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INSIGHT: International Ethics & Independence Body Revises Standards for Inducements



By Cathy Allen

Cathy Allen, CPA helps CPAs and others understand and apply auditor independence and professional ethics rules through consultation, training, litigation support and expert services. Ms. Allen was a Managing Director in PwC LLP and served as senior staff to the AICPA Professional Ethics Executive Committee (PEEC), where she was instrumental in developing standards and tools for the profession such as the AICPA Plain English Guide to Independence and the Conceptual Framework for Independence. She authors several AICPA courses and other publications, including the Institute's Ethics and Professional Conduct: Updates and Professional Ethics: The AICPA's Comprehensive Course, and has written on professional ethics for various publications. Ms. Allen is a CPA in New York, New Jersey and Maryland and serves on the New York State Board for Public Accountancy and the National Association of State Boards of Accountancy (NASBA) Board of Directors as Northeast Regional Director. She also chairs the NASBA's Ethics Committee and contributes to AICPA PEEC task forces.

In July 2018, the International Ethics Standards Board for Accountants (IESBA) released revised ethics and independence rules for inducements in the *International Code of Ethics for Professional Accountants (including International Independence Standards)* (IESBA Code).

The revised standards for professional accountants in business and professional accountants in public practice are similar and are premised on the fact that professional accountants should view inducements neutrally because they can influence either good or bad behavior. That is, professional accountants should not think of inducements as inherently negative. In fact, a professional accountant is required to apply the conceptual framework to address threats that might arise in connection with an inducement even when there isn't an intent to negatively influence behavior.

Other facts about the revised standards are:

- Inducements may create self-interest, familiarity, or intimidation threats to compliance with the fundamental principles of ethics described in the IESBA Code, especially integrity, objectivity, and professional behavior.
- An inducement is broadly defined as an object, situation or action used to influence—though not necessarily with improper intent—the actions of the inducement's recipient (or another person, such as a business associate or family member),

Forms of inducements include:

- Gifts
- Entertainment
- Political or charitable contributions
- Appeals to friendship or loyalty
- Employment or other opportunities
- Preferential treatment, rights or privileges

Three Key Questions to Ask

The revised standards may be viewed through the lens of three (3) key questions about an inducement:

- 1) Is it legal?
- 2) Is the intent behind it proper?
- 3) Is the threat created by it at an acceptable level?

Is the inducement legal?

Professional accountants are required to know the relevant jurisdictional laws and regulations that prohibit offering and accepting certain types of inducements, for example, bribery and anti-corruption laws, and comply with such laws. The fundamental principle of professional behavior requires compliance with all relevant laws and regulations.

Is the intent behind the inducement proper?

For inducements not prohibited by law or regulation, professional accountants are required to determine the actual or perceived intent of the giver.

The IESBA Code prohibits a professional accountant from accepting or offering an inducement (or encouraging another to do so), if the inducement's actual or perceived intent is to improperly influence another's behavior. In this scenario, the inducement would be expected to cause the recipient to act in an unethical manner. The revised standard provides guidance to help professional accountants determine intent. In cases when there isn't an intent to improperly influence behavior, the professional accountant is required to apply the conceptual framework to identify, evaluate and address threats that are not at an acceptable level. As part of this process, the professional accountant is required to understand the facts and circumstances relating to the situation, apply professional judgment and consider the viewpoint of a reasonable and informed third party.

Is the threat created by the inducement at an acceptable level?

When an inducement is offered with the intent to improperly influence the conduct of the recipient, even those regarded as "trivial and inconsequential" to the recipient are prohibited. This is because at a minimum, they cause the professional accountant to breach the code's fundamental principle of integrity.

What if the inducement is *not* given with the intent to influence the recipient's (or another person's) behavior? Even if an inducement is offered with no intent to influence behavior, threats may still exist unless the inducement is trivial and inconsequential. Examples include a vendor who offers part-time work to a professional accountant or a professional accountant who treats her client to frequent dinners, shows and concerts. To evaluate threats, the professional accountant should consider relevant factors, including:

- The nature, frequency and value of the inducement;
- Cumulative effect of inducements given over time;
- Timing of the inducement relative to decisions or actions that may be taken;
- Whether the inducement is embedded in custom or cultural practice;
- Roles and positions of the individuals involved; and
- Whether the inducement would breach applicable company policies or procedures.

Suggested safeguards to counter threats include:

- Disclosure to ensure transparency (for example, discuss the matter with the audit committee or board of directors and log the inducement);
- Independent review of the recipient's work;
- Transferring responsibility for decision-making or other actions to a party unaffected by the inducement;
- Donating the inducement;
- Reimbursing the giver the value of the inducement; or
- Refusing to offer or accept the inducement.

What about family members?

An immediate or close family member's involvement in offering or accepting an inducement would also create threats to compliance with the fundamental principles. Where an inducement is offered with improper intent, the professional accountant should advise his or her family member to not offer or accept the inducement. The same factors the professional accountant would use to evaluate his or her own situation would apply when an immediate or close family member is involved. In evaluating threats, the professional accountant should consider the nature and strength of the relationship between him or herself and the family member and the other parties involved.

Independence Requirements

The IESBA Code provides independence requirements and guidance for professional accountants providing audit and other assurance services. A firm, network firm or an audit/assurance team member shall not accept gifts or hospitality from an audit/assurance client unless the value is trivial and inconsequential. This presumes, of course, that the inducement is not given with the intent to improperly influence the firm or audit/assurance team member, in which case the previously-discussed IESBA ethics provisions would apply.

The standards' Basis for Conclusions provides flow charts in the appendixes that professional accountants may find useful in applying the new standards.

Effective Dates for the New IESBA Code

- Parts 1 (Complying with the Code, Fundamental Principles and Conceptual Framework), 2 (Professional Accountants in Business) and 3 (Professional Accountants in Public Practice) of the Code become effective on **June 15, 2019**

- Part 4A (Independence for Audits and Reviews) effective for **financial statement periods beginning on or after June 15, 2019**

- Part 4B (Independence for Other Assurance Engagements) become effective for **engagements covering period beginning on or after June 15, 2019; and otherwise June 15, 2019**

Learn more about the new Code by visiting <http://www.ethicsboard.org/revised-and-restructured-code-ethics>.

Contact us at <http://www.bna.com/contact-us/> or call 1-800-372-1033

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