*[Extant paragraph 320.5 as amended will become paragraphs 320.5 and 320.6]*

320.5 The significance of such threats will depend on factors such as the source of the pressure and the corporate 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, the audit committee or Those Charged with Governance of the organisation, or with a relevant professional body.

*[Extant paragraph 320.6 as amended will become paragraph 320.7]*

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 outside the organisation, the Member in Business may consider obtaining legal advice. In addition, the Member may consider whether to resign.

*[Extant Section 330 remain unchanged.]*

## **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 know of Financial Interests of Immediate or Close Family members, 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.



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

*[Extant paragraph 340.2 as amended will become paragraph 340.4. Extant paragraphs 340.2 and 340.3 will be replaced with the following paragraphs 340.2 – 340.3]*

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. For example, such arrangements often entitle participants to be awarded shares in the employing organisation at little or no cost to the employee provided certain performance criteria are met. In some cases, the value of the shares awarded may be significantly greater than the base salary of the Member in Business.

340.3 A Member in Business shall not manipulate information or use confidential 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 created by Financial Interests, 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. This includes evaluating the significance of the interest. What constitutes a significant 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, 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 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.

*[Extant Section 350 remain unchanged.]*

## CONFORMITY WITH INTERNATIONAL PRONOUNCEMENTS

### ***APES 110 and the IESBA Code***

APES 110 incorporates the *Code of Ethics for Professional Accountants* (IESBA Code) issued by the International Ethics Standards Board for Accountants (IESBA) in July 2009.

### ***Compliance with the IESBA Code***

The principles and requirements of APES 110 and the IESBA Code are consistent except for the following:

- The addition of a Scope and Application section in APES 110;
- The addition of paragraphs and definitions prefixed as AUST in APES 110. The additional definitions are of AASB, Administration, AuASB, AUASB, Auditing and Assurance Standards, Australian Accounting Standards and Member;
- APES 110 generally refers to Members whereas the IESBA Code refers to professional accountants;
- Defined terms are in title case in APES 110;
- The definition of Engagement Team in APES 110 does not exclude individuals within the client's internal audit function who provide direct assistance on an audit engagement;
- APES 110 tailors the following IESBA defined terms to the Australian environment: Audit Engagement, Engagement Team, Financial Statements, Firm, Member in Public Practice, and Review Engagement;
- Paragraph 290.25 of APES 110 expresses Public Interest Entity in the singular form consistent with its definition in section 2;
- Paragraph 290.26 in APES 110 mandates Firms to determine whether additional entities are Public Interest Entities and the reference to member bodies has been removed ; and
- Unless strict requirements are met, APES 110 prohibits Members in Public Practice from providing accounting and bookkeeping services and preparing tax calculations for Audit Clients which are Public Interest Entities, even in emergency situations (refer paragraphs 290.172 – 290.173 and 290.185).

### **Effective Date:**

The changes will be effective on 1 July 2014 with early adoption permitted.