



CHARTERED PROFESSIONAL  
ACCOUNTANTS OF ONTARIO

# CPA CODE OF PROFESSIONAL CONDUCT

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# PREAMBLE TO THE CPA CODE OF PROFESSIONAL CONDUCT

## Application of the CPA Code

The CPA Code of Professional Conduct (the “CPA Code”) sets out general and specific duties for sound and fair financial and management reporting and business practices owed by all members and firms to clients, employers and the public generally as well as to the profession.

- The CPA Code applies to all members and firms, irrespective of the type of professional services being provided.
- Members not engaged in the practice of public accounting must observe the CPA Code unless there is a specific exception made in a particular provision or the wording of any provision makes it clear that it relates specifically to the practice of public accounting.
- The term “professional services” applies to all members and firms and is not restricted only to those who are engaged in the practice of public accounting. It includes those of a member’s or firm’s activities, whether undertaken for remuneration or not, where clients, employers, the public or professional colleagues are entitled to rely on membership or registration with the Chartered Professional Accountants of Ontario (“CPA Ontario”) as giving the member or firm particular competence and requiring due care, integrity and an objective state of mind.
- The CPA Code also applies, with the necessary modifications, to every member or firm acting in respect of a matter of personal concern and to the exercise, by the member or firm of any other activity, in particular, a job, a function, an office or the operation of an enterprise.
- The CPA Code is to be read and applied in light of this Preamble, legislation, the bylaws of CPA Ontario, and the definitions included in the CPA Code, legislation and the bylaws of CPA Ontario. Rules impose an obligation on members and firms; accordingly, compliance with the Rules is mandatory. Where Guidance is provided, it is intended to assist in the understanding and application of the related Rule.

## Introduction

This Preamble to the CPA Code sets out the philosophy that underlies the code governing the Chartered Professional Accountant’s responsibilities to those to whom professional services are provided, to the public generally and to colleagues, in respect of:

- characteristics of a profession;
- responsibility for compliance with the CPA Code;
- fundamental principles governing conduct;
- personal character and ethical conduct;
- ethical conflict resolution; and
- principles governing the responsibilities of firms.

The CPA Code, comprehensive in its scope, practical in application and addressing high ethical standards, serves not only as a guide to the profession itself but as a source of assurance of the profession’s concern to serve the public. It is a hallmark of a profession that there is a voluntary assumption, by those who comprise it – the members of the profession of ethical principles which are aimed, first and foremost, at serving the public interest and, second, at achieving orderly and courteous conduct within the profession. It is to these purposes that the CPA Code is directed.

## Characteristics of a profession

The CPA Code presumes the existence of a profession. Since the word “profession” has lost some of its earlier precision, through widespread application, it is worthwhile reviewing the characteristics which mark a calling as professional in the traditional sense. Much has been written on the subject and court cases have revolved around it. The weight of the authorities, however, identifies the following distinguishing elements:

- there is mastery of a particular intellectual skill, acquired by lengthy training and education;
- the traditional foundation of the calling rests in the provision of services to others through the application of the acquired skill to their affairs;
- the calling centers on the provision of personal services rather than entrepreneurial dealing in goods;
- there is an outlook, in the practice of the calling, which is essentially objective;
- there is acceptance of a responsibility to subordinate personal interests to those of the public good;
- there is acceptance of being accountable to and governed by professional peers;
- there exists a developed and independent body, comprising the members of the profession, which sets and maintains standards of qualification, attests to the competence of the individual members and safeguards and develops the skills and standards of the profession;
- there is a specialized code of ethical conduct, laid down and enforced by that body, designed principally for the protection of the public; and
- there is a belief, on the part of those engaged in the calling, in the virtue of interchange of views, and in a duty to contribute to the development of their profession, adding to its knowledge and sharing advances in knowledge and technique with their fellow professionals.

By these criteria chartered professional accountancy is a profession.

## Responsibility for compliance with the CPA Code

- Members and firms are responsible to CPA Ontario for compliance with the CPA Code by others who are either under their supervision or share with them proprietary interest in a firm or other enterprise. In this regard, a member or firm must not permit others to carry out acts which if carried out by the member or firm would contravene the CPA Code.
- Members or firms who reside or operate outside Ontario continue to be subject to the CPA Code or its equivalent in each province of membership or registration. They may also be subject to the code of another organized accounting profession in the jurisdiction in which they reside or operate. Should the code in two or more jurisdictions conflict, a member or firm will, where possible, observe the higher or stronger of the conflicting codes and, where that is not possible, the ethical conflict guidance set out as part of this Preamble will apply.

## Fundamental principles governing conduct

Members and firms have a fundamental responsibility to act in the public interest. The public’s trust and reliance on sound and fair financial and management reporting and competent advice on business affairs - and the economic importance of that reporting and advice - impose these special obligations on the profession. They also establish, firmly, the profession’s social usefulness.

The CPA Code is derived from five fundamental principles of ethics - statements of accepted

conduct for all members and firms whose soundness is, for the most part, self-evident. These principles are fundamental to the conduct of all members and firms and are as follows:

### **Professional Behaviour**

*Chartered Professional Accountants conduct themselves at all times in a manner which will maintain the good reputation of the profession and serve the public interest.*

In doing so, members and firms are expected to avoid any action that would discredit the profession.

There are business considerations involved in the creation and development of any organization, whether it is a professional practice or an entity that operates outside of that domain. A member's involvement in any organization should be based primarily upon a reputation for professional excellence. In particular, members who occupy positions of senior authority should recognize that such positions include an obligation to influence events, practices and attitudes within that organization. Accordingly, such members should encourage an ethics-based culture in their organizations that emphasizes the importance of ethical behaviour and compliance with generally accepted standards of practice of the profession.

At all times, members and firms are expected to act in relation to other professional colleagues with the courtesy and consideration they would expect to be accorded by their professional colleagues.

### **Integrity and Due Care**

*Chartered Professional Accountants perform professional services with integrity and due care.*

Members and firms are expected to be straightforward, honest and fair dealing in all professional relationships. They are also expected to act diligently and in accordance with applicable technical and professional standards when providing professional services. Diligence includes the responsibility to act, in respect of any professional service, carefully, thoroughly, and on a timely basis. Members are required to ensure that those performing professional services under their authority have adequate training and supervision.

### **Objectivity**

*Chartered Professional Accountants do not allow their professional or business judgment to be compromised by bias, conflict of interest or the undue influence of others.*

Clients, employers and the public generally expect that members and firms will bring objectivity and sound professional judgment to their services. It thus becomes essential that a member or firm will not subordinate professional judgment to external influences or the will of others.

The principle of objectivity underlies the Rules related to potential conflicts of interest as well as the requirement for independence in relation to the performance of assurance engagements. With respect to both independence and conflicts of interest, the profession employs the criterion of whether a reasonable observer would conclude that a specified situation or circumstance posed an unacceptable threat to a member's or firm's objectivity and professional judgment. Only then can public confidence in the objectivity and integrity of the member or firm be sustained, and it is upon this public confidence that the reputation and usefulness of the profession rest. The reasonable observer should be regarded as a hypothetical individual who has knowledge of the facts which the member or firm knew or ought to have known, and applies judgment objectively with integrity and due care.

## Professional Competence

*Chartered Professional Accountants maintain their professional skills and competence by keeping informed of, and complying with, developments in their area of professional service.*

Clients, employers and the public generally expect the accounting profession to maintain a high level of competence. This underscores the need for maintaining individual professional skill and competence by keeping abreast of and complying with developments in the professional standards and pertinent legislation in all functions where a member or firm performs professional services, or where others rely upon a member's or firm's calling.

## Confidentiality

*Chartered Professional Accountants protect confidential information acquired as a result of professional, employment and business relationships and do not disclose it without proper and specific authority, nor do they exploit such information for their personal advantage or the advantage of a third party.*

The principle of confidentiality obliges members to protect and maintain the confidentiality of information both outside of and within a member's firm or employing organization and to properly address a situation that may arise when confidentiality is breached.

The disclosure of confidential information by a member or firm may be required or appropriate where such disclosure is:

- Permitted or authorized by the client or employer;
- Required by law; or
- Permitted or required by a professional right or duty, when not prohibited by law.

## Personal character and ethical conduct

The Rules and Guidance which follow are based on the principles expressed above in this Preamble. These principles have emerged out of the collective experience of the profession as it has sought, down the years, to demonstrate its sense of responsibility to the clients, employers and the public generally. By their commitment to honourable conduct, members and firms of CPA Ontario and its predecessors, throughout their history, have given particular meaning and worth to the designation and its predecessors. They have done so by recognizing that a code of professional conduct, which is enforceable by sanctions, does not by its nature state the most that is expected of members and firms, but simply the least.

Ethical conduct in its highest sense, however, is a product of personal character — an acknowledgement by the individual that the standard to be observed goes beyond that of simply conforming to the letter of a list of prohibitions.

## Ethical conflict resolution

Circumstances may arise where a member or firm encounters and is required to resolve a conflict in the application of the fundamental principles or compliance with the CPA Code derived therefrom.

When initiating a process for the resolution of an ethical conflict, a member or firm should consider, either individually or together with others, as part of the resolution process, the following:

- relevant facts;

- ethical issues involved;
- fundamental principles and provisions of the CPA Code applicable to the matter in question;
- established internal procedures; and
- alternative courses of action.

Having considered these issues, the member or firm should determine the appropriate course of action that is consistent with the CPA Code. The member or firm should also weigh the consequences of each possible course of action. If the matter remains unresolved, the member should consult with other appropriate persons within the firm or employing organization for help in obtaining resolution.

Where a matter involves a conflict with, or within, a firm or an employing organization, a member should also consider consulting with those charged with governance of the organization, such as the board of directors or the audit committee.

It would be in the best interests of the member or firm to document the substance of the issue and details of any discussions held or decisions taken, concerning that issue.

If a significant conflict cannot be resolved, a member or firm may wish to obtain guidance on ethical issues without breaching confidentiality from CPA Ontario or legal advisors. For example, a member or firm may have encountered a fraud, the reporting of which could breach the responsibility to respect confidentiality. The member or firm is advised to consider obtaining legal advice to determine whether there is a requirement to report.

If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, the member or firm should, where ethically possible, refuse to remain associated with the matter creating the conflict. The member or firm may determine that, in the circumstances, it is appropriate to withdraw from the particular engagement team or assignment, or to resign altogether from the engagement, the firm or the employing organization in a manner consistent with the CPA Code.

## Principles governing the responsibilities of firms

Firms of Chartered Professional Accountants have a responsibility which they share with all other persons in the firm to provide services that maintain the profession's reputation for competence and integrity. It is clear that the manner in which firms conduct their affairs and provide services has an importance that goes well beyond the establishment of their individual reputations; it affects the public perception of the chartered professional accountancy profession as a whole. Accordingly, it is critical that firms be bound by the CPA Code.

This broader responsibility requires that firms be accountable to the profession and to clients, employers and the public generally in respect of ethical conduct and professional competence. The accountability of firms is formalized by bringing them within the authority of the CPA Code in a manner that is similar to that for members but which also appropriately recognizes that the responsibility of firms as business organizations differs in important respects from that of the individual members carrying on professional engagements on their behalf.

The responsibility of firms to the profession is fulfilled in the first instance by establishing, maintaining and upholding appropriate policies and procedures designed to ensure that their members provide professional services in a manner that complies with the standards of conduct and competence prescribed in the CPA Code.

The accountability of firms is based on the recognition that the services they provide are carried out

by Chartered Professional Accountants through their individual and collective actions, through the actions of all other persons in a firm and through the exercise of professional judgment. All persons in a firm are expected at all times to comply with the CPA Code and to adhere to the generally accepted standards of practice of the profession. Depending on the circumstances and the particular standard of competence or conduct, therefore, a firm's accountability for a failure to comply with the CPA Code may be shared with a member or other persons in the firm. It is acknowledged in this regard that a firm cannot be held accountable for the conduct of any person in the firm who does not comply with the CPA Code, where the firm has done all that it could be reasonably expected to have done to ensure that such persons do comply with the CPA Code.

A firm will be held accountable, as an organization, for its professional conduct in those instances where:

- the firm has policies and/or procedures which are inconsistent with the CPA Code;
- the breach of the CPA Code by any person in the firm is found to be related to the absence of quality control procedures or to the existence of quality control procedures that are inadequate for the type of practice in which it is engaged;
- the firm is identified with conduct or the provision of professional services that is in breach of the CPA Code and a person in the firm who is responsible for such breach cannot be identified or cannot be held accountable by CPA Ontario;
- the conduct that breaches the CPA Code was authorized, initiated, implemented or condoned by the firm prior to or at the time it takes place;
- the conduct that breaches the CPA Code is condoned or concealed by the firm after it learns of it;
- the firm did not take appropriate action in response to becoming aware of any conduct that breaches the CPA Code; or
- there are repeated instances of breaches of the CPA Code by persons in the firm.

In keeping with the principle that firms have a responsibility to maintain the good reputation of the profession, it is only appropriate in these circumstances that the firm and the individual member(s) be the subject of investigation and disciplinary sanction.

The inclusion of firms within the authority of the CPA Code does not presume that an investigation against a firm automatically calls into question the character, competence or conduct of all of the members of the firm. Indeed, there is an obligation on the part of those given responsibility for the enforcement of the CPA Code to ensure that any investigation of a firm be restricted to those who should properly be the subject of the investigation and resulting disciplinary sanction. This involves recognizing that firms may have many partners and/or offices and/or a number of departments or units within the offices, whether or not they are geographically distinct. In some circumstances, therefore, accountability for a failure to comply with the CPA Code will rest solely with the individual partners of a firm who had knowledge of the matter that is the reason for making charges against the firm. In other circumstances, the accountability will rest with identifiable departments or units within a firm, or with a firm's executive committee, management committee or equivalent group.

## DEFINITIONS

*The following terms have been defined for the purpose of the CPA Code only. They form an integral part of the CPA Code and the CPA Code is to be read, interpreted and applied on that basis.*

*This section includes terms that have been defined for general use in the CPA Code and they have that meaning throughout the CPA Code.*

*In addition, some terms have been defined for application to a particular provision(s) of the CPA Code, and such definitions apply in respect of those provision(s); if such a term is used elsewhere, it has the meaning that it is normally understood to have.*

**“appropriate financial reporting framework(s)”** encompass broad principles and conventions of general application as well as rules and procedures that determine accepted accounting principles and practices at a particular time. An appropriate financial reporting framework would include those frameworks contained in the CPA Canada Handbook – Accounting and the CPA Canada Public Sector Accounting Handbook. However, some entities will report financial information in accordance with other bases of accounting, for example, accounting principles that are generally accepted in another jurisdiction. Where another basis of accounting is appropriate in the particular circumstances, it is also an appropriate financial reporting framework.

**“confidential information”** means information acquired in the course of a professional services relationship with a party. Such information is confidential to the party regardless of the nature or source of the information or the fact that others may share the knowledge. Such information remains confidential until the party expressly or impliedly authorizes it to be divulged. In the case of an employee-employer relationship, a member has legal obligations to the employer that include a duty of confidentiality. The CPA Code imposes a duty of confidentiality as a professional obligation, which is in addition to the member’s legal obligation to the employer.

**“conflict of interest”** means an interest, restriction or relationship that, in respect of the provision of any professional service, would be seen by a reasonable observer to influence a member’s or firm’s judgment or objectivity in the provision of the professional service.

**“consent”** means fully informed and voluntary consent given, after disclosure of sufficient information and with sufficient time to make a knowledgeable decision,

- (a) in writing, provided that if more than one person consents, each signs the same or a separate document recording the consent; or
- (b) orally, provided that each person consenting receives a separate written communication recording the consent as soon as practicable.

**“contingent fee”** means a fee that is calculated on a predetermined basis relating to the outcome of a transaction or the result of services performed by the member or firm. It does not include:

- (a) a fee fixed by a court or other public authority;
- (b) a fee for a professional service in respect of any aspect of an insolvency practice, including acting as a trustee in bankruptcy, a liquidator, a receiver or a receiver-manager;
- (c) a fee for the administration of trusts or estates, which by statute or tradition, are based on a percentage of realizations, assets under administration, or both; or

- (d) *a fee that is agreed to at the time of billing, commonly referred to as a value billing, that is based on criteria which include:*
- i. the level of training and experience of the persons engaged in the work;*
  - ii. the time expended by the persons engaged in the work;*
  - iii. the degree of risk and responsibility which the work entails;*
  - iv. the priority and importance of the work to the client; and*
  - v. the value of the work to the client.*

**“cross-referenced”** has the meaning set out in the bylaws and regulations of CPA Ontario.

**“employer”** means an individual or organization that

- (a) *enters into an arrangement, whether in relation to a contract or other de facto employment relationship, with a member for the provision of professional services by a member, or*
- (b) *obtains professional services from a member other than a firm, whether the services are provided with or without remuneration.*

and “employee”, “employ” and “employment” and any other related words have corresponding meanings.

**“firm”** has the meaning set out in the bylaws and regulations of CPA Ontario.

**“generally accepted standards of practice of the profession”** refers to the body of principles and practices which have been recognized by the profession and which address how professional services are to be performed and the applicable criteria to be applied when performing these services, including:

- (a) *appropriate financial reporting frameworks;*
- (b) *generally accepted auditing, assurance and related services standards such as are set out in the CPA Canada Handbook- Assurance;*
- (c) *standards that are established by any governing legislation or regulation, the application of which are required in particular circumstances; and*
- (d) *other standards that are recognized as established standards applying to a particular area of professional service that is provided by the member or firm, the application of which are appropriate in particular circumstances.*

**“member”** is a member, whether or not in good standing, of CPA Ontario as defined in CPA Ontario’s bylaws. Members are referred to as “registrants” by some other provincial bodies.

**“professional colleague”** has the meaning set out in the bylaws and regulations of CPA Ontario.

**“professional service”** means a service or activity of a member or firm, whether undertaken for remuneration or not, where the public or a professional colleague is entitled to rely on membership or registration with CPA Ontario as giving the member or firm particular competence and requiring due care, integrity and an objective state of mind. For greater certainty, in this context, the public includes, but is not limited to clients, employers and not-for-profit or other organizations.

**“provincial body”** has the meaning set out in the bylaws and regulations of CPA Ontario.

**“public accounting”** has the meaning set out in CPA Ontario bylaws definitions “practice of public accounting” and “providing accounting services to the public”.

**“rebuttable presumption”** means a presumption that will be deemed to be valid or true until adequate evidence to the contrary is produced. A presumption is rebutted when the actual facts are found to be different than the presumption assumes.

**“related business or practice”** has the meaning set out in the bylaws and regulations of CPA Ontario.

## 100 PROFESSIONAL GOVERNANCE

### 101 Compliance with governing legislation, bylaws, regulations and the CPA Code

#### RULES:

- 101.1** (a) *All members and firms, regardless of their jurisdiction of residence or operation, shall comply with the CPA Code.*
- (b) *All members and firms regardless of their jurisdiction of residence or operation, shall comply with:*
- (i) *legislation, bylaws, and regulations of CPA Ontario, as they may be approved and in force from time to time; and*
- (ii) *any order or resolution of the Council, or any order of any officer, agent, tribunal, committee or other authoritative body acting on behalf of CPA Ontario, made under legislation or bylaws.*
- (c) *Notwithstanding the provisions of paragraph (a) and (b), if a member or firm is prohibited by law from complying with any part of the bylaws, regulations and the CPA Code, the member or firm shall comply with all other parts of those governing documents.*
- (d) *Where a member holds membership in or a firm is registered with CPA Ontario and another professional body, whether in Canada or elsewhere, and there is a conflict between the requirements of CPA Ontario and the other professional body, the member or firm shall comply with the requirement that establishes the more stringent requirement.*
- 101.2** *Members or firms who identify that they have breached the CPA Code shall:*
- (a) *take whatever action might be appropriate or required by law, as soon as possible, to satisfactorily address the consequences of any such breach; and*
- (b) *evaluate whether the breach is such that it needs to be reported to CPA Ontario, and if so, report it promptly.*

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#### GUIDANCE – Rule 101

- 1 Rule 101.1 applies to all members and firms, regardless of their jurisdiction of residence or operation. It also applies to all activities undertaken by a member or firm, whether professional or not, unless a provision of the CPA Code specifies otherwise.
- 2 The requirement for members and firms to comply with legislation, bylaws, regulations and the CPA Code serves the public interest. Rules 101.2 and 102 require members and firms to report to CPA Ontario, specific matters pertaining to their own conduct. Rule 211 requires members and firms to report, to CPA Ontario, specific matters in relation to the conduct of other members or firms.
- 3 However, members and firms also have an obligation to take appropriate action to address breaches of the CPA Code for which they themselves are responsible, as set out in Rule 101.2.

When such a breach has occurred, members or firms are required to take appropriate action which satisfactorily addresses the consequences of the breach or may be required by law. Such action may include notifying those who may have been affected by the breach and when the breach is such that it diminishes the reputation of the profession or fails to serve the public interest, members and firms are also required to notify CPA Ontario of the breach.

- 4 Those who are affected by a breach described in Rule 101.2 may decide to pursue legal action against a member or firm. In case such action is taken, insured members or firms should contact their insurance provider once a breach has been identified. Failing to do so may invalidate insurance coverage, thus exposing the affected party to the risk that coverage will be denied. It is also simply prudent from a personal liability perspective to discuss such possible claims with one's insurer as soon as possible.
- 5 Members and firms are reminded that legislation or bylaws, or both, in their jurisdiction are likely to provide that the coming into force of new legislation, bylaws, regulations, the CPA Code or other governing documents does not relieve members or firms from the obligation to have been compliant with the former legislation, bylaws, regulations, codes or other governing documents, nor does it relieve a member's or firm's obligation to comply with any order issued by or on behalf of CPA Ontario or its predecessors under the former legislation, bylaws, regulations, codes or other governing documents.

## 102 Matters to be reported to CPA Ontario

### RULES:

#### 102.1 *Illegal activities*

Members or firms shall promptly notify CPA Ontario after having been, in any jurisdiction:

- (a) convicted of an offence of fraud, theft, forgery, money-laundering, extortion, counterfeiting, criminal organization activities, charging criminal interest rates, financing terrorism or similar offences related to financial matters or convicted of an offence of conspiring or attempting to commit such offences;
- (b) convicted of any other serious criminal offence that is not related to financial matters but which involves conduct that is of such a nature that it diminishes the good reputation of the profession or fails to serve the public interest;
- (c) convicted of any criminal offence that is a repeat offence;
- (d) found guilty of a violation of the provisions of any securities legislation or having entered into a settlement agreement with respect to such matters;
- (e) found guilty of a violation of the provisions of any tax legislation that involves, explicitly or implicitly, dishonesty on the part of the member or firm, or having entered into a settlement agreement with respect to such matters; or
- (f) discharged absolutely or upon condition after pleading guilty to or being found guilty of an offence described in (a), (b), (c), (d) or (e) above.

#### 102.2 *Other provincial bodies*

Members or firms shall promptly notify CPA Ontario after having, in relation to a disciplinary or similar process of any provincial body:

- (a) been found guilty, of a failure to comply with the requirements of that provincial body;
- (b) entered into a settlement agreement with that provincial body with respect to a matter referred to in (a); or
- (c) voluntarily deregistered or resigned from membership in that provincial body, where permitted to do so, in order to resolve a disciplinary matter.

#### 102.3 *Other professional regulatory bodies*

Members or firms shall promptly notify CPA Ontario after having, in any jurisdiction in relation to a disciplinary or similar process of another professional regulatory body:

- (a) been found guilty of a failure to comply with the requirements of that professional regulatory body;
- (b) entered into a settlement agreement with that professional regulatory body with respect to a matter referred to in (a); or
- (c) resigned from membership in or voluntarily deregistered from that professional regulatory body, where permitted to do so, in order to resolve a disciplinary matter.

**102.4 Other regulatory bodies**

*Members or firms shall promptly notify CPA Ontario after having, in any jurisdiction in relation to a disciplinary or similar process of a regulatory body other than a provincial body or professional regulatory body where the matter involves acting in a professional capacity, relates to professional skills or involves circumstances where there was reliance on membership in or association with any provincial body:*

- (a) *been found guilty of a failure to comply with the requirements of that other regulatory body; or*
- (b) *entered into a settlement agreement with that other regulatory body with respect to a matter referred to in (a).*

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**GUIDANCE - Rule 102**

- 1 Rules 102.1(a), 102.1(c), 102.1(d), 102.2 and 102.3 identify certain matters which must be reported to CPA Ontario by members and firms.
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  - (a) Rules 102.1(b), 102.1(e) and 102.4 identify matters where a decision as to whether the matter should be reported to CPA Ontario requires the exercise of professional judgment.
  - (b) Compliance with Rule 102.1(b) will require the exercise of professional judgment to determine whether a serious criminal offence diminishes the good reputation of the profession or fails to serve the public interest.
  - (c) With respect to Rule 102.1(e), in some cases a violation of tax legislation may be very technical in nature or may be the result of an unintentional oversight. In addition, there may be occasions when an aggressive tax filing position does not withstand a challenge by taxation authorities and is found by the courts to be in contravention of tax legislation. Such situations may not explicitly involve dishonesty but will require the exercise of professional judgment to decide whether they implicitly involve dishonesty and must be reported.
  - (d) Compliance with Rule 102.4 will also require the exercise of professional judgment to determine whether a breach of the requirements of another regulatory body is a matter that involves acting in a professional capacity, relates to professional skills, or involves reliance on membership or registration in or association with any provincial body.
- 3 Members or firms faced with a decision as to whether a matter is reportable are expected to exercise professional judgment and to be prepared to demonstrate how professional judgment was exercised, should it later be called into question. Therefore, it would be prudent to obtain legal advice, document the rationale behind a decision that a matter need not be reported and, if doubt remains, report the matter to CPA Ontario.
- 4 It is particularly important that the conduct of members and firms in a matter that involves acting in a professional capacity, relates to professional skills, involves reliance on membership, registration or association with any provincial body, or which diminishes the good reputation of the profession or fails to serve the public interest, is subject to scrutiny. Accordingly, members and firms are required to report offences of fraud, theft, forgery, money-laundering, extortion, counterfeiting, criminal organization activities, charging criminal interest rates, financing terrorism and similar offences related to financial matters, including offences involving a violation of any of the provisions of securities legislation.

- 5 There may also be occasions when a criminal offence is of such a nature that the conduct of a member or firm has diminished the good reputation of the profession or fails to serve the public interest, even though the offence may appear to be unrelated to the profession. Many such offences may still be serious and, accordingly, the member or firm should evaluate the breach against the requirements of the Rules and in particular, Rule 201.1. Any such matters which do not meet those requirements must also be reported to CPA Ontario.
- 6 In addition, when a member or firm repeats a criminal offence that might not otherwise be reportable, such repeat offences must also be reported to CPA Ontario.
- 7 Members and firms may hold membership or registration with more than one provincial body. In order to properly protect the public across jurisdictions, where a member or firm has been found guilty by or entered into a settlement agreement with one provincial body, the member or firm must report that finding or settlement agreement to any other provincial body in which membership or registration is held. In addition, some provincial bodies permit the voluntary deregistration or resignation of members or firms in order to resolve a disciplinary proceeding; in these cases, the member or firm must also report such voluntary deregistrations or resignations to any other provincial body in which membership or registration is held.
- 8 Conduct which results in a breach of the requirements of another professional regulatory body is likely to diminish the good reputation of the profession or otherwise breach the CPA Code. Such breaches must be evaluated by CPA Ontario against the requirements of the CPA Code and therefore, all such matters must be reported. Reporting of these matters is required whether they were addressed through a settlement agreement with or by a finding of guilt by the professional regulatory body.
- 9 A “professional regulatory body” is a body that sets and maintains standards of qualification, attests to the competence of the individual practitioner, develops skills and standards of the profession, sets a code of ethical standards and enforces its professional and ethical standards. Such a body has power to compel a person to appear and answer to disciplinary actions relating to compliance with its standards. Examples of professional regulatory bodies include, but are not limited to, bodies that regulate the accounting, legal, actuarial, investment, real estate, engineering and financial planning professions.
- 10 Conduct which results in a breach of the requirements of any other regulatory body may also breach the CPA Code. In such situations, the member or firm should exercise professional judgment to determine whether such a breach is a matter that involves acting in a professional capacity, relates to professional skills, or involves reliance on membership, registration or association with any provincial body. The breach must be evaluated against the requirements of the CPA Code and in particular Rule 201.1, and any such matters which do not meet those requirements must be reported to CPA Ontario. Reporting of these matters is required whether they were addressed through a settlement agreement with or by a finding of guilt by the other regulatory body.
- 11 A “regulatory body” is a body that has power to compel a person to appear and answer to charges relating to compliance with its requirements. In this context, such a regulatory body’s requirements include legislation that it is empowered to enforce, whether against its own members or the public generally, codes of ethics, bylaws, regulations, professional or practice requirements and similar standards. Examples of regulatory bodies include, but are not limited to, bodies that regulate competition, election, gaming, human rights, environmental protection and health and occupational safety.
- 12 In applying Rules 102.1 through 102.4, the words “guilt” and “guilty” include findings by a regulatory body of a contravention, breach, violation, infringement and other similar term

in relation to failures to comply with its requirements. Additionally, the imposition of a requirement or restriction on a member or firm by a regulatory body is equivalent to “guilt”. However, administrative orders for penalties such as late filing penalties from tax assessments or reassessments or interim cease trade orders of a securities regulator do not constitute findings of guilt.

- 13** Members and firms are reminded that confidentiality agreements with respect to matters described in Rule 102.1 through 102.4 do not provide an exemption from the reporting requirements of the CPA Code.

## 103 False or misleading applications

### **RULE:**

*A member or firm shall not sign or associate with any letter, report, statement or representation relating to any application to CPA Ontario which the member or firm knows, or should know, is false or misleading.*

## 104 Requirement to co-operate

### RULES:

- 104.1** *A member or firm shall co-operate with the regulatory processes of CPA Ontario.*
- 104.2** *A member or firm shall:*
- (a) promptly reply in writing to any communication from CPA Ontario in which a written reply is specifically required;*
  - (b) promptly produce documents when required to do so by CPA Ontario; and*
  - (c) attend in person in the manner requested when required to do so by CPA Ontario in relation to the matters referred to in Rule 104.1.*

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### GUIDANCE – Rule 104

- 1** The regulatory processes of CPA Ontario include practice inspections, investigations into professional conduct, disciplinary or other hearings, admission, registration, readmission or re-registration, revocation, and appeals of any decisions resulting from the aforementioned processes.
- 2** Lack of co-operation includes attempts to delay, mislead or misdirect CPA Ontario by concealing relevant information, providing false, incomplete or misleading statements or information, failing to respond to communications or otherwise obstructing the regulatory processes of CPA Ontario. Lack of co-operation does not include good faith assertions of legal privilege.
- 3** The requirement for prompt written replies and production of documents contemplates the establishment of a reasonable timeframe to respond to the request. Requests for reasonable extensions will not normally be refused; however, repeated requests without adequate grounds will be refused.
- 4** Requirements for attendance in person may be modified by agreement between CPA Ontario and the member or firm to provide reasonable accommodations. However, repeated requests for alternative accommodations without adequate grounds will be refused.
- 5** Subject to the agreement of CPA Ontario, the requirement to attend in person may include attendance by teleconference, videoconference or other means.
- 6** The requirement to co-operate with CPA Ontario includes a requirement to co-operate with officers, staff, volunteers or agents acting on behalf of CPA Ontario in matters described in Rules 104.1 and 104.2.

## 105 Hindrance, inappropriate influence and intimidation

### RULES:

- 105.1** *A member or firm shall not, directly or indirectly hinder any regulatory process of CPA Ontario or otherwise attempt to exert inappropriate influence or pressure on the outcome of a regulatory matter of CPA Ontario.*
- 105.2** *A member or firm shall not threaten or intimidate a complainant, witness, or any other person related to a regulatory matter of CPA Ontario nor shall a member or firm threaten or intimidate officers, staff, volunteers or agents acting on behalf of CPA Ontario.*

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### GUIDANCE – Rule 105

- 1 Rule 105.1, which prohibits hindering or otherwise exerting inappropriate influence on the outcome of a specific regulatory matter, explicitly includes a reference to “inappropriate influence or pressure”. The rule is not intended to prevent members or firms from taking appropriate steps to advocate for or defend themselves or another member or firm before the appropriate regulatory decision-making body within CPA Ontario or the courts. Further, another member or firm may act as an expert or other witness, provide letters of reference, or appear before the appropriate regulatory decision-making body within CPA Ontario as the representative of the member or firm.
- 2 Without limiting the generality of the Rule, in particular, when a complaint has been made against a member or firm, the requirements of Rule 105.2 apply to any communication that the member or firm has with the complainant. Any such communication must meet the requirements of Rule 105.2 and should ordinarily be limited to only those matters that must be addressed to continue to serve the interests of the complainant.

## 200 PUBLIC PROTECTION

### 201 Maintenance of the good reputation of the profession

#### RULES:

- 201.1** *A member or firm shall act at all times with courtesy and respect and in a manner which will maintain the good reputation of the profession and serve the public interest.*
- 201.2** *There is a rebuttable presumption that a member or firm has failed to maintain the good reputation of the profession or serve the public interest when the member or firm is charged under Rule 201.1 on account of any matter referred to in Rule 102.1(a), (c), (d) and (e) and a certified copy of a document which provides proof of guilt in respect of such matters is filed with the discipline committee. For purposes of this Rule, documents which provide proof of guilt include a certificate of conviction, order, decision, settlement agreement which includes an admission of guilt or other similar relevant document.*
- 201.3** *There is a rebuttable presumption that a member or firm has failed to maintain the good reputation of the profession or serve the public interest when the member or firm is charged under Rule 201.1 on account of a matter referred to in Rule 102.2 where the resolution of the matter includes:*
- (a) *a finding of guilt by, or a settlement agreement with, another provincial body or another designated body under the Public Accounting Act, 2004, and the member or registration of the firm was suspended, revoked, expelled, or deregistered voluntarily in order to resolve a disciplinary matter, or when restrictions were placed on practice rights, or a former member was barred from readmission; or*
  - (b) *a finding of guilt by, or an admission of guilt by the member or firm to, another provincial body or another designated body under the Public Accounting Act, 2004, that Rule 201.1 was breached by the member or firm;*
- and a certified copy of the order, decision, settlement agreement or other relevant document from the other provincial body is filed with the discipline committee.*

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#### GUIDANCE - Rule 201

##### Compliance with regulatory legislation

- 1 Provincial as well as federal legislation often requires licensing and may govern activities such as public accounting, dealing in securities, mortgage brokering, real estate brokering, practising law, acting as an employment agency, and handling trust monies.
- 2 A member or firm should be cognizant of and comply with the provisions of any legislative requirements pertaining to any of the member's or firm's professional services.
- 3 In Ontario, various pieces of legislation have application to a member's activities. The most notable example is the *Public Accounting Act, 2004*.

*Public Accounting Act, 2004*

All members and firms who are engaged in the practice of public accounting in Ontario, whether full or part-time, should be familiar with the provisions of the *Public Accounting Act, 2004* and the public accounting licencing requirements set out in CPA Ontario's bylaws and regulations.

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### Criticism of the work of other professionals

- 4 In the course of performing professional services, a member or firm may on occasion criticize the work of another professional; such criticism may be direct, or may be implied by material adjustments to a client's accounts considered necessary to correct work performed by the other professional. It may be, however, that there are facts or explanations known to the other professional concerned which could have a bearing on the matter.
- 5 Unless limited or restricted in writing by the terms of the engagement, it is recommended that the member or firm first communicate any proposed criticism to the other professional involved so that any eventual criticism takes into account all the available information. This is a step dictated by considerations both of professional courtesy and simple prudence.
- 6 Paragraphs 4 and 5 apply to criticisms of a general nature as well as to criticisms of specific professional work of another professional.
- 7 Paragraph 5 does not apply to a member or firm bringing to the attention of the professional conduct committee any apparent breach of the CPA Code or any instance involving doubt as to the competence, integrity or capacity to practise of a member or firm, as required by Rule 211.

### Resignation/termination of auditors

- 8 Statutory provisions with regard to auditors form a very important part of legislation. The whole background of corporation legislation makes it clear that the auditor fulfils an essential statutory and independent function and assumes statutory duties when accepting an appointment. As a general rule, the proper course for an appointed auditor to follow is the completion of the auditor's statutory duties; having been appointed by the shareholders, the auditor has a duty to them and should report as required in the legislation. The auditor should cease to act on behalf of a client only after a successor has been properly appointed and the auditor has been relieved or disqualified. The auditor should never lightly resign an appointment before reporting and should not resign at all before reporting if there is reason to suspect that the auditor's resignation is required by reason of any impropriety or concealment, upon which it is the auditor's duty to report. Subject to that general statement, however, there may be exceptional circumstances in a particular case which would justify the auditor's resignation. This will be a matter of individual judgment in each case.
- 9 A duly appointed auditor's appointment may be terminated or the auditor may be asked to resign at the request of a board of directors before fulfilling the auditor's statutory duties. When the auditor's appointment is terminated before completing the audit, the auditor may still have a requirement to report under legislation or regulation.
- 10 An auditor should not voluntarily cease to act on behalf of a client after commencement of an audit engagement except for good and sufficient reason. Reasons may include:
  - loss of trust in the client;
  - the fact that the auditor is in a situation where the auditor's independence or objectivity could reasonably be questioned; or
  - inducement by the client to perform illegal, unjust or fraudulent acts.

When an auditor's appointment is terminated or an auditor is asked to resign or is contemplating resignation, it would be prudent for the auditor to consider obtaining legal advice.

## 202 Integrity and due care and Objectivity

### RULES:

#### 202.1 Integrity and due care

*A member or firm shall perform professional services with integrity and due care.*

#### 202.2 Objectivity

*A member or firm shall not allow his or her professional or business judgment to be compromised by bias, conflict of interest or the undue influence of others.*

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### GUIDANCE - Rule 202

- 1 A person who acts with honesty and truthfulness and whose actions, values and principles are consistent is described as having integrity.
- 2 Objectivity is a state of mind, which has regard to all considerations that are relevant but disregards those that are not. An objective person does not allow bias, conflict of interest or the influence of others to compromise judgment. The judgment of an objective person is intellectually honest. Objectivity should not be confused with neutrality or impartiality.
- 3 Objectivity and integrity are two of the five fundamental principles of ethics, as stated in the Preamble to the CPA Code. These two principles are closely related and they are essential ethical elements in establishing the credibility of a member or firm. Objectivity is essential for any member or firm to exercise professional judgment and act with integrity whether in public practice or elsewhere.

#### Professional Services and fiduciary duty

- 4 Members are reminded that they may also be performing professional services when serving in the capacity of a volunteer and, accordingly, are subject to the requirement for objectivity when acting in that capacity.
- 5 Members and firms have duties to those to whom they provide professional services that arise from the nature of the relationships with the recipients of the services. Members and firms have a professional duty to act with integrity and due care and a contractual duty to provide services as defined by the terms of their engagement or employment. In certain cases, the relationship between a member or firm and those to whom they provide professional services could also be one that the courts describe as a fiduciary relationship that gives rise to fiduciary duties.

Depending on the particular facts and circumstances, members who are employees may have a fiduciary relationship with their employers.

The concepts of fiduciary relationship and fiduciary duty are derived from the law of trusts. The obligations of a fiduciary can be onerous and the implications of being in breach of a fiduciary duty can be significant. If there is any question as to whether a fiduciary relationship exists, legal advice should be obtained.

#### The public interest

- 6 Clients, employers and the public generally expect that a member or firm bring the qualities of objectivity, integrity and due care to all professional services. It therefore becomes essential

that members or firms will not compromise their professional judgment to the will of others. When a possible ethical conflict arises because another person in an organization overrides the professional judgment of a member, the member or firm should refer to the ethical conflict resolution guidance in the Preamble to the CPA Code.

- 7 Members or firms may be exposed from time to time to situations that place pressures upon objectivity and integrity, and it would be impractical to define all such situations. However, such pressures are subject to powerful countervailing forces and restraints. These forces include liability in law, responsibility to the profession for professional actions and, most importantly, the ingrained resistance of a disciplined professional person to any infringement upon integrity. A member or firm recognizes that credibility and value as a professional depend largely on integrity and objectivity.

### Objectivity and advocacy

- 8 The requirement for an objective state of mind does not preclude a member or firm from acting in an advocacy role for a client or from working to advance the best interests of an employer. A member's or firm's effectiveness as an advocate in these cases is based on professional credibility, which is sustained by objectivity and integrity in addition to competence. However, a member or firm must consider the ability to effectively advocate the client's or employer's position, while still maintaining objectivity and integrity. It may be possible to do so when the advocacy role is apparent in the circumstances and the position being advocated is supportable. In any advocacy service, there is a possibility that circumstances may arise which stretch the bounds of performance standards, go beyond sound and reasonable professional or commercial practice or compromise credibility. Such circumstances may pose an unacceptable risk of impairing the reputation of the member, firm, client and/or employer. In those circumstances, the member or firm should consider whether it is appropriate to perform the service.
- 9 When acting as an advocate a member or firm should bear in mind other provisions of the CPA Code, such as Rules 203 and 205. Rule 203 requires a member to sustain professional competence in relation to all professional services provided by the member. Rule 205 provides that a member or firm may not associate with any letter, report, statement or representation which the member or firm knows, or should know, is false or misleading.
- 10 A member or firm, when acting as an advocate, should ensure that such an advocacy role service does not constitute the practice of law.

### Practice of public accounting – additional requirements

- 11 In addition to the general requirement to maintain an objective state of mind applicable to all professional services, a member or firm practising public accounting or in a related business or practice must ensure compliance with the specific provisions of the CPA Code in relation to:
- Independence, for certain types of engagement, (Rule 204 – see also paragraph 12 below); and
  - Conflicts of interest (Rule 210).
- 12 The requirement to be objective is not the same as the requirement to be independent pursuant to Rule 204. Objectivity is a state of mind. Independence is not only a state of mind; it also includes the appearance of independence, in the view of a reasonable observer. It is the reasonable observer test that distinguishes “independence” from “objectivity” and that gives the public the necessary confidence that the member or firm can express a conclusion without bias, conflict of interest or the undue influence of others. Rule 204 and the related Guidance provide specific information on the independence requirements in these circumstances.

**Continuing assessment of objectivity and integrity**

- 13** A member or firm must remain conscious of the need to remain objective and act with integrity in the conduct of all professional services, and must continually assess and manage the risks to objectivity and integrity. In the absence of specific rules, standards or guidance, a member or firm should consider whether another member or firm, without the relationships or influence that have put objectivity or integrity at risk, would have come to the same decision with access to the same information. The member or firm may wish to apply the ethical conflict resolution guidance in the Preamble to the CPA Code in circumstances where difficult decisions may be required. In order to resolve the conflict, it may be necessary to consult with an experienced member or appropriate staff at CPA Ontario.
- 14** A firm is accountable under Rule 502 for a lack of objectivity or integrity of any members and other persons who carry out professional services on behalf of the firm.

## 203 Professional competence

### **RULE:**

*A member shall sustain professional competence by keeping informed of, and complying with, developments in professional standards in all functions in which the member provides professional services or is relied upon because of the member's calling.*

## 204 Independence

### DEFINITIONS:

For the purposes of Rules 204.1 to 204.10 and the related Guidance:

**“accounting role”** means a role in which a person is in a position to or does exercise more than minimal influence over:

- (a) the contents of the client’s accounting records related to the financial statements subject to audit or review by the member or firm; or
- (b) anyone who prepares such financial statements.

**“assurance client”** means an entity in respect of which a member or firm has been engaged to perform an assurance engagement. In the application of Rule 204.4(1) to (12) “assurance client” includes its related entities, and the reference to an assurance client, a client or an entity that is an assurance client shall be read as including all related entities of the assurance client, client or entity as the case may be.

**“assurance engagement”** means an assurance engagement as contemplated in the CPA Canada Handbook – Assurance. For the purpose of Rule 204.4, “assurance engagement” also includes a specified auditing procedures engagement as contemplated by the CPA Canada Handbook – Assurance.

**“audit client”** means an entity in respect of which a member or firm has been engaged to perform an audit of the financial statements. In the application of Rule 204.4(1) to (12) “audit client” includes its related entities, and the reference to an assurance client, a client or an entity that is an audit client shall be read as including all related entities of the assurance client, client or entity as the case may be.

**“audit committee”** means the audit committee of the entity, or if there is no audit committee, another governance body which has the duties and responsibilities normally granted to an audit committee, or those charged with governance of the entity.

**“audit engagement”** means an engagement to audit financial statements as contemplated in the CPA Canada Handbook – Assurance.

**“audit partner”** means a person who is a partner in a firm or a person who has equivalent responsibility, who is a member of the engagement team, other than a specialist or technical partner or equivalent who consults with others on the engagement team regarding technical or industry-specific issues, transactions or events.

**“clearly insignificant”** means trivial and inconsequential.

**“close family member”** means a parent, child or sibling who is not an immediate family member.

**“direct financial interest”** means 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);
- (b) beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control or ability to influence investment decisions;
- (c) owned through an investment club or by a private mutual fund in which the individual participates in the investment decisions.

**“engagement period”** means the period that starts at the earlier of the date when the member or firm signs the engagement letter or commences procedures in respect of the engagement and ends when the assurance report is issued, except when the engagement is of a recurring nature, in which case the engagement period ends with

- (a) notification by either the client or the firm that the professional relationship has terminated or the issuance of the final assurance report, whichever is later, or
- (b) in the case of an audit engagement for a reporting issuer or listed entity, notification by either the client or the firm to the relevant Securities Commission that the audit client is no longer an audit client of the firm.

**“engagement quality control reviewer”**, often referred to as reviewing, concurring or second partner, means the audit partner or other person in the firm who, prior to issuance of the audit report, provides an objective evaluation of the significant judgments made and conclusions reached by the members of the engagement team in formulating the report on the engagement.

**“engagement team”** means:

- (a) each member of the firm performing the assurance engagement;
  - (b) all other members of the 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. For the purposes of an audit engagement this includes those at all successively senior levels above the lead engagement partner through to the firm’s chief executive officer;
    - (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;
- and
- (c) in the case of an audit client, all persons in a network firm who can directly influence the outcome of the audit engagement.

**“financial interest”** includes a direct or indirect ownership 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 reporting oversight role”** means a role in which a person is in a position to or does exercise influence over:

- (a) the contents of the financial statements subject to audit or review by the member or firm; or
- (b) anyone who prepares the financial statements.

**“firm”** means a sole practitioner, partnership, professional corporation or association of members who carries or carry on the practice of public accounting, or carries or carry on related activities as defined by the Council. A related business or practice, as defined by CPA Ontario bylaws and regulations, is considered to be part of the firm.

**“fund manager”** means, with respect to a mutual fund, an entity that is responsible for investing the

*mutual fund's assets, managing its portfolio trading and providing it with administrative and other services, pursuant to a management contract.*

**"immediate family member"** means a spouse (or equivalent) or dependant.

**"indirect financial interest"** means a financial interest beneficially owned through a collective investment vehicle such as a mutual fund, estate, trust or other intermediary over which the beneficial owner has no control or ability to influence investment decisions.

**"key audit partner"** means:

- (a) an audit partner who is the lead engagement partner;
- (b) the engagement quality control reviewer; and
- (c) any other audit partner on the engagement team who makes important decisions or judgments on significant matters with respect to the audit or review engagement.

**"lead engagement partner"** means the partner or other person who is responsible for the engagement and its performance, 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.

**"legal service"** means any service that may only be provided by a person licensed, admitted, or otherwise qualified to practice law in the jurisdiction in which the service is provided. If the same service could be provided in Canada by a person who is not a lawyer, such a service is not a legal service for the purpose of this Rule.

**"listed entity"** means an entity whose shares, debt or other securities are quoted on, listed on or marketed through a recognized stock exchange or other equivalent body, whether within or outside of Canada, other than an entity that has, in respect of a particular fiscal year, market capitalization and total assets that are each less than \$10,000,000. An entity that becomes a listed entity by virtue of the market capitalization or total assets becoming \$10,000,000 or more in respect of a particular fiscal year shall be considered to be a listed entity thenceforward unless and until the entity ceases to have its shares or debt quoted, listed or marketed in connection with a recognized stock exchange or the entity has remained under the market capitalization or total assets threshold for a period of two years.

*In the case of a period in which an entity makes a public offering:*

- (a) the term "market capitalization" shall be read as referring to the market price of all outstanding listed securities and publicly traded debt measured using the closing price on the day of the public offering; and
- (b) the term "total assets" shall be read as referring to the amount of total assets presented on the most recent financial statements prepared in accordance with generally accepted accounting principles included in the public offering document.

**"market capitalization"** in respect of a particular fiscal year means the average market price of all outstanding listed securities and publicly traded debt of the entity measured at the end of each of the first, second and third quarters of the prior fiscal year and the year-end of the second prior fiscal year.

**"member of a firm"** or **"member of the firm"**, as the case may be, means a person, whether or not a member of a provincial body, who is:

- (a) a sole practitioner;

- (b) *a partner, professional employee or student of the firm;*
- (c) *an individual engaged under contract by the firm to provide services that might otherwise be provided by a partner or professional employee of the firm, but does not include an external expert possessing skills, knowledge and experience in a field other than accounting or auditing whose work in that field is used to assist the member or firm in obtaining sufficient appropriate evidence;*
- (d) *an individual who provides to the firm services which are referred to in Rule 204.1 and includes any corporate or other entity through which the individual contracts to provide such services; or*
- (e) *a retired partner of the firm who retains a close association with the firm.*

**“mutual fund”** means a mutual fund that is a reporting issuer under the applicable Canadian provincial or territorial securities legislation.

**“mutual fund complex”** means:

- (a) *a mutual fund that has the same fund manager as a client;*
- (b) *a mutual fund that has a fund manager that is controlled by the fund manager of a client; and*
- (c) *a mutual fund that has a fund manager that is under common control with the fund manager of a client.*

**“network firm”** means an entity that is, or that a reasonable observer would conclude to be, part of a larger structure of co-operating entities that shares:

- (a) *common quality control policies and procedures that are designed, implemented and monitored across the larger structure;*
- (b) *common business strategy that involves agreement to achieve common strategic objectives;*
- (c) *the use of a common brand name, including the use of common initials and the use of the common brand name as part of, or along with, a firm name when a partner of the firm signs an audit or review engagement report; or*
- (d) *professional resources, such as*
  - (i) *common systems that enable the exchange of information such as client data, billing or time records;*
  - (ii) *partners and staff;*
  - (iii) *technical departments that consult on technical or industry specific issues, transactions or events for assurance engagements;*
  - (iv) *audit methodology or audit manuals; or*
  - (v) *training courses and facilities,**where such professional resources are significant.*

**“office”** means a distinct sub-group of a firm, whether organized on geographical or practice lines.

**“related entity”** means any one of the following:

- (a) *in the case of an engagement to audit the financial statements of a client that is a reporting issuer or listed entity;*

- (i) *an entity over which the client has control;*
  - (ii) *an entity that has control over the client, provided that the client is material to such entity;*
  - (iii) *an entity that has significant influence over the client, provided that the client is material to such entity;*
  - (iv) *an entity which is under common control with the client, provided that such entity and the client are both material to the controlling entity; or*
  - (v) *an entity over which a client has significant influence, provided that the entity is material to the client;*
- (b) *in the case of an engagement to audit or review the financial statements of a client that is not a reporting issuer or listed entity:*
- (i) *an entity over which the client has control; or*
  - (ii) *any of the following entities where the engagement team knows or has reason to believe that the existence of an activity, interest or relationship involving the member or firm and that other entity is relevant to the evaluation of the independence of the member or firm with respect to the audit or review of the financial statements of the client:*
    - (A) *an entity that has control over the client, provided that the client is material to such entity,*
    - (B) *an entity that has significant influence over the client, provided that the client is material to such entity,*
    - (C) *an entity which is under common control with the client, provided that such entity and the client are both material to the controlling entity, or*
    - (D) *an entity over which a client has significant influence, provided that the entity is material to the client; and*
- (c) *in the case of an assurance engagement that is not an engagement to audit or review the financial statements of a client, any of the following entities where the engagement team knows or has reason to believe that the existence of an activity, interest or relationship involving the member or firm and that other entity is relevant to the evaluation of the independence of the member or firm with respect to the assurance engagement:*
- (i) *an entity over which the client has control;*
  - (ii) *an entity that has control over the client, provided that the client is material to such entity;*
  - (iii) *an entity that has significant influence over the client, provided that the client is material to such entity;*
  - (iv) *an entity which is under common control with the client, provided that such entity and the client are both material to the controlling entity; or*
  - (v) *an entity over which a client has significant influence, provided that the entity is material to the client.*

**“reporting issuer”** means an entity that is defined as a reporting issuer under the applicable Canadian provincial or territorial securities legislation, other than an entity that has, in respect of a particular fiscal year, market capitalization and total assets that are each less than \$10,000,000. An entity

*that becomes a reporting issuer by virtue of the market capitalization or total assets becoming \$10,000,000 or more in respect of a particular fiscal year shall be considered to be a reporting issuer thenceforward unless and until the entity ceases to have its shares or debt quoted, listed or marketed in connection with a recognized stock exchange or the entity has remained under the market capitalization or total assets threshold for a period of two years.*

*In the case of a period in which an entity makes a public offering:*

- (a) the term “market capitalization” shall be read as referring to the market price of all outstanding listed securities and publicly traded debt measured using the closing price on the day of the public offering; and*
- (b) the term “total assets” shall be read as referring to the amount of total assets presented on the most recent financial statements prepared in accordance with generally accepted accounting principles included in the public offering document.*

*In the case of a reporting issuer that does not have listed securities or publicly traded debt, the definition of reporting issuer shall be read without reference to market capitalization.*

**“review client”** *means an entity in respect of which a member or firm conducts a review engagement. In the application of Rule 204.4(1) to (12) “review client” includes its related entities, and the reference to an assurance client, a client or an entity that is a review client shall be read as including all related entities of the assurance client, client or entity, as the case may be.*

**“review engagement”** *means an engagement to review financial statements as contemplated in the CPA Canada Handbook – Assurance.*

**“specified auditing procedures engagement”** *means an engagement to perform specified auditing procedures as contemplated in the CPA Canada Handbook – Assurance.*

**“total assets”** *in respect of a particular fiscal year means the amount of total assets presented on the third quarter of the prior fiscal year’s financial statements prepared in accordance with generally accepted accounting principles that are filed with a relevant securities regulator or stock exchange. In the case of an entity that is not required to file quarterly financial statements, total assets in respect of a particular fiscal year means the amount of total assets presented on the annual financial statements of the second previous fiscal year prepared in accordance with generally accepted accounting principles that are filed with a relevant securities regulator or stock exchange.*

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## **GUIDANCE – Rule 204 Definitions**

### **“clearly insignificant”**

Throughout this Rule and Guidance, reference is made to “significant” and “clearly insignificant”. In considering the significance of any particular matter, qualitative as well as quantitative factors should be taken into account. A matter should be considered clearly insignificant only if it is both trivial and inconsequential.

### **“firm”**

The definition of “firm” refers to related activities as defined by the Council. A related activity includes a related business or practice that is cross-referenced with a practice of public accounting or with any other business or practice which is cross-referenced with a practice of public accounting in accordance with CPA Ontario bylaws and regulations.

**“key audit partner”**

A key audit partner does not include those “specialty” and “technical” partners who consult with others on the engagement team regarding technical or industry-specific issues, transactions or events, including tax matters. In addition, the provisions of Rules 204.4(20)(b) and 204.4(38) do not apply to those partners who, subsequent to the issuance of the audit report, provide quality control for the engagement. Such partners typically have a low level of involvement with senior management as well as a relatively low level responsibility for overall presentation in the financial statements.

A transitional provision has been introduced in relation to the adoption, in 2014, of the term “key audit partner”. This transitional provision will permit a person who was not required to rotate under the previous requirements to serve up to an additional two years in a key audit partner role before rotation is required.

**“member of a firm” – retired partner**

A retired partner who retains a close association with the firm from which the partner has retired is considered to be a member of the firm for the purposes of Rules 204.1 to 204.10 and the related Guidance. Retired partners may have varying degrees of involvement with the firm. When a retired partner continues to provide administrative or client service for or on behalf of the firm, the partner may be closely associated with the firm. The following factors may indicate that the partner retains a close association with the firm:

- the nature and extent of the retired partner’s client and administrative activities within the firm may be more than clearly insignificant and transitional;
- the retired partner holds a direct or indirect financial interest in the firm, including share-based retirement income that may fluctuate with the firm’s income; and
- the retired partner is held out to be a member of the firm through, for example, having a separate, identified office on the firm’s premises, acting as its spokesperson or representative, using a firm business card or having a listing in the firm’s telephone directory for other than a predetermined period of time following retirement.

When evaluating whether a retired partner has a close association with the firm, consideration should be given to how a reasonable observer would regard the association.

**“network firm”**

The references to “firms” and “network firms” in Rules 204.1 to 204.10 and this Guidance should be read as referring to those entities themselves and not to the persons who are partners or employees thereof.

Rules 204.1 to 204.4 and their Guidance bring the independence of a network firm into consideration when evaluating the independence of a member or firm for an assurance engagement. It is the member’s or firm’s responsibility to determine whether the network firm and its members have any interests or relationships or provide any services that would create threats to independence.

A firm may participate in a larger structure with other firms and entities to enhance its ability to provide professional services. Whether the agreements and relationships among the firms and entities that are part of such a larger structure are such that any of the firms or entities is a network firm depends on the particular facts and circumstances. The geographic location of the firms and entities, either within or outside of Canada, is irrelevant as to whether such a larger structure exists. Whether the firms and entities are legally separate from each other is not determinative, in and of itself, of whether such a larger structure exists.

Another firm or entity will not be considered to be network firm simply by virtue of the existence of one of the following arrangements between that other firm or entity and the firm itself:

- the sharing of costs that are immaterial to the firm that is performing the particular engagement;
- an association with the other firm or entity to provide a service or develop a product on a joint basis;
- co-operation to facilitate the referral of work or solely to respond jointly to a request for a proposal for the provision of a professional service;
- references on stationery or in promotional materials to an association with other firms or entities that does not constitute a larger structure of co-operating firms or entities as described in the definition of network firm; or
- the use of a common name when an agreement in relation to the sale of a component of a firm or entity provides that each of the transacting firms or entities may use the existing name for a limited period of time.

The definition of a network firm refers to co-operating entities that share significant professional resources. Shared professional resources may be considered to be significant where there is an exchange of people or information, such as where staff is drawn from a shared pool, or a common technical department is created within a larger structure to provide participating firms or entities with technical advice that they are required to follow. Shared professional resources will not be considered to be significant when they are limited to common audit methodology or audit manuals or a shared training endeavour, with no exchange of personnel or client or market information. Similarly, the sharing of costs limited only to the development of such common audit methodology, audit manuals or a shared training endeavour will not be considered to give rise to a network firm relationship.

#### “related entity”

For the purposes of Rules 204.1 to 204.10, “related entity” is a defined term that is dependent on the nature of the assurance engagement, the nature of the client and the relationship between the client and the other entity. The circumstances in which another entity is defined to be a related entity of an assurance client are outlined below:

Definition reference	Test	Reporting issuer or listed entity client	Audit or review client that is not a reporting issuer or listed entity	Non-audit, non-review assurance client
(a)(i) (b)(i) (c)(i)	The entity is controlled by the client.	Related	Related	Conditional*
(a)(ii)&(iii) (b)(ii) (A)&(B) (c)(ii)&(iii)	The entity has either control or significant influence over the client and the client is material to the entity.	Related	Conditional*	Conditional*
(a)(iv) (b)(ii)(C) (c)(iv)	The entity and the client are both controlled by a second entity and both the client and the first entity are material to the controlling second entity.	Related	Conditional*	Conditional*

Definition reference	Test	Reporting issuer or listed entity client	Audit or review client that is not a reporting issuer or listed entity	Non-audit, non-review assurance client
(a)(v) (b)(ii)(D) (c)(v)	The entity is subject to significant influence by the client and the entity is material to the client.	Related	Conditional*	Conditional*

\*An entity referred to in paragraphs (b)(ii)(A) to (D) and (c)(i) to (v) of the definition of “related entity”, as applicable, is a related entity if the engagement team knows or has reason to believe that an activity, interest or relationship involving the other entity is relevant to the evaluation of independence of the member or firm with respect to the assurance engagement. This condition is not intended to require the engagement team to undertake a search for such possible activities, interests or relationships with such entities.

In determining whether significant influence exists members should follow the guidance established in the *CPA Canada Handbook - Accounting*. Ideally, the client’s related entities and the interests and relationships that involve the related entities should be identified in advance.

**RULES:****Effective date and transitional provisions****A. Effective date**

Rules 204.1 to 204.10 shall take effect:

- (a) for an assurance engagement in respect of a particular reporting period of a client, for the first reporting period commencing after December 15, 2014; and
- (b) for any other assurance engagement and an engagement to issue a report of the results of applying specified auditing procedures where the engagement is commenced after December 15, 2014,

subject to the following transitional provisions, as may be applicable.

**B. Provision of litigation support services**

The litigation services referred to in 204.4(29)(a) do not include a service that has not been completed before July 1, 2014 where:

- (a) there exists on June 30, 2014 a binding contract for the member or firm to provide the service; and
- (b) the provision of the service by the member or firm would not have contravened the provisions of Rule 204.1 as it read prior to July 1, 2014.

**C. Key audit partner rotation**

Notwithstanding the requirements of 204.4(20), where the application of the definition of “key audit partner” which takes effect pursuant to the effective date established by A. above has the effect of requiring the rotation of a person who would not have been subject to rotation based on the definition of “audit partner” in effect immediately prior to that effective date, that person may continue to participate in the audit of the financial statements of the particular client up to and including the second fiscal year of the client commencing after December 15, 2014.

**D. Rule 204.6 Breach of a provision of Rule 204.3 or 204.4**

Rule 204.6 shall take effect:

- (a) for audit or review engagements for fiscal periods beginning after December 15, 2016; and
- (b) for any other assurance engagement and an engagement to issue a report of the results of applying specified auditing procedures where the engagement is commenced after December 15, 2016.

**E. Rule 204.4(36.1) Contingent Fees**

Rule 204.4(36.1) shall take effect:

- (a) for audit or review engagements for fiscal periods beginning after December 15, 2016; and
- (b) for any other assurance engagement and an engagement to issue a report of the results

of applying specified auditing procedures where the engagement is commenced after December 15, 2016.

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## GUIDANCE

- 1 Paragraph D above refers to an effective date of December 15, 2016 for Rule 204.6 Breach of a provision of Rule 204.3 or 204.4. Until that Rule is effective, members and firms should continue to refer to the following pre-existing guidance in the CPA Code related to inadvertent breaches.

### **Guidance to Rule 204.1 to 204.3, paragraph 27;**

- 27 The ongoing evaluation and disposition of threats to independence should be supported by evidence obtained both before accepting an engagement and while it is being performed. The obligation to make such evaluation and take action arises when a member of a firm or network firm knows, or should reasonably be expected to know, of circumstances or relationships that might impair independence. There may be occasions when a member, a firm or a network firm is inadvertently in breach of a provision of this Rule. If such an inadvertent breach occurs, it would generally not impair independence for the purposes of Rules 204.1 to 204.10, provided the firm had appropriate quality control policies and procedures in place to promote independence and, once discovered, the breach was corrected promptly and any necessary safeguards were applied. An inadvertent breach would include a situation where the member did not know of the circumstances that created the breach.

### **Guidance to Rule 204.4(1) to (6), paragraph 11;**

- 11 An inadvertent breach of the provisions of Rules 204.4(1) to (6) and 204.4(10) to (12), would not impair the independence of the member of the firm or the firm when:
- the firm has established policies and procedures that require a network firm and all members of the firm to report promptly any breaches resulting from the purchase, inheritance or other acquisition of a financial interest in the assurance client;
  - the firm promptly notifies the network firm or the member of the firm that the financial interest should be disposed of; and
  - the disposal occurs at the earliest practical date after identification of the issue, but no later than 30 days after the person has both the knowledge of the financial interest and the right or ability to dispose of it, or the person is removed from the engagement team.

### **Guidance to Rule 204.4(14) and (15), paragraphs 7 and 8**

- 7 An inadvertent breach of the provisions of Rules 204.4(14) or (15) as they relate to family and personal relationships would not impair the independence of the member of the firm, or the firm, when:
- the firm has established policies and procedures that require all members of the firm to report promptly to the firm any breaches resulting from changes in the employment status of their immediate or close family members or other personal relationships that create a threat to independence;
  - either the responsibilities of the engagement team are restructured so that the person on the engagement team does not deal with matters that are within the responsibility of the person with whom he or she is related or has a personal

- relationship, or, if that is not possible, the firm promptly removes that person from the engagement team; and
- additional care is given to reviewing the work of the particular person on the engagement team.
- 8 When an inadvertent breach of the provisions of Rules 204.4(14) or (15) relating to family and personal relationships has occurred, the firm should consider whether, and if so which, safeguards should be applied. Such safeguards might include:
- involving another member of the firm who is not, and never was, on the engagement team to review the work done by the person on the engagement team; or
  - excluding that person from any substantive decision-making concerning the assurance engagement.

Members and students are reminded that Rule 204.7 requires a member or student who has a relationship that is precluded by this Rule to advise in writing a designated partner of the firm of the relationship. Inadvertent breaches are also discussed in paragraph 27 of the Guidance to Rules 204.1 to 204.3.

- 2 Paragraph E above refers to an effective date of December 15, 2016 for Rule 204.4(36.1) – Independence - Contingent Fees. Members and firms should continue to refer to the provisions of Rules 215.1 and 215.2 and their related Guidance.

*New August 26, 2016: Paragraphs D and E with related Guidance paragraphs 1 and 2*

**RULES:****204.1 Assurance and Specified Auditing Procedures Engagements**

*A member or firm who engages or participates in an engagement:*

- (a) *to issue a written communication under the terms of an assurance engagement; or*
- (b) *to issue a report on the results of applying specified auditing procedures;*

*shall be and remain independent such that the member, firm and members of the firm shall be and remain free of any influence, interest or relationship which, in respect of the engagement, impairs the professional judgment or objectivity of the member, firm or a member of the firm or which, in the view of a reasonable observer, would impair the professional judgment or objectivity of the member, firm or a member of the firm.*

**204.2 Compliance with Rule 204.1**

*A member or firm who is required to be independent pursuant to Rule 204.1 shall, in respect of the particular engagement, comply with the provisions of Rules 204.3 and 204.4.*

**204.3 Identification of Threats and Safeguards**

*A member or firm who is required to be independent pursuant to Rule 204.1 shall, in respect of the particular engagement, identify threats to independence, evaluate the significance of those threats and, if the threats are other than clearly insignificant, identify and apply safeguards to reduce the threats to an acceptable level. Where safeguards are not available to reduce the threat or threats to an acceptable level, the member or firm shall eliminate the activity, interest or relationship creating the threat or threats, or refuse to accept or continue the engagement.*

**GUIDANCE – Rules 204.1 to 204.3****Introduction**

- 1 It is a fundamental principle of the practice of Chartered Professional Accountancy that a member who provides assurance services shall do so with unimpaired professional judgment and objectivity, and shall be seen to be doing so by a reasonable observer. This principle is the foundation for public confidence in the reports of assurance providers.
- 2 The confidence that professional judgment has been exercised depends on the unbiased and objective state of mind of the reporting accountant, both in fact and appearance. Independence is the condition of mind and circumstance that would reasonably be expected to result in the application by a member of unbiased judgment and objective consideration in arriving at opinions or decisions in support of the member's report. A member or firm is not considered to be independent if the member or firm does not comply with the provisions of Rules 204.1 to 204.4.
- 3 Rule 204.1 provides that a member or firm who engages or participates in an engagement:
  - to issue a written communication under the terms of any assurance engagement; or
  - to issue a report on the results of applying specified auditing procedures;must be independent of the client. Independence requires the avoidance of situations which

impair the professional judgment or objectivity of the member, firm or a member of the firm or which, in the view of a reasonable observer, would impair that professional judgment or objectivity.

- 4 Rule 204.2 provides that a member or firm, who is required to be independent pursuant to Rule 204.1 in respect of a particular engagement, must comply with Rules 204.3 and 204.4.
- 5 Rule 204.3 provides that a member or firm must identify and evaluate threats to independence and, if they are not clearly insignificant, identify and apply safeguards to reduce them to an acceptable level. Where safeguards are not available to reduce the threats to an acceptable level the member or firm must eliminate the activity, interest or relationship creating the threats, or refuse to accept or continue the engagement.  
  
Rule 204.4 describes circumstances and activities which members and firms must avoid when performing assurance and specified auditing procedure engagements because adequate safeguards will not exist that will, in the view of a reasonable observer, eliminate the threat or reduce it to an acceptable level, as required by Rule 204.3. The requirements to avoid these circumstances and activities are referred to as “prohibitions.”
- 6 Rule 204.5 requires the member or firm to document compliance with Rules 204.3, 204.4(24)(b), 204.4(34)(b), 204.4(35) and 204.4(40).
- 7 Rule 204.7 provides that a member or student must disclose breaches of the CPA Code to a designated partner in the firm. It also provides that, when a member or student has been assigned to an engagement team, the member or student must disclose to a designated partner any interest, relationship or activity that would preclude the member or student from being on the engagement team.
- 8 Rule 204.8 provides that a firm must ensure that members of the firm comply with Rule 204.4. The Rule provides that a firm may not permit any member of the firm to have a relationship with or an interest in an assurance client, or provide a service to an assurance client, which is precluded by Rule 204.
- 9 This Guidance describes a conceptual framework of principles that members and firms should use to identify threats to independence and evaluate their significance. If the threats are other than clearly insignificant, the member or firm should identify available safeguards. Some safeguards may already exist within the structure of the firm or the client, while others may be created by the action of the member, firm or client. Safeguards should be identified and, where applicable, applied to eliminate the threats or reduce them to an acceptable level. Members should exercise professional judgment to determine which safeguards to apply and whether the safeguards will permit the member or firm to accept or continue the engagement.
- 10 The effectiveness of safeguards largely depends on the culture of the particular firm. Therefore, the Council encourages leaders of firms to stress the importance of compliance with Rule 204 and emphasize the expectation that members of the firm will act in the public interest. In doing so, firms should create and monitor effective policies and procedures designed to preserve the independence of the firm and its partners and employees when required by Rule 204.
- 11 The specific circumstances and examples presented herein are intended to illustrate the application of the principles; they are not, nor should they be interpreted as, an exhaustive list of all circumstances that may create a threat to independence. Consequently, it is not sufficient for a member or a firm merely to comply with the specific circumstances and examples presented. Rule 204.3 requires that they apply the principles to any particular circumstance encountered, whether or not the examples used in the Guidance, or the prohibitions set out in Rule 204.4, reflect those circumstances.

- 12 Specific circumstances and relationships that may create threats to independence are described together with safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level in each circumstance. While the specific circumstances and examples relate to the audit or review of financial statements and other assurance engagements, they also apply to engagements to issue a report on the results of applying specified auditing procedures as required by Rule 204.1(b).
- 13 This Guidance sets out how, in the Council's opinion, a reasonable observer might view certain situations in the application of Rule 204.1 to 204.10. The reasonable observer is a hypothetical individual who has knowledge of the facts which the member knew or ought to have known, including the safeguards applied, and who applies judgment objectively, with integrity and due care. Members should also refer to the Preamble to the CPA Code, which provides the rationale for establishing the reasonable observer principle.
- 14 Members are reminded that for the purposes of Rules 204.1 to 204.10, independence includes both independence of mind and independence in appearance. As stated in Rule 204.1, independence requires the absence of any influence, interest or relationship which would impair the professional judgment or objectivity of the member or a member of the firm or which, in the view of a reasonable observer, would impair the professional judgment or objectivity of the member or a member of the firm. Frequently it is appearance of independence, or lack thereof, that poses the greatest challenge. In all situations, members should reflect on the wording of the Rule and Guidance to ensure compliance with the spirit and intent of the Rule and Guidance.
- 15 If, after considering the Rules and this Guidance, members are uncertain as to their correct application, they are encouraged to discuss the matter with partners, professional colleagues or CPA Ontario staff. Members may also request the view of the professional conduct committee.
- 16 Members should also be cognizant of any relevant Canadian or foreign legislation that may preclude a member from accepting or continuing an engagement. Members are cautioned that legislation under which corporations and other enterprises are incorporated or governed may impose differing requirements in respect of independence. Members should satisfy both the requirements of any governing legislation and the CPA Code.

### The framework

- 17 The objective of this Guidance is to assist members and firms in:
- identifying and evaluating threats to independence; and
  - identifying and applying appropriate safeguards to eliminate or reduce the threat or threats to an acceptable level in instances where their cumulative effect is not clearly insignificant.

This Guidance also describes those situations referred to in Rule 204.4 where safeguards are not available to reduce a threat or threats to an acceptable level, and the only possible actions are to eliminate the activity, interest or relationship creating them, or to refuse to accept or continue the assurance engagement.

- 18 The use of the word "independence" on its own may create misunderstandings. Standing alone, the word may suggest that a person exercising professional judgment ought to be free from all economic, financial and other relationships. This is impossible, as everyone has relationships with others. Therefore, members should evaluate the significance of economic, financial and other relationships in the light of what a reasonable observer would conclude to be acceptable in maintaining independence.

- 19 In making this evaluation, many different circumstances may be relevant. Accordingly, it is impossible to define every situation that creates a threat to independence and specify the appropriate mitigating action. In addition, because of differences in the size and structure of firms, the nature of assurance engagements and client entities different threats may exist, that require the application of different safeguards. A conceptual framework that requires members and firms to identify, evaluate and address threats to independence, rather than merely comply with a set of specific and perhaps arbitrary rules, is, therefore, in the public interest.
- 20 Based on such an approach, this Guidance describes a conceptual framework of principles for compliance with Rules 204.1 to 204.10. Members, firms and network firms should use this conceptual framework to identify threats to independence, to evaluate their significance and, if they are other than clearly insignificant, to identify and apply safeguards to eliminate them or reduce them to an acceptable level, so that independence in fact and appearance are not impaired. In addition, consideration should be given to whether relationships between members of the firm who are not on the engagement team and the assurance client may also create threats to independence. Where safeguards are not available to reduce threats to an acceptable level, the member, firm or network firm should eliminate the activity, interest or relationship creating the threats, or the member or firm should refuse to accept or continue the particular engagement.
- 21 Rule 204.1 requires members and firms to be independent in fact and in appearance. The requirement to comply with the specific prohibitions set out in Rule 204.4 does not relieve a firm from complying with Rules 204.1 and 204.3 and the need to apply the conceptual framework and determine on a principles-based approach whether or not the firm is independent with respect to all assurance engagements, including audit and review engagements.
- 22 Rule 204.1 and, therefore, the principles in this Guidance apply to all assurance engagements and engagements to issue a report on the results of applying specified auditing procedures. The nature of the threats to independence and the applicable safeguards necessary to eliminate them or reduce them to an acceptable level will differ depending on the particulars of the engagement. Differences in threats and safeguards will arise, for example, if the engagement is an audit or review engagement or another type of assurance engagement; and, in the case of an assurance engagement that is not an audit or review engagement, in the purpose, subject matter and intended users of the report. Members and firms should, therefore, evaluate the relevant circumstances, the nature of the engagement and the entity, the threats to independence and the adequacy of available safeguards in deciding whether it is appropriate to accept or continue an engagement, and whether a particular person should be on the engagement team.
- 23 For audit clients and review clients, the persons on the engagement team, the firm and network firms should be independent of the client. In the case of an assurance engagement where the client is neither an audit nor a review client, those on the engagement team and the firm should be independent of the client. In addition, in the case of an engagement that is not an audit or review engagement, consideration should be given to any threats the firm has reason to believe may be created by the interests and relationships of network firms.

### **Extent of application or requirement for independence for different types of engagement**

- 24 An engagement to report on the results of applying specified auditing procedures is not an assurance engagement as contemplated in the *CPA Canada Handbook - Assurance*. However, for the purposes of Rules 204.1 to 204.10 and this Guidance, the principles contained herein applicable to an assurance engagement, other than an audit or review engagement, also apply to an engagement to report on the results of applying specified auditing procedures. In

so applying those principles, the reference to an assurance client is to be read as a reference to a client where the engagement is to report on the results of applying specified auditing procedures.

- 25** In the case of an assurance report to an assurance client that is not an audit client or a review client where the report is intended only for the use of identified users, as contemplated by the *CPA Canada Handbook – Assurance*, the users of the report are considered to be knowledgeable as to the purpose, subject matter and limitations of the report. Users gain such knowledge through their participation in establishing the nature and scope of the member’s or firm’s engagement, including the criteria by which the particular subject matter is to be evaluated. The member’s or firm’s knowledge and enhanced ability to communicate about safeguards with all the report’s users increase the effectiveness of safeguards to independence in appearance. Therefore, the member or firm may take these circumstances into account when evaluating the threats to independence and considering the applicable safeguards necessary to eliminate them or reduce them to an acceptable level. With respect to network firms, limited consideration of any threats created by their interests and relationships may be sufficient.
- 26** The effect of Rules 204.1 to 204.8 is that:
- for an assurance engagement for a client that is an audit or review client, those on the engagement team, the firm and network firms are required to be independent of the client;
  - for an assurance engagement for a client that is not an audit or review client, when the assurance report is not intended only for the use of identified users, those on the engagement team and the firm are required to be independent of the client; and
- for an assurance engagement for a client that is not an audit or review client, when the assurance report is intended only for the use of identified users, those on the engagement team are required to be independent of the client. In addition, the firm should not have a material direct or indirect financial interest in the client.

### Evaluating threats and safeguards

- 27** The ongoing evaluation and disposition of threats to independence should be supported by evidence obtained both before accepting an engagement and while it is being performed. The obligation to make such evaluation and take action arises when a member of a firm or network firm knows, or should reasonably be expected to know, of circumstances or relationships that might impair independence.
- 28** Rule 204.4 describes activities, interests or relationships that create threats to independence that are so significant that there are no safeguards available to reduce them to an acceptable level and, accordingly, prohibits the provision of assurance services, as specified, in conjunction with such activities, interests or relationships. Rules 204.1 to 204.8 and this Guidance also describe the threats to independence and analyze safeguards that may be capable of eliminating them or reducing them to an acceptable level. They conclude with some examples of how the conceptual framework to independence is to be applied to specific circumstances and relationships and the relevant threats and safeguards. The examples are not all inclusive. Professional judgment should be used to determine whether appropriate safeguards exist to eliminate all threats to independence or to reduce their cumulative effect to an acceptable level. In some examples, it may be possible to eliminate the threat or reduce it to an acceptable level by the application of safeguards. In some other examples, the threat or threats to independence will be so significant that the only possible actions are to eliminate the activity, interest or relationship creating the threat or threats, or to refuse to accept or continue the engagement.

- 29** When a member or firm identifies a threat to independence that is not clearly insignificant, and the member or firm decides to apply appropriate safeguards and accepts or continues the assurance engagement, the decision should be documented in accordance with Rule 204.5. The documentation should include the following information:
- a description of the nature of the engagement;
  - the threat identified;
  - the safeguard or safeguards identified and applied to eliminate the threat or reduce it to an acceptable level; and
  - an explanation of how, in the member or firm's professional judgment, the safeguards eliminate the threat or reduce it to an acceptable level.

### Threats to independence

- 30** Independence is potentially affected by self-interest, self-review, advocacy, familiarity and intimidation threats. The mere existence of such threats does not per se mean that the performance of a prospective engagement is precluded. The undertaking or continuation of an engagement is only precluded where safeguards are not available to eliminate or reduce the threats to an acceptable level or where Rule 204.4 provides a specific prohibition.

### 31 Self-Interest Threats

A self-interest threat occurs when a firm or a person on the engagement team could benefit from a financial interest in, or other self-interest conflict with, an assurance client. Examples of circumstances that may create a self-interest threat include, but are not limited to:

- a direct financial interest or material indirect financial interest in an assurance client;
- a loan or guarantee to or from an assurance client or any of its directors or officers;
- dependence by a firm, office or member on total fees from an assurance client;
- undue concern about the possibility of losing the engagement;
- evaluating performance or providing compensation for selling non-audit services to an assurance client;
- having a close business relationship with an assurance client; and
- potential employment with an assurance client.

### 32 Self-Review Threats

A self-review threat occurs when any product or judgment from a previous engagement needs to be evaluated in reaching a conclusion on the particular assurance engagement, or when a person on the engagement team was previously an officer or director of the client, or was in a position to exert significant influence over the subject matter of the assurance engagement. Examples of circumstances that may create a self-review threat include, but are not limited to:

- a person on the engagement team being, or having recently been, an officer or director of the client;
- a person on the engagement team being, or having recently been, an employee of the assurance client in a position to exert significant influence over the subject matter of the assurance engagement, or another person having the duties or responsibilities normally associated with such an employee;
- a member or firm performing services for an assurance client that directly affect the subject matter of the engagement; and

- a member or firm preparing original data used to generate financial statements or preparing other records that are the subject matter of the engagement.

### 33 Advocacy Threats

An advocacy threat occurs when a firm, or a person on the engagement team, promotes, or may be perceived to promote, an assurance client's position or opinion to the point that objectivity may be, or may be perceived to be, impaired. Such would be the case if a person on the engagement team were to subordinate his or her judgment to that of the client, or the firm were to do so. Examples of circumstances that may create an advocacy threat include, but are not limited to:

- dealing in, or being a promoter of, shares or other securities of an assurance client; and
- acting as an advocate for or on behalf of an assurance client in litigation or in resolving disputes with third parties.

### 34 Familiarity Threats

A familiarity threat occurs when, by virtue of a close relationship with an assurance client, its directors, officers or employees, a firm or a person on the engagement team becomes too sympathetic to the client's interests. Examples of circumstances that may create a familiarity threat include, but are not limited to:

- a person on the engagement team having an immediate or close family member who is an officer or director of the assurance client;
- a person on the engagement team having an immediate or close family member who is in a position to exert significant influence over the subject matter of the assurance engagement;
- a former partner of the firm being an officer or director of the assurance client or in a position to exert significant influence over the subject matter of the assurance engagement;
- the long association of a senior person on the engagement team with the assurance client; and
- the acceptance of gifts or hospitality from the assurance client, its directors, officers or employees, unless the value thereof is clearly insignificant.

### 35 Intimidation Threats

An intimidation threat occurs when a person on the engagement team may be deterred from acting objectively and exercising professional skepticism by threats, actual or perceived, from the directors, officers or employees of an assurance client. Examples of circumstances that may create an intimidation threat include, but are not limited to:

- the threat of being replaced due to a disagreement with the application of an accounting principle; and
- the application of pressure to inappropriately reduce the extent of work performed in order to reduce or limit fees.

## Safeguards

- 36 Members and firms have an ongoing responsibility to comply with Rules 204.1 to 204.10 by taking into account the context in which they practise, the threats to independence and the safeguards which may be available to eliminate the threats or reduce them to an acceptable level. Safeguards fall into three broad categories:

- safeguards created by the profession, legislation or regulation;
- safeguards within the assurance client; and
- safeguards within the firm's own systems and procedures.

**37** Safeguards created by the profession, legislation or regulation include the following:

- education, training and practical experience requirements for entry into the profession;
- continuing education programs;
- professional standards;
- external practice inspection;
- disciplinary processes;
- members' practice advisory services;
- participation by members of the public in oversight and governance of the profession; and
- legislation governing the independence requirements of the firm and its members.

**38** Safeguards within the assurance client may include the following:

- employees of the client who are competent to make management decisions;
- policies and procedures that emphasize the client's commitment to fair financial reporting;
- internal procedures that ensure objective choices in commissioning non-assurance engagements; and
- an audit committee that provides appropriate oversight and communications regarding a firm's services.

However, it is not possible to rely solely on safeguards within the assurance client to reduce threats to an acceptable level.

**39** Where an audit committee does not exist, as is set out in the definition of "audit committee", references in the CPA Code to an audit committee should be interpreted to refer to another governance body which has the duties and responsibilities normally granted to an audit committee or to those charged with governance for the entity. In some cases, this role may be filled by client management personnel. The *CPA Canada Handbook - Assurance* requires members and firms to determine the appropriate person or persons within the entity's governance structure with whom to communicate and establishes requirements for communication on matters relating to independence with such a person or persons.

**40** Safeguards within the firm's own systems and procedures may include firm-wide safeguards such as the following:

- firm leadership that stresses the importance of independence and the expectation that persons on engagement teams will act in the public interest;
- policies and procedures to implement and monitor quality control of assurance engagements;
- documented independence policies regarding the identification of threats to independence, the evaluation of their significance and the identification and application of appropriate safeguards to eliminate or reduce the threats, other than those that are clearly insignificant, to an acceptable level;
- internal policies and procedures, including annual reporting by members of the firm, to

- monitor compliance with firm policies and procedures as they relate to independence;
  - policies and procedures that will enable the identification of interests or relationships between the firm or those on the engagement team and assurance clients;
  - policies and procedures to monitor and manage the reliance on revenue received from a single assurance client;
  - internal performance measures that do not put excessive pressure on partners to generate non-assurance revenue from their assurance clients and do not over emphasize budgeted hours;
  - using different partners and teams with separate reporting lines for the provision of non-assurance services to an assurance client;
  - policies and procedures to prohibit members of the firm who are not on the engagement team from influencing the outcome of the assurance engagement;
  - timely communication of a firm's policies and procedures, and any changes thereto, to all members of the firm, including appropriate training and education thereon;
  - designating a member of the firm's senior management as responsible for overseeing the adequate functioning of the safeguarding system;
  - means of advising all members of the firm of those clients and related entities from which they should be independent;
  - an internal disciplinary mechanism to promote compliance with firm policies and procedures; or
  - policies and procedures that empower members of the firm to communicate, without fear of retribution, to senior levels within the firm any issue of independence and objectivity that may concern them.
- 41 Safeguards within the firm's own systems and procedures may include engagement-specific safeguards such as the following:
- involving another person to review the work done or advise as necessary. This person could be someone from outside the firm or network firm, or someone from within who was not otherwise associated with the engagement team. The person should be independent of the assurance client and will not, by reason of the review performed or advice given, be considered to be on the engagement team;
  - consulting a third party, such as a committee of independent directors, a professional regulatory body or a professional colleague;
  - rotating senior personnel on the engagement team;
  - discussing independence issues with the audit committee;
  - disclosing to the audit committee, the nature of services provided and extent of fees charged;
  - policies and procedures designed to ensure that persons on the engagement team do not make, or assume responsibility for, management decisions for the client;
  - involving another firm to perform or re-perform part of the assurance engagement;
  - involving another firm to re-perform the non-assurance service; or
  - removing a person from the engagement team, when that person's financial interests, relationships or activities create a threat to independence.

## Practitioners with small or owner-managed clients

- 42 The size and structure of the firm and the nature of the assurance client and the engagement will affect the type and degree of the threats to independence and, consequently, the types of safeguards appropriate to eliminate such threats or reduce them to an acceptable level. For example, it is understood that not all the safeguards noted in paragraphs 36 to 41 of the Guidance to Rules 204.1 to 204.3 will be available to the sole practitioner or small firm or within smaller clients such as owner-managed entities. Smaller clients often rely on members to provide a broad range of accounting and business services. Independence will not be impaired provided such services are not specifically prohibited by Rule 204.4 and provided safeguards are applied to reduce any threat to an acceptable level. In many circumstances, explaining the result of the service and obtaining client approval and acceptance for the result of the service will be an appropriate safeguard for such smaller entities. Similarly, such clients often have a long-standing relationship with an individual who is a sole practitioner or partner from a firm. Independence will not be impaired provided safeguards are applied to reduce any familiarity threat to an acceptable level. In most circumstances, periodic external practice inspection and, where appropriate, consultation will reduce any threat to independence to an acceptable level.

## Application of the framework

- 43 Rule 204 and its related Guidance describe the application of the framework to specific circumstances and relationships that may create threats to independence. The provisions describe potential threats created and safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level. The circumstances that are described are not intended to be comprehensive or all-inclusive. In practice, when independence is required, members and firms should assess the implications of all circumstances and relationships and, where required, assess those of network firms, to determine whether there are threats to independence that are other than clearly insignificant and, if they exist, whether safeguards can be applied to satisfactorily address them. In situations where safeguards are not available to reduce a threat or threats to an acceptable level, the only possible actions are to eliminate the activity, interest or relationship creating the threats, or to refuse to accept or continue the assurance engagement.

### Rebuttable presumption – not subject to audit procedures

- 44 Rules 204.4(24) to (28) set out non-audit services that may not be provided during either the period covered by the financial statements subject to audit or during the engagement period to an audit client that is a reporting issuer or listed entity unless it is reasonable to conclude that the results of any such service will not be subject to audit procedures during the audit of the client's financial statements. In determining whether such a conclusion is reasonable, there is a rebuttable presumption that the results of such services will be subject to audit procedures. Materiality is not an appropriate basis upon which to overcome this presumption. For example, determining whether a subsidiary, division or other unit of the consolidated entity is material is a matter of audit judgment. Therefore, the determination of whether to apply detailed audit procedures to a unit of a consolidated entity is, in itself, an audit procedure.

### Other specific threats

- 45 Rule 204.3 sets out the general requirement to identify and evaluate threats and either apply safeguards or decline an engagement. Rule 204.4 sets out prohibitions in relation to specific circumstances and relationships. There are also some circumstances and relationships that have been specifically identified as creating threats to independence and, accordingly, require an evaluation of their significance and the application of appropriate safeguards. Paragraphs 46 to 50 discuss those specific circumstances and relationships.

**Provision of non-assurance services to an assurance client**

- 46 Firms have traditionally provided to their clients a range of non-assurance services that are consistent with their skills and expertise. The provision of such a non-assurance service is not subject to the requirements of Rule 204.1 and, accordingly, does not require independence on the part of a member or firm. However, the provision of such a non-assurance service may create a self-interest, self-review or advocacy threat that impacts the independence of the member or firm with respect to the provision of an assurance or specified auditing procedures service for which independence is required by Rule 204.1. Consequently, before a firm accepts an engagement to provide a non-assurance service, it should evaluate the significance of any threat to independence, in relation to an existing assurance service, that may be created by providing the non-assurance service. When such a threat is other than clearly insignificant, the non-assurance engagement should be declined unless appropriate safeguards can be applied to eliminate the threat or threats or reduce them to an acceptable level. Specific circumstances in which adequate safeguards do not exist to eliminate or reduce such a threat to independence to an acceptable level are set out in Rules 204.4(22) to (34) as prohibitions.
- 47 Subject to the specific prohibitions set out in Rules 204.4(22) to (34), a firm or a member of a firm may provide a non-assurance service to an assurance client or related entity, provided that any threats to independence have been reduced to an acceptable level by safeguards, such as:
- policies and procedures to prohibit members of the firm from making management decisions for the client, or assuming responsibility for such decisions;
  - discussing independence issues related to the provision of non-assurance services with the audit committee;
  - policies within the assurance client regarding the oversight responsibility for provision of non-assurance services by the firm;
  - involving another member of the firm who is not on the engagement team to advise on any impact of the non-assurance service on the independence of the persons on the engagement team and the firm;
  - involving a professional accountant from outside of the firm to provide assurance on a discrete aspect of the assurance engagement;
  - obtaining the client's acknowledgement of responsibility for the results of the non-assurance service performed by the firm;
  - disclosing to the audit committee the nature of the non-assurance service and extent of fees charged; or
  - arranging that the members of the firm providing the non-assurance service do not participate on the assurance engagement team.
- 48 Intentionally left blank.

**Actual or threatened litigation**

- 49 Actual, threatened or prospective litigation between a firm or a member of an engagement team and the assurance client or a shareholder or creditor of the client may create a self-interest or intimidation threat. The relationship between client management and persons on the engagement team should be characterized by complete candour and full disclosure regarding all aspects of the client's business operations and all matters relevant to the client's financial statements. The firm and the client's management may be placed in adversarial positions by actual, threatened or prospective litigation, which could impair complete candour and full disclosure, and in this, or other ways, the firm may face a self-interest or intimidation threat. The significance of the threat will depend upon such factors as:

- the materiality of the litigation;
- the nature of the assurance engagement;
- the stage of the litigation; and
- whether the litigation relates to a prior assurance engagement.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- disclosing to the audit committee the extent and nature of the litigation;
- removing from the engagement team any person involved in the litigation; or
- involving an additional member of the firm who is not part of the engagement team to review the work done or advise as necessary.

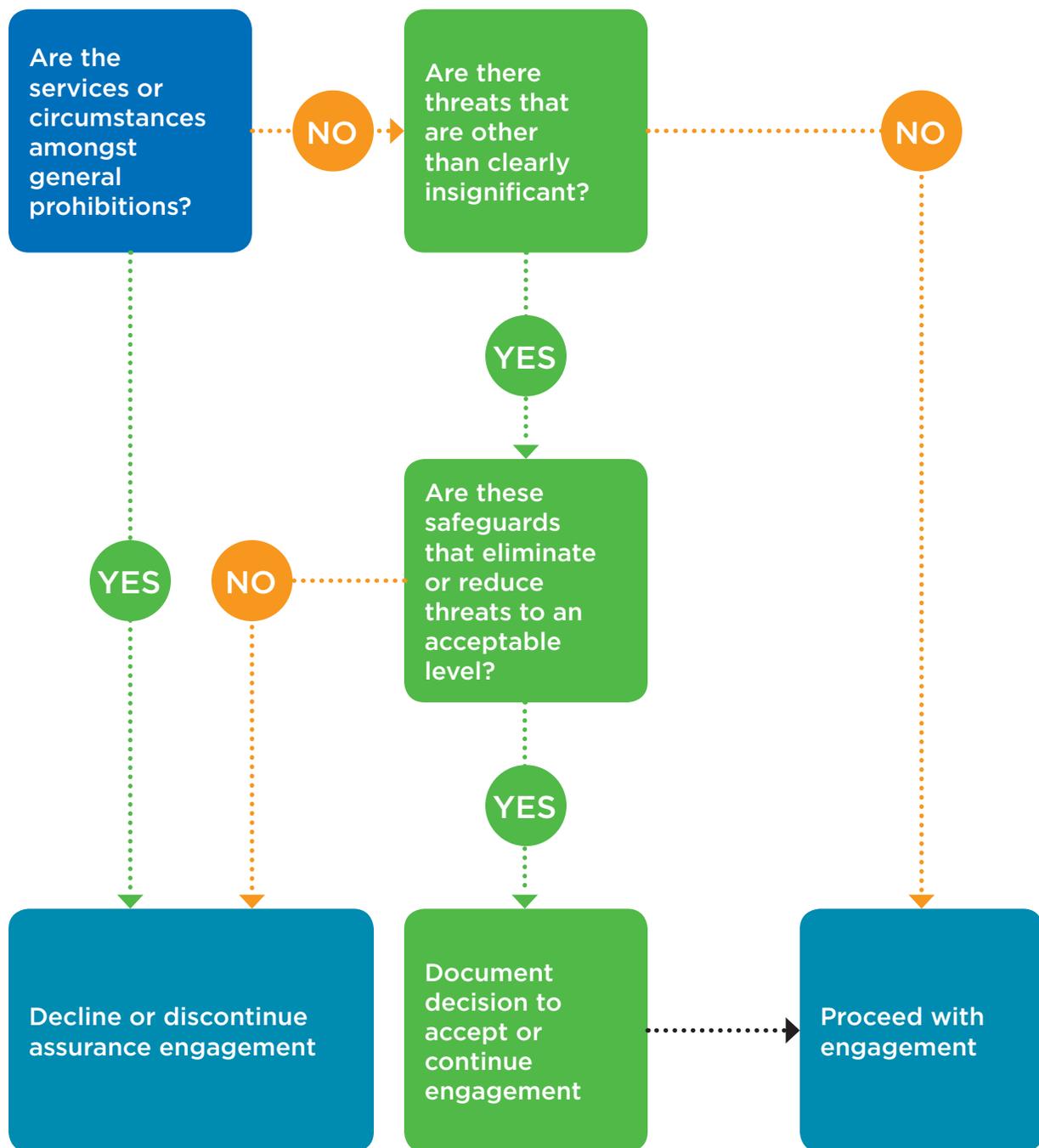
If such safeguards do not reduce the threat to an acceptable level, the only appropriate action is for the member or firm to withdraw from, or refuse to accept, the assurance engagement.

- 50** Members are cautioned that actual litigation often results in a conflict of interest between the client and the member or firm which will preclude the member or firm from continuing to provide professional services to the client. Threatened or prospective litigation can have the same result. When faced with threatened, prospective or actual litigation, members and firms should refer to Rule 210 and the related Guidance, and consult with their legal counsel, to determine whether they can continue to provide professional services to the client and, if so, whether there are particular arrangements which should be made with the client.

*New August 26, 2016:*

- *Paragraph 27 in Guidance to Rules 204.4(1) to (3) was truncated*
- *Paragraph 48 Contingent Fees in Guidance to Rules 204.4(1) to (3) was deleted*

Overview of independence standard for assurance engagements – flowchart



**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Financial interests**

- (1) (a) *A member or student shall not participate on the engagement team for an assurance client if the member or student, or an immediate family member of the member or student, holds a direct financial interest or a material indirect financial interest in the client.*
- (b) *A member or student shall not participate on the engagement team for an assurance client if the member or student, or an immediate family member of the member or student, holds, as trustee, a direct financial interest or a material indirect financial interest in the client.*
- (1.1) *Notwithstanding Rules 204.4(1)(a) and (b), if the assurance client is a co-operative, credit union or caisse populaire; a social club, such as a golf club or curling club; or a similar organization, the financial interest in the assurance client held, either personally or as a trustee, by a member or student or an immediate or close family member of the member or student shall not preclude the member or student from participating on the engagement team provided that:*
- (a) *such a financial interest is restricted to the minimum amount that is a prerequisite of membership;*
- (b) *the assets of the organization cannot by virtue of the organization's by-laws be distributed to the individual members of the organization other than as patronage dividends or in circumstances of forced liquidation or expropriation, unless there is a written undertaking with the organization to forfeit entitlement to such distributed assets; and*
- (c) *the member, student or immediate or close family member:*
- (i) *does not serve on the governing body or as an officer of the organization;*
- (ii) *does not have the right or responsibility to exercise significant influence over the financial or accounting policies of the organization or any of its associates;*
- (iii) *does not exercise any right derived from membership to vote at meetings of the organization; and*
- (iv) *cannot dispose of the financial interest for gain.*
- (2) (a) *A member or firm shall not perform an assurance engagement for an entity if the member or firm holds a direct financial interest or material indirect financial interest in the entity.*
- (b) *A member or firm shall not perform an audit or review engagement for an entity if the member, firm or a network firm, has a direct financial interest or a material indirect financial interest in the entity.*
- (2.1) *Notwithstanding Rules 204.4(2)(a) and (b), if an assurance client is a co-operative, credit union or caisse populaire; a social club, such as a golf club or curling club; or a similar organization, the financial interest in the entity held by a member or firm, or in the case of an audit or review engagement, a member, firm or a network firm, shall not preclude the member or firm from performing an assurance or audit or review engagement, as the case may be, for the entity*

*provided that:*

- (a) *such a financial interest is restricted to the minimum amount that is a prerequisite of membership;*
  - (b) *the assets of the organization cannot by virtue of the organization's by-laws be distributed to the individual members of the organization other than as patronage dividends or in circumstances of forced liquidation or expropriation, unless there is a written undertaking with the organization to forfeit entitlement to such distributed assets; and*
  - (c) *the member, firm or network firm, as the case may be:*
    - (i) *does not serve on the governing body or as an officer of the organization;*
    - (ii) *does not have the right or responsibility to exercise significant influence over the financial or accounting policies of the organization or any of its associates;*
    - (iii) *does not exercise any right derived from membership to vote at meetings of the organization; and*
    - (iv) *cannot dispose of the financial interest for gain.*
- (3) *A member or firm shall not perform an audit or review engagement for an entity if a pension or other retirement plan of the firm or network firm has a direct financial interest or a material indirect financial interest in the entity.*
- (4) *A member who is a partner of a firm and who holds, or whose immediate family member holds, a direct financial interest or a material indirect financial interest in an audit or review client shall not practise in the same office as the lead engagement partner for the client, unless, in the case of a financial interest held by an immediate family member, the financial interest is received as a result of employment and*
- (a) *the immediate family member does not have the right to dispose of the financial interest or, in the case of a share option, the right to exercise the option; or*
  - (b) *where such rights are obtained, the financial interest is disposed of as soon as is practicable.*
- (5) (a) *A member who is a partner or managerial employee of a firm and who holds a direct financial interest or a material indirect financial interest in an audit or review client shall not provide a non-assurance service to the client, unless the non-assurance service is clearly insignificant.*
- (b) *A member who is a partner or managerial employee of a firm whose immediate family member holds a direct financial interest or a material indirect financial interest in an audit or review client shall not provide a non-assurance service to the client, unless:*
- (i) *the non-assurance service is clearly insignificant; or*
  - (ii) *the financial interest is received as a result of employment and*
    - (A) *the immediate family member does not have the right to dispose of the financial interest or, in the case of a share option, the right to exercise the option; or*
    - (B) *where such rights are obtained, the financial interest is disposed of as soon as*

*is practicable.*

- (6) (a) *A member or firm shall not perform an audit or review engagement for an entity (the first entity) if the firm or a network firm has a financial interest in a second entity, and the member or firm knows that the first entity or a director, officer or controlling owner of the first entity also has a financial interest in the second entity, unless the respective financial interests of the firm or network firm and the first entity, the director, officer or controlling owner of the first entity are immaterial and the first entity cannot exercise significant influence over the second entity.*
- (b) *A member or student shall not participate on the engagement team for an audit or review client if the member or student or an immediate family member of the member or student has a financial interest in an entity and the member or student knows that the client or a director, officer or controlling owner of the client also has a financial interest in the entity, unless the respective financial interests of the member or student, or immediate family member, and the client, the director, officer or controlling owner of the client are immaterial and the client cannot exercise significant influence over the entity.*

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### GUIDANCE - Rule 204.4(1) to (6)

- 1 A financial interest in an assurance client may create a self-interest threat. In evaluating the significance of the threat, and the appropriate safeguards to be applied to eliminate the threat or reduce it to an acceptable level, it is necessary to examine the nature of the financial interest. This includes an evaluation of the role of the person holding the financial interest, whether that interest is material and whether it is direct or indirect.
- 2 Financial interests may be held through an intermediary such as a collective investment vehicle, estate or trust. The determination of whether such financial interests are direct or indirect will depend upon whether the beneficial owner has control over the investment vehicle or the ability to influence its investment decisions. When such control or ability exists, that financial interest is a direct financial interest. Conversely, when such control or ability does not exist, such a financial interest is an indirect financial interest.
- 3 In the application of Rules 204.4(1) to (12) to an assurance, audit or review client the reference to an assurance, audit or review client, a client or an entity includes related entities, as defined, of the assurance, audit or review client, client or entity, as the case may be.

#### Assurance clients

- 4 A reasonable observer will not view a member who holds a direct financial interest or material indirect financial interest as a trustee differently than someone who holds the interest beneficially. Accordingly Rule 204.4(1) applies to members, students and immediate family members of members or students who hold a direct financial interest or material indirect financial interest in the capacity of a trustee.
- 5 When a person on an engagement team, or any of the person's immediate family members, receives, for example, by way of gift or inheritance, a direct financial interest or a material indirect financial interest in an assurance client, or a related entity, one of the following actions should be taken to comply with Rule 204.4(1):
  - dispose of the financial interest at the earliest practical date but no later than 30 days after the person has knowledge of the financial interest and the right or ability to dispose of it; or
  - remove the person from the engagement team.

During the period prior to disposal of the financial interest or the removal of the person from the engagement team, consideration should be given to whether additional safeguards are necessary to reduce the threat to independence to an acceptable level. Such safeguards might include:

- discussing the matter with the audit committee; or
- involving another member of the firm who is not, and has not been, on the engagement team to review the work done by the person, or advise as necessary.

Members are reminded that Rule 204.6 requires a member who has an interest that is precluded by this Rule to advise in writing a designated partner of the firm of the interest. When a financial interest in an assurance client or related entity is acquired as a result of a merger or acquisition, the provisions of Rule 204.4(40) apply.

**6** When a person on an engagement team knows that a close family member has a direct financial interest or a material indirect financial interest in the assurance client, or a related entity, a self-interest threat may exist. In evaluating the significance of any such threat, consideration should be given to the nature of the relationship between the person on the engagement team and the close family member and the materiality of the financial interest. Once the significance of the threat has been evaluated, safeguards should be applied. Such safeguards might include:

- the close family member disposing of all or a sufficient portion of the financial interest at the earliest practical date;
- discussing the matter with the audit committee;
- involving another member of the firm who is not, and never was, on the engagement team to review the work done by the particular person on the engagement team or advise as necessary; or
- removing the person from the engagement team.

**7** Consideration should be given to whether a self-interest threat may exist because of the financial interests of individuals other than those on the engagement team and their immediate and close family members. Such individuals would include:

- a member of the firm who provides a non-assurance service to the assurance client;
- a member of the firm who has a close personal relationship with a person on the engagement team;
- a spouse or dependant of an immediate or close family member of a person on the engagement team; and
- an individual for whom a member of the engagement team holds power of attorney.

Whether the interests held by such individuals may create a self-interest threat will depend upon factors such as:

- the firm's organizational, operating and reporting structure;
- the nature of the relationship between the individual and the person on the engagement team; and
- in the case of a power of attorney, the degree of decision making power granted by the power of attorney.

The significance of the threat should be evaluated and, if the threat is other than clearly insignificant, safeguards should be applied to reduce the threat to an acceptable level. Such safeguards might include:

- where appropriate, policies to prohibit such individuals from holding such interests;
  - discussing the matter with the audit committee; or
  - involving another member of the firm who is not, and never was, on the engagement team to review the work done by the particular individual or advise as necessary.
- 8 The specific prohibitions of Rule 204.4 do not preclude a firm from accepting an assurance engagement with an entity if one or more partners of the firm who do not participate on the engagement team, and who do not practice in the same office as the lead engagement partner, have a financial interest in the entity. However, Rule 204.1 requires the firm to be independent in fact and appearance and requires the firm to identify threats to independence arising from such circumstances, evaluate the significance of the threats and, if they are other than clearly insignificant, apply safeguards to reduce the threats to an acceptable level. If adequate safeguards are not available the firm should not accept the engagement.

### Assurance clients that are not audit or review clients

- 9 With respect to an assurance report for an assurance client that is not an audit client or a review client where the report is intended only for the use of identified users, as contemplated by the *CPA Canada Handbook - Assurance*, members are referred to the provisions in paragraph 26 of the Guidance to Rules 204.1 to 204.3.

### Audit or review clients

- 10 Rule 204.4(4) refers to the office in which the lead engagement partner practices in connection with an audit or review engagement. Such an office is not necessarily the office to which that partner is ordinarily assigned. Accordingly, for the purposes of Rule 204.4(4) and this Guidance, when the lead engagement partner is located in a different office from others on the engagement team, professional judgment should be exercised to determine in which office the partner practices in connection with the audit or review engagement.

*New August 26, 2016: Paragraphs 11 and 12 in Guidance to Rules 204.4(1) to (6) were deleted.*

*Rules 204.4(7) to (9) Reserved for future use*

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Loans and guarantees**

- (10) (a) *A member or firm shall not perform an assurance engagement for a client if the firm, or a network firm in the case of an audit or review client, has a loan from or has a loan guaranteed by the client, except when the client is a bank or similar financial institution and the loan or guarantee is immaterial to the firm, the network firm, and the client, and the loan or guarantee is made under normal commercial terms and conditions and is in good standing.*
- (b) *A member or firm shall not perform an assurance engagement for a client that is not a bank or similar financial institution if the firm, or a network firm in the case of an audit or review client, has a loan to the client.*
- (c) *A member or firm shall not perform an assurance engagement for a client if the firm, or a network firm in the case of an audit or review client, guarantees a loan of the client.*
- (11) (a) *A member or firm shall not perform an assurance engagement for a client if the firm, or a network firm in the case of an audit or review client, has a loan from or has a loan guaranteed by:*
- (ii) *an officer or director of the assurance client; or*
  - (iii) *a shareholder of the assurance client who owns more than 10% of the equity securities of the client, unless the shareholder is a bank or similar financial institution and the loan or guarantee is made under normal commercial terms and conditions.*
- (b) *A member or firm shall not perform an assurance engagement for a client if the firm, or a network firm in the case of an audit or review client, has a loan to or guarantees a loan of:*
- (i) *an officer or director of the assurance client; or*
  - (ii) *a shareholder of the assurance client who owns more than 10% of the equity securities of the client.*
- (12) (a) *A member or student shall not participate on the engagement team for an assurance client where the member or student has a loan from or has a loan guaranteed by:*
- (i) *such a client, except a client that is a bank or similar financial institution where the loan or guarantee is made under normal commercial terms and conditions and the loan is in good standing;*
  - (ii) *an officer or director of the client; or*
  - (iii) *a shareholder of the client who owns more than 10% of the equity securities of the client, unless the shareholder is a bank or similar financial institution and the loan or guarantee is made under normal commercial terms and conditions.*
- (b) *A member or student shall not participate on the engagement team for an assurance client where the member or student has a loan to or guarantees the borrowing of:*
- (i) *such a client that is not a bank or similar financial institution;*

- (ii) *an officer or director of the client; or*
- (iii) *a shareholder of the client who owns more than 10% of the equity securities of the client.*

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### **GUIDANCE - Rule 204.4(10) to (12)**

- 1** A loan from, or a loan guaranteed by, an assurance client that is a bank or a similar financial institution to a person on the engagement team or his or her immediate family member would not create a threat to independence provided the loan or guarantee is made under normal commercial terms and conditions and is in good standing. Examples of such loans include home mortgages, bank overdrafts, car loans and credit card balances.
- 2** Similarly, deposits or brokerage accounts of a firm or a person on the engagement team with an assurance client that is a bank, broker or similar financial institution would not create a threat to independence provided the deposit or brokerage account was held under normal commercial terms and conditions.
- 3** Rules 204.4(10) and (11) relate to loans and guarantees between a firm and an assurance client. In the case of an assurance client that is an audit or review client, the provisions of Rules 204.4(10) and (11) also apply to network firms. In all cases the provisions of Rule 204.4(10), (11) and (12) should be read as applying also to related entities of the client.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Close business relationships**

- (13) (a) *A member or firm shall not perform an audit or review engagement for an entity if the firm, or a network firm, has a close business relationship with the entity, a related entity or the management of either, unless the close business relationship is limited to a financial interest that is immaterial and the relationship is clearly insignificant to the firm or network firm and either entity or its management, as the case may be.*
- (b) *A member or firm shall not perform an assurance engagement that is not an audit or review engagement if the firm has a close business relationship with the assurance client, a related entity or the management of either unless the close business relationship is limited to a financial interest that is immaterial and the relationship is clearly insignificant to the firm and the client, the related entity or the management of either, as the case may be.*
- (c) *A member or student who has, or whose immediate family member has a close business relationship with an assurance client, a related entity or the management of either shall not participate on the engagement team for the client unless the close business relationship is limited to a financial interest that is immaterial and the relationship is clearly insignificant to the member, student or immediate family member and the client, the related entity or the management of either, as the case may be.*

**GUIDANCE – Rule 204.4(13)**

- 1 A close business relationship between a firm, a network firm or a person on the engagement team and the assurance client or its management, involving a common commercial or financial interest may create a self-interest or an intimidation threat. Members and firms should also consider whether such threats may be created by close business relationships with a related entity or its management. The following are examples of such relationships:
- having a material financial interest in a joint venture with the client or a controlling owner, director, officer or other individual who performs senior management functions for that client;
  - arrangements to combine one or more services or products of the firm with one or more services or products of the client and to market the package with reference to both parties; and
  - arrangements under which either the firm or the client acts as a distributor or marketer of the other's products or services.
- A close business relationship does not include the relationship created by the professional engagement between the client and the member, the firm, or the network firm as the case may be.
- 2 In the case of an audit or review client, a business relationship involving an interest held by a firm, a network firm or a person on the engagement team or any of that person's immediate family members in a closely held entity in which the client or a director or officer of the client, or any group thereof, also has an interest, does not create threats to independence provided:
- the relationship is clearly insignificant to the firm, the network firm and the client;
  - the interest held is immaterial to the investor, or group of investors; and

- the interest does not give the investor, or group of investors, the ability to control the closely held entity.
- 3** The purchase of goods or services from an assurance client by a firm (and, in the case of an audit client, by a network firm) or a person on the engagement team will not generally create a threat to independence, provided the transaction is conducted in the normal course of the client's business and on an arm's length basis. However, such a transaction may be of a nature or magnitude such that it does create a self-interest threat. If the threat so created is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:
- reducing the magnitude of or eliminating the transaction;
  - removing the individual involved from the engagement team; or
  - discussing the issue with the audit committee.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Family and personal relationships**

- (14) *A member or student shall not participate on the engagement team for an assurance client if the member's or student's immediate family member is an officer or director of the client or a related entity or is in a position to exert significant influence over the subject matter of the engagement, or was in such a position during the period covered by the assurance report or the engagement period.*
- (15) *A member or student shall not participate on the engagement team for an audit client that is a reporting issuer or listed entity if the member's or student's immediate or close family member has an accounting role or a financial reporting oversight role, or had such a position during the period covered by the financial statements subject to audit by the member or firm or the engagement period.*

**GUIDANCE - Rule 204.4(14) and (15)**

- 1 Family and personal relationships between a person on an engagement team and a director, officer or certain employees, depending on their role, of the assurance client or a related entity may create a self-interest, familiarity or intimidation threat. The significance of such a relationship will depend on a number of factors, including the person's responsibilities on the assurance engagement, the closeness of the relationship and the role of the family member or other individual within the assurance client or related entity. Consequently, there are many circumstances that involve a threat to independence that will require evaluation.
- 2 A person has an accounting role when the person is in a position to or does exercise more than minimal influence over the contents of the client's accounting records related to the financial statements that are subject to audit or review by the member or firm or over anyone who prepares such financial statements.
- 3 A person has a financial reporting oversight role when the person is in a position to or does exercise influence over the financial statements that are subject to audit or review by the member or firm or over anyone who prepares such accounting records or financial statements.

An individual holding one of the following titles will generally be considered to be in a financial reporting oversight role: a member of the board of directors or similar management or governing body, president, chief executive officer, chief operating officer, chief financial officer, controller, director of internal audit, director of financial reporting, treasurer, and, depending upon the particular facts and circumstances, the general counsel.

When the financial statements of an audit or review client are consolidated, a financial reporting oversight role can extend beyond the client to its subsidiaries or investees. In determining whether an individual is in a financial reporting oversight role for the audit or review client, consideration should be given to the position of the individual, the extent of the individual's involvement in the financial reporting process of the client and the impact of the individual's role on the financial statements subject to audit or review by the member or firm.

- 4 When a close family member of a person on the engagement team is an officer or director of the assurance client or is in a position to exert significant influence over the subject matter of the assurance engagement, a threat to independence may be created. The significance of the threat will depend on factors such as:

- the position the close family member holds; and
- the role of the particular person on the engagement team.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce the threat to an acceptable level. Such safeguards might include:

- removing the particular person from the engagement team;
- where possible, restructuring the engagement team's responsibilities so that the particular person does not deal with matters that are within the responsibility of the close family member; or
- policies and procedures to empower staff to communicate, without fear of retribution, to senior levels within the firm any issue of independence and objectivity that may concern them.

**5** A self-interest, familiarity or intimidation threat may exist when:

- an officer or director or person in a position to exert significant influence over the subject matter of the assurance engagement, who is not an immediate or close family member of a person on the engagement team, has a close relationship with a person on the engagement team; or
- a director, officer or employee in a financial reporting oversight role with respect to an audit or review client, who is not an immediate or close family member of a person on the engagement team, has a close relationship with a person on the engagement team.

Those on the engagement team should identify such individuals, and evaluate the relationship and consult with others in the firm in accordance with its policies and procedures. The evaluation of the significance of any threat and the availability of safeguards appropriate to eliminate it or reduce it to an acceptable level will include considering matters such as the closeness of the relationship and the role of the individual.

**6** Consideration should be given to whether a self-interest, familiarity or intimidation threat exists because of a personal or family relationship between a member of the firm who is not part of the engagement team and:

- an officer or director of the assurance client or a related entity, or person in a position to exert significant influence over the subject matter of the assurance engagement; or
- an officer or director of the assurance client or a related entity, or person in a financial reporting oversight role with respect to the financial statements subject to audit or review by the member or firm.

Members of the firm should identify and evaluate the relationship and consult with others in the firm in accordance with its policies and procedures. The evaluation of the significance of any threat and the availability of safeguards appropriate to eliminate it or reduce it to an acceptable level will include considering matters such as the closeness of the relationship, the interaction of the member of the firm with the engagement team, the position held within the firm, and the role of the individual.

*New August 26, 2016: Paragraphs 7 and 8 in Guidance to Rules 204.4(14) to (15) were deleted.*

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements*****Employment or service with a reporting issuer or listed entity audit client***

(16) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if:*

- (a) *a person who participated in an audit capacity in an audit of the financial statements of the entity performed by the member or firm is an officer or director of the entity or is in a financial reporting oversight role unless a period of one year has elapsed from the date that the financial statements were filed with the relevant securities regulator or stock exchange; or*
- (b) *a person who was the firm's chief executive officer is an officer or director of the entity or is in a financial reporting oversight role, unless a period of one year has elapsed from the date that the individual was the chief executive officer of the firm.*

***Recent service with or for an assurance client***

(17) (a) *A member or [student shall not participate on the engagement team for an assurance client if the member or student served as an officer or director of the client or a related entity or was in a position to exert significant influence over the subject matter of the engagement during the period covered by the assurance report or the engagement period.*

***Temporary loan of staff to an audit or review client***

(17) (b) *A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member or firm has loaned a member of the firm or a network firm to the entity or a related entity, unless:*

- (i) *the loan of any such person or persons is made for only a short period of time;*
- (ii) *the loan of any such person or persons is not made on a recurring basis;*
- (iii) *the loan of any such person or persons does not result in the person or persons making a management decision or performing a management function or providing any non-assurance services that would otherwise be prohibited by Rules 204.4(22) to (34); and*
- (iv) *management of the entity or related entity directs and supervises the work performed by the person or persons.*

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**GUIDANCE – Rule 204.4(16) and (17)**

1 The independence of a firm or a person on the engagement team may be threatened if an officer or director of the assurance client or a related entity, or a person in a position to exert influence over the subject matter of the assurance engagement has been a member of the engagement team or a partner of the firm. Such circumstances may create a self-interest, familiarity or intimidation threat, particularly when a significant connection remains between the individual and his or her former firm.

- 2 The significance of a threat so created will depend upon the following factors:
- the position the individual has taken at the client and whether the position involves significant influence over the subject matter of the assurance engagement or the financial statements subject to audit or review by the member or firm;
  - the amount of any involvement the individual will have with the engagement team;
  - the length of time since the individual was on the engagement team or with the firm; and
  - the former position of the individual within the engagement team or firm.

The significance of such a threat should be evaluated and, if it is other than clearly insignificant, available safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- modifying the plan for the assurance engagement;
- assigning an engagement team to the subsequent assurance engagement that is of sufficient seniority and experience in relation to the individual who has joined the assurance client;
- involving another member of the firm who is not, and never was, on the engagement team to review the work done or advise as necessary; or
- performing an additional quality control review of the assurance engagement by the firm.

In such cases, all of the following safeguards will be necessary to reduce the threat to an acceptable level:

- the particular individual is not entitled to any benefits or payments from the firm unless these are made in accordance with fixed predetermined arrangements. In addition, any amount owed to the individual should not be of such significance to threaten the firm's independence; and
- the particular individual does not continue to participate or appear to participate in the firm's business or professional activities.

- 3 A self-interest threat exists when a person on the engagement team participates in the assurance engagement while knowing, or having reason to believe, that he or she will or may join the client. In all such cases the following safeguards should be applied:

- having firm policies and procedures that require those on the engagement team to notify the firm when entering employment negotiations with the assurance client; and
- removing the person from the engagement team.

In addition, consideration should be given to performing an independent review of any significant judgments made by that person while performing the engagement.

The effect of the safeguards described above is that members and students who initiate or entertain discussions with respect to a potential role with an assurance client would be precluded from being on the engagement team for that assurance engagement until such discussions have been concluded and acceptance of such a role has been declined.

- 4 For the purposes of Rule 204.4(16)(a), other than a key audit partner, the following persons are not considered to have participated in an audit capacity in an earlier audit.
- a person who is employed by the reporting issuer or listed entity due to an emergency or other unusual situation provided that the entity's audit committee has determined that the employment of such person is in the interest of the shareholders;
  - a person who provided ten or fewer hours of assurance services in the earlier audit;

- a person who recommended the compensation of, or who provided direct supervisory, management or oversight of, the lead engagement partner in connection with the performance of the earlier audit, including those at all successively senior levels above the lead engagement partner through to the firm's chief executive; and
  - a person who provided quality control for the audit engagement.
- 5 An individual may have fully complied with Rule 204.4(16)(a) and (b) in accepting employment with an entity, and subsequently thereto, the entity merged with or was acquired by another entity resulting in that individual having a financial reporting oversight role of a combined entity which is audited by the firm in which the individual was previously an employee or a partner. In such a circumstance, unless the employment offer was accepted in contemplation of the merger or acquisition, the individual or the entity could not be expected to know that the employment decision could result in a threat to independence. In all such cases the safeguard of informing the audit committee should be applied.
- 6 For the purposes of Rule 204.4(16)(a) audit procedures are deemed to have commenced for the current audit engagement period on the day after the financial statements for the previous period are filed with the relevant securities regulator or stock exchange.
- 7 For the purposes of Rule 204.4(16)(b), chief executive officer means a person in a position having the usual responsibility and authority of a chief executive officer regardless of the title applied to the person.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements*****Serving as an officer or director of an assurance client***

- (18) (a) *A member or firm shall not perform an assurance engagement for an entity if a member or an employee of the firm serves as an officer or director of the entity or a related entity, except for serving as company secretary when the practice is specifically permitted under local law, professional rules or practice, and the duties and functions undertaken are limited to those of a routine and formal administrative nature.*

***Serving as an officer or director of an audit or review client***

- (18) (b) *A member or firm shall not perform an audit or review engagement for an entity that is not a reporting issuer or listed entity if a member or an employee of the firm or of a network firm serves as an officer or director of the entity or a related entity except for serving as company secretary when the practice is specifically permitted under local law, professional rules or practice, and the duties and functions undertaken are limited to those of a routine and formal administrative nature.*

***Serving as an officer or director of a reporting issuer or listed entity audit client***

- (19) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if a member or an employee of the firm or of a network firm serves as an officer or a director of the reporting issuer or listed entity or a related entity.*

**GUIDANCE – Rule 204.4(18) and (19)**

- 1 A self-interest, self-review or familiarity threat may exist when a former officer or director of an assurance client or related entity or a person who has been in a financial reporting oversight role becomes a part of the engagement team for that assurance client.
- 2 If, prior to the period covered by an assurance report, a person on the engagement team served as an officer or director of the assurance client or a related entity, or had been in a position to exert significant influence over the subject matter of the assurance engagement, a self-interest, self-review or familiarity threat may exist. For example, such a threat will exist if a decision made or work performed by that individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the assurance engagement. The significance of the threat will depend upon factors such as:
  - the position the individual held;
  - the length of time since the individual left the position; and
  - the role of the individual on the engagement team.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- involving another member of the firm who is not, and never was, on the engagement team to review the work of the particular person or advise as necessary; or
- discussing the issue with the audit committee.

### Company secretary

- 3 The position of company secretary has different implications in different jurisdictions. The duties of company secretary may range from administrative duties such as personnel management and the maintenance of company records and registers, to duties as diverse as ensuring that the company complies with regulations or providing advice on corporate governance matters. Generally this position is seen to imply a close degree of association with the entity and may create self-review and advocacy threats.
- 4 If a partner or employee of a firm serves as company secretary for an assurance client or related entity, the self-review and advocacy threats created would generally be so significant that safeguards are unlikely to be available to reduce the threats to an acceptable level. Similarly, if a partner or employee of a firm or network firm serves as company secretary for an audit or review client that is not reporting issuer or listed entity or a related entity, the self-review and advocacy threats created would generally be so significant that safeguards are unlikely to be available to reduce the threats to an acceptable level. However, when the practice of acting as company secretary is specifically permitted under local law, professional rules or practice, the duties and functions undertaken should be limited to those of a routine and formal administrative nature such as the preparation of minutes and maintenance of statutory returns.
- 5 Routine administrative services to support a company secretarial function or advisory work in relation to company secretarial administration matters is generally not perceived to impair independence, provided client management makes all relevant decisions.

### Religious organizations

- 6 A threat to independence is ordinarily not created when a person on the engagement team, or any of the person's immediate or close family members, belongs to a religious organization that is an assurance client provided the person on the engagement team, or the immediate or close family member:
  - does not serve on the religious organization's governing body; and
  - does not have the right or responsibility to exercise significant influence over the financial or accounting policies of the religious organization or any of its associates.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Long association of senior personnel with a reporting issuer or listed entity audit client**

(20) (a) *A member shall not continue as the lead engagement partner or the engagement quality control reviewer with respect to the audit of the financial statements of a reporting issuer or listed entity for more than seven years in total, and shall not thereafter participate in an audit of the financial statements of the reporting issuer or listed entity until a further five years have elapsed.*

*In the case of an audit engagement of a reporting issuer that is a mutual fund, the lead engagement partner and the engagement quality control reviewer shall not thereafter participate in an audit of the financial statements of the reporting issuer or another reporting issuer that is in the same mutual fund complex as the reporting issuer until a further five years have elapsed.*

(b) *A member, who is a key audit partner with respect to the audit of the financial statements of a reporting issuer or listed entity, other than a lead engagement partner or engagement quality control reviewer, shall not continue in such role for more than seven years in total and shall not thereafter participate in an audit of the financial statements of the reporting issuer or listed entity until a further two years have elapsed.*

*In the case of an audit engagement of a reporting issuer that is a mutual fund, such an audit partner shall not thereafter participate in an audit of the financial statements of the reporting issuer or another reporting issuer that is in the same mutual fund complex as the reporting issuer until a further two years have elapsed.*

(c) *Notwithstanding paragraph (b), when an audit client becomes a reporting issuer or listed entity, a key audit partner who has served in that capacity for five or more years at the time the client becomes a reporting issuer or listed entity may continue in that capacity for two more years before being replaced as a key audit partner.*

**GUIDANCE - Rule 204.4(20)**

1 The use of the same senior personnel on the engagement team on an assurance engagement over a long period of time may create a familiarity threat. The significance of such a threat will depend upon factors such as:

- the length of time that the particular individual has been on the engagement team;
- the role of that individual on the engagement team;
- the structure of the firm; and
- the nature of the assurance engagement including the complexity of the subject matter and degree of professional judgment needed.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- discussing the matter with the audit committee;
- replacing the senior personnel on the engagement team;
- involving an additional member of the firm who is not, and never was, on the

- engagement team to review the work done by the particular individual, or advise as necessary;
- the member or firm is subject to external practice inspection; or
- an independent internal quality review of the assurance work performed by a member of the firm who was not part of the engagement team.

### **Audit clients that are reporting issuers or listed entities**

- 2** Rule 204.4(20) restricts an audit partner who has completed the permitted term as a lead engagement partner, engagement quality control reviewer or other key audit partner from participation in the audit until further prescribed time periods have elapsed. Accordingly, such partners may not:
- provide services pertaining directly to the audit or to a review of interim financial statements;
  - provide quality control for either such engagement;
  - consult with the engagement team or the client regarding technical or industry-specific issues, transactions or events; or
  - otherwise directly influence the outcome of any such engagement.

However, such partners may be consulted for the purpose of transferring knowledge of the client to the engagement team.

- 3** When an audit client becomes a reporting issuer or listed entity, the length of time a key audit partner has served in that capacity should be considered in determining when the partner must be replaced on the engagement team. However, Rule 204.4(20)(c) provides that if a key audit partner has served in that capacity for five or more years at the time the client becomes a reporting issuer or listed entity, such person may continue in that capacity for two more years.

**RULE:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements*****Audit committee approval of services to a reporting issuer or listed entity audit client***

(21) *A member or firm shall not provide a professional service to an audit client that is a reporting issuer or listed entity, or to a subsidiary thereof, without the prior approval of the reporting issuer's or listed entity's audit committee.*

**GUIDANCE - Rule 204.4(21)**

- 1 Rule 204.4(21) provides that a member or firm may not provide a service to a reporting issuer or listed entity, that is an audit client, or to a subsidiary thereof, unless the audit committee of the client pre-approves such service. The requirement applies to all audit and non-audit services. For the purpose of Rule 204.4(21) the audit committee recommendation to the entity's board of directors that the particular audit firm be the entity's auditor will be considered to be the approval of the audit service. Subject to paragraph 3 of this Guidance, all non-audit services for the reporting issuer or listed entity and its subsidiaries must be specifically pre-approved by the audit committee.
- 2 The audit committee may establish policies and procedures for pre-approval provided that they are detailed as to the particular services and designed to safeguard the independence of the member and the firm. For example, one or more audit committee members who are independent board directors may pre-approve the service provided decisions made by the designated audit committee members are reported to the full audit committee.
- 3 Notwithstanding Rule 204.4(21), audit committee pre-approval of services other than assurance services provided to an audit client that is a reporting issuer or listed entity, or to a subsidiary of the client, is not required where all such services that have not been pre-approved:
  - (a) do not represent more than five per cent of total revenues paid by the audit client to the member, the firm and network firms in the fiscal year in which the services are provided;
  - (b) were not recognized as non-audit services at the time of the engagement; and
  - (c) are promptly brought to the attention of the audit committee and the audit committee or one or more designated representatives approves the services prior to the completion of the audit.
- 4 For the purposes of Rule 204.4(21) audit services include all those services performed to discharge responsibilities to provide an opinion on the financial statements of the reporting issuer or listed entity. For example, in connection with some audit engagements, a tax partner may be involved in reviewing the tax accrual of the client. Since it is a necessary part of the audit process, the activity constitutes an audit service. Similarly, complex accounting issues may require consultation with a national office technical partner to reach an audit judgment. That consultation, being a necessary part of the audit process, also constitutes an audit service, and as such will be considered to have been pre-approved by the audit committee whether or not the firm charges separately for it. These examples contrast with a situation where a client is evaluating a proposed transaction and requests the member, the firm or a network firm to evaluate it and, after research and consultation, the member, firm or network firm provides an answer to the client and bills for those services. Such services would not be considered to be audit services and, therefore, will not be considered to have been pre-approved with the audit service.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Performance of management functions**

- (22) (a) *A member or firm shall not perform an assurance engagement for an entity if, during the period covered by the assurance report or the engagement period, a member of the firm makes a management decision or performs a management function for the entity or a related entity, including:*
- (i) *authorizing, approving, executing or consummating a transaction;*
  - (ii) *having or exercising authority on behalf of the entity;*
  - (iii) *determining which recommendation of the member or firm will be implemented; or*
  - (iv) *reporting in a management role to those charged with governance of the entity;*
- unless the management decision or management function is not related to the subject matter of the assurance engagement that is performed by the member or firm.*
- (b) *A member or firm shall not perform an audit or review engagement for an entity, if a member of the firm or a network firm, during either the period covered by the financial statements subject to audit or review or the engagement period, makes a management decision or performs a management function for the entity or a related entity, including any of the services listed in paragraph 22(a)(i) to (iv), whether or not the management decision or management function is related to the subject matter of the audit or review engagement that is performed by the member or firm.*

**Preparation of journal entries or source documents**

- (23) *A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, a member of the firm or a network firm:*
- (a) *prepares or changes a journal entry, determines or changes an account code or a classification for a transaction or prepares or changes another accounting record, for the entity or a related entity, that affects the financial statements subject to audit or review by the member or firm, without obtaining the approval of management of the entity; or*
  - (b) *prepares a source document or originating data, or makes a change to such a document or data underlying such financial statements.*

**Preparation of accounting records or financial statements for a reporting issuer or listed entity audit client**

- (24) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, in other than emergency situations, during either the period covered by the financial statements subject to audit or the engagement period, the member, firm, a network firm or a member of the firm or a network firm provides accounting or bookkeeping services related to the accounting records or financial statements including:*
- (a) *maintaining or preparing the entity's, or related entity's, accounting records;*

- (b) *preparing the financial statements or preparing financial statements which form the basis of the financial statements on which the audit report is provided; or*
- (c) *preparing or originating source data underlying such financial statements;*

*unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during the audit of such financial statements. In determining whether such a conclusion is reasonable, there is a rebuttable presumption that the results of the accounting or bookkeeping services will be subject to audit procedures.*

*In the event of an emergency situation, the member or firm may perform the audit and perform such an accounting or bookkeeping service provided:*

- (i) *those who provide the service are not members of the engagement team for the audit;*
- (ii) *the provision of the service in such circumstances is not expected to recur;*
- (iii) *the provision of the service would not lead to any members of the firm or a network firm making decisions or judgments which are properly the responsibility of management; and*
- (iv) *the provision of the service receives the prior approval of the audit committee of the reporting issuer or listed entity in accordance with the provisions of Rule 204.4(21).*

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## **GUIDANCE - Rule 204.4(22) to (24)**

### **Performance of management functions**

- 1 Obtaining an understanding of the client's internal controls is required by generally accepted auditing standards. Members often become involved in diagnosing, assessing and recommending to management ways in which internal controls can be improved or strengthened. Notwithstanding Rule 204.4(22) the independence of a member or firm would not be impaired by the provision of services to assess the effectiveness of the internal controls of an assurance client or a related entity and to recommend improvements in the design and implementation of internal controls and risk management controls.

### ***Preparation of accounting records and financial statements***

#### **General provisions**

- 2 It is the responsibility of management to ensure that accounting records are kept and financial statements are prepared, although in discharging its responsibility management may request a member or firm to provide assistance.
- 3 Assisting an audit or review client or a related entity in matters such as preparing accounting records or financial statements will create a self-review threat when the financial statements are subsequently audited or reviewed by the member or firm. The significance of any such threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level.
- 4 With respect to Rule 204.4(23), members may be permitted, provided that approval from management is obtained, to prepare or change a journal entry, determine or change an account code, or a classification for a transaction or prepare or change another accounting

record for the entity or a related entity, that affects the financial statements subject to audit or review by the member or firm. However, preparing or changing a source document or originating data in respect of any transaction underlying the financial statements subject to audit or review by the member or firm is not permitted.

- 5** A source document is an initial recording or original evidence of a transaction. Examples of source documents are purchase orders, payroll time cards, customer orders, invoices, disbursement approvals, signed cheques and written contracts. Source documents are often followed by the creation of additional records and reports, such as trial balances, account reconciliations and aged account receivable listings, which do not constitute source documents or initial recordings. Source documents may also be preceded by documents containing calculations and advice, such as bonus calculations for tax purposes, impairment test calculations in the oil and gas industry and sample wording for clauses in a contract that will be prepared by the client's lawyers. The creation of such additional records, reports and documents would not constitute the creation of source documents.
- 6** The financial statement audit and review process involves extensive dialogue between persons on the engagement team and management of the audit or review client. During this process, management will often request and receive input regarding such matters as accounting principles and financial statement disclosure, the appropriateness of controls and the methods used in determining the stated amounts of assets and liabilities. The provision of technical assistance of this nature for an audit or review client is an appropriate method of promoting the fair presentation of the financial statements. The provision of such advice, per se, does not generally threaten the member's or the firm's independence. Other services that are usually a part of the audit or review process and that do not, under normal circumstances, threaten independence include:
- assisting with resolving account reconciliation problems;
  - analyzing and accumulating information for regulatory reporting;
  - assisting in the preparation of consolidated financial statements (including assisting in the translation of local statutory accounts to comply with group accounting policies and transition to a different reporting framework such as International Financial Reporting Standards);
  - assisting the drafting of disclosure items;
  - proposing adjusting journal entries; and
  - providing assistance and advice in the preparation of local statutory accounts of subsidiary entities.
- 7** A self-review threat may exist when a member, firm or network firm assists in the preparation of subject matter other than financial statements and subsequently provides assurance thereon. For example, a self-review threat will exist if a member or firm develops and prepares prospective financial information and subsequently provides assurance on it. Consequently, a member or firm should evaluate the significance of any self-review threat created by the provision of such a service. If the threat is other than clearly insignificant, safeguards should be applied to reduce the threat to an acceptable level.

### **Audit or review clients that are not reporting issuers or listed entities**

- 8** Subject to Rule 204.4(23), a member, firm or network firm may provide an audit or review client or related entity that is not a reporting issuer or listed entity with accounting and bookkeeping services provided that any resulting self-review threat so created is reduced to an acceptable level. Examples of such services include:

- recording transactions for which management has determined or approved the appropriate account classification;
- posting transactions to the general ledger;
- preparing financial statements;
- drafting notes to the financial statements;
- posting journal entries to the trial balance;
- performing payroll services which do not involve having custody of the client's or related entity's assets; and
- preparing tax receipts for charitable donations or tax information returns, such as T4 slips.

#### Client approval of journal entries

- 9** A member, firm or network firm may prepare journal entries for an audit or review client or related entity that is not a reporting issuer or listed entity provided management approves and takes responsibility for such journal entries. In obtaining this approval, the member, firm or network firm may choose to obtain approval for each journal entry or, alternatively, to obtain approval following a thorough review of the completed financial statements with management. This approval may also be obtained through the management representation letter.

#### Evaluation of significance of threats

- 10** The significance of a threat created by providing accounting and bookkeeping services to an audit or review client or related entity that is not a reporting issuer or listed entity should be evaluated. The significance of such a threat will depend upon factors such as:
- the degree of involvement of the member or firm;
  - the complexity of the transactions to be accounted for; and
  - the extent of professional judgment required in selecting the appropriate accounting treatment.

If the threat is other than clearly insignificant, safeguards should be applied to reduce the threat to an acceptable level. Such safeguards might include:

- making arrangements so that such services are not performed by a person on the engagement team;
- requiring the client or related entity to create the source data for the accounting entries;
- requiring the client or related entity to develop the underlying assumptions;
- obtaining the views of another professional accountant;
- arranging for another firm to review a significant accounting treatment; or
- discussing a significant accounting treatment with the practice advisory services department of the member's provincial body.

#### Complex transactions

- 11** Preparing the journal entries for a complex transaction would likely create a self-review threat the significance of which could only be reduced to an acceptable level by applying safeguards that involve consultation with others, for example by:
- obtaining the views of another professional accountant;
  - arranging for another firm to review a significant accounting treatment; or

- discussing the proposed accounting treatment with the practice advisory services department of the member's provincial body

### **Audit clients that are reporting issuers or listed entities**

- 12** Rule 204.4(24) permits the provision of accounting or bookkeeping services by a member, a firm or a network firm, or a member of the firm or a network firm to an audit client that is a reporting issuer or listed entity, or a related entity in the event of emergency situations provided that the requirements Rule 204.4(24) are met. Such emergency situations might arise when, due to events beyond the control of the member or firm and the client or related entity,
- there are no viable alternative resources to those of the member or firm with the necessary knowledge of the client's or related entity's business to assist in the timely preparation of its accounting records or financial statements, and
  - a restriction on the member's or firm's ability to provide the services would result in significant difficulties for the client or related entity, for example, as might result from a failure to meet regulatory reporting requirements, in the withdrawal of credit lines, or would threaten the going concern status of the client or related entity. Significant difficulties would not be created simply by virtue of the fact that the client or related entity would be required to incur additional costs to engage the services of an alternative service provider.

Members and firms are also required by Rule 204.5(b) to document both the rationale supporting the determination that the situation constitutes an emergency and compliance with the provisions of subparagraphs (i) through (iv) of Rule 204.4(24).

Members, firms and network firms should fully assess and consider the circumstances that would constitute an emergency situation. Emergency situations are rare, non-recurring and would arise only when clearly beyond the control of the member or firm and the client or related entity. Caution should be exercised when deciding to undertake services under this exception.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements*****Provision of valuation services to an audit or review client that is not a reporting issuer or listed entity***

- (25) (a) *A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or a network firm, provides a valuation service to the entity or a related entity where the valuation involves a significant degree of subjectivity and relates to amounts that are material to the financial statements subject to audit or review by the member or firm, unless the valuation is performed for tax purposes only and relates to amounts that will affect such financial statements only through accounting entries related to taxation.*

***Provision of valuation services to a reporting issuer or listed entity audit client***

- (25) (b) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or a network firm, provides a valuation service to the client or a related entity, unless:*
- (i) *the valuation is performed for tax purposes only and relates to amounts that will affect such financial statements only through accounting entries related to taxation, or*
  - (ii) *it is reasonable to conclude that the results of that service will not be subject to audit procedures during the audit of the financial statements. In determining whether such a conclusion is reasonable, there is a rebuttable presumption that the results of the valuation service will be subject to audit procedures.*

**GUIDANCE - Rule 204.4(25)****General provisions**

- 1 A valuation service involves the making of assumptions with respect to future events and the application of certain methodologies and techniques, in order to compute an amount or provide an opinion with respect to a specific value or range of values, for a business as a whole, an intangible or tangible asset or a liability.
- 2 When a member or firm performs a valuation that forms part of the subject matter of an assurance engagement that is not an audit or review engagement, the firm should consider whether there is a self-review threat. If such a threat exists, and it is other than clearly insignificant, safeguards should be applied to eliminate it or reduce it to an acceptable level.

**Audit or review clients that are not reporting issuers or listed entities**

- 3 Members and firms should refer to paragraph 5 of the Guidance to Rule 204.4(34) when performing a valuation service for an audit or review client or a related entity for tax purposes only, that relates to amounts that will affect the financial statements subject to audit or review by the member or firm only through accounting entries related to taxation.
- 4 Performing a valuation service for audit or review client or a related entity that is not a reporting issuer or listed entity will create a self-review threat when the valuation resulting

from the service is incorporated into the financial statements subject to audit or review by the member or firm. The significance of such a threat should be evaluated. The significance will depend on factors such as:

- the materiality of the results of the valuation service;
- the extent of the client's or related entity's knowledge, experience and ability to evaluate the issues concerned, and the extent of the client's or related entity's involvement in determining and approving significant matters of judgment;
- the degree to which established methodologies and professional guidelines are applied when performing the particular valuation service;
- the degree of subjectivity inherent in the item concerned where the valuation involves standard or established methodologies;
- the reliability and extent of the underlying data;
- the degree of dependence on future events of a nature which could create significant volatility in the amounts involved; and
- the extent and clarity of the financial statement disclosures.

If the threat is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- involving an additional professional accountant who was not a member of the engagement team to review the valuation work or otherwise advise as necessary;
- confirming with the client or related entity its understanding of the underlying assumptions of the valuation and the methodology to be used and obtaining approval for their use;
- obtaining the client's or related entity's acknowledgement of responsibility for the results of the valuation work performed by the firm or network firm; or
- arranging that members of the firm or network firm providing such services do not participate on the engagement team.

**5** Certain valuations do not involve a significant degree of subjectivity. This is likely the case where the underlying assumptions are either established by law or regulation, or are widely accepted and when the techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation. In such circumstances, the results of a valuation performed by two or more parties are not likely to be materially different.

**6** The independence of a member or firm will not be impaired when:

- the firm's valuation specialist reviews the work of an audit or review client or a related entity or a specialist employed by the client or related entity, provided the client, related entity or specialist supplies the technical expertise that the client or related entity uses in determining the required amounts recorded in the financial statements. In such circumstances there will be no self-review threat because a client's or related entity's management or a third-party is the source of the financial information subject to audit or review by the member or firm; or
- the valuation service is provided for non-financial reporting purposes only, for example, transfer pricing studies or other valuations that are performed solely for tax purposes.

**RULE:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements*****Provision of actuarial services to a reporting issuer or listed entity audit client***

(26) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or network firm, provides an actuarial service to the client or a related entity, unless it is reasonable to conclude that the results of that service will not be subject to audit procedures during the audit of the financial statements. In determining whether such a conclusion is reasonable, there is a rebuttable presumption that the results of the actuarial service will be subject to audit procedures.*

**GUIDANCE - Rule 204.4(26)**

- 1 For the purposes of Rule 204.4(26), actuarial services include the determination of an amount to be recorded in the client's financial statements and related accounts, except for:
  - services that involve assisting the client in understanding the methods, models, assumptions and inputs used in determining such amounts; and
  - advising management on the appropriate actuarial methods and assumptions that will be used in the actuarial valuations.

In addition, the firm may use its own actuary to assist in conducting the audit if the client's actuary or a third-party actuary provides management with its actuarial capabilities.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Provision of internal audit services to an audit or review client**

- (27) (a) *A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm or a network firm or a member of the firm or network firm provides an internal audit service to the entity or a related entity unless, with respect to the entity for which the internal audit service is provided:*
- (i) *the entity designates an appropriate and competent resource within senior management to be responsible for internal audit activities and to acknowledge responsibility for designing, implementing and maintaining internal controls;*
  - (ii) *the entity or its audit committee reviews, assesses and approves the scope, risk and frequency of the internal audit services;*
  - (iii) *the entity's management evaluates the adequacy of the internal audit services and the findings resulting from their performance;*
  - (iv) *the entity's management evaluates and determines which recommendations resulting from the internal audit services to implement and manages the implementation process; and*
  - (v) *the entity's management reports to the audit committee the significant findings and recommendations resulting from the internal audit services.*

**Provision of internal audit services to a reporting issuer or listed entity audit client**

- (27) (b) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or network firm, provides an internal audit service to the client or a related entity, that relates to the client's, or the related entity's, internal accounting controls, financial systems or financial statements unless it is reasonable to conclude that the results of that service will not be subject to audit procedures during the audit of the financial statements. In determining whether such a conclusion is reasonable, there is a rebuttable presumption that the results of the internal audit service will be subject to audit procedures.*

**GUIDANCE - Rule 204.4(27)****General provisions**

- 1 A self-review threat may exist when a member, firm or network firm provides internal audit services to an audit or review client or a related entity. Such services may comprise an extension of the firm's audit service beyond the requirements of generally accepted auditing standards, assistance in the performance of the client's or related entity's internal audit activities, or outsourcing of the activities. In evaluating any threat to independence, the nature of the service should be considered.
- 2 Services involving an extension of the procedures required to conduct an audit or review in accordance with the *CPA Canada Handbook - Assurance* will not be considered to impair independence with respect to an audit or review client provided that a member of the firm

or network firm does not act or appear to act in the capacity of the client's or related entity's management.

- 3** During the course of an audit or review engagement the engagement team considers the client's internal controls and, as a result, may make recommendations for its improvement. This is part of an audit or review engagement and is not considered to be an internal audit service.
- 4** In addition to complying with the requirements of Rule 204.4(27)(a), a member or firm should also consider whether internal audit services should be provided to an audit or review client or a related entity only by a member or members of the firm not involved in the audit or review engagement and with different reporting lines within the firm.
- 5** Performing a significant portion of the audit or review client's or related entity's internal audit activities may create a self-review threat and a member, firm or network firm should consider that possibility and proceed with caution before taking on such an activity.

#### **Audit clients that are reporting issuers or listed entities**

- 6** Rule 204.4(27)(b) does not prohibit a member, firm or network firm from providing a nonrecurring service to evaluate a discrete item or program, if the service is not in substance the outsourcing of an internal audit function. For example, the member, firm or network firm, or a member of the firm of a network firm, may conduct a nonrecurring specified auditing procedures engagement related to the internal controls of an audit client that is a reporting issuer or listed entity or a related entity.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements*****Provision of information technology systems services to an audit or review client***

- (28) (a) *A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or network firm provides a financial information systems design or implementation service to the entity or a related entity where the service involves the design or implementation of all or part of a financial information technology system that either generates information that is significant to the accounting records or financial statements subject to audit or review by the member or firm, or forms a significant part of either entity's internal controls that are relevant to the financial statements that are subject to audit or review by the member or firm, unless, with respect to the entity for which the information technology service is provided:*
- (i) *the entity acknowledges its responsibility for establishing and monitoring a system of internal controls;*
  - (ii) *the entity assigns the responsibility to make all management decisions with respect to the design and implementation of the hardware or software system to a competent employee, preferably within senior management;*
  - (iii) *the entity makes all management decisions with respect to the design and implementation process;*
  - (iv) *the entity evaluates the adequacy and results of the design and implementation of the system; and*
  - (v) *the entity is responsible for operating the hardware or software system and for the data it uses or generates.*

***Provision of information technology system services to a reporting issuer or listed entity audit client***

- (28) (b) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or network firm provides financial information systems design or implementation services and the services involve:*
- (i) *directly or indirectly operating, or supervising the operation of, the entity's or a related entity's information system, or managing the entity's or a related entity's local area network; or*
  - (ii) *designing or implementing a hardware or software system that aggregates source data underlying the financial statements or generates information that is significant to the entity's or a related entity's financial statements or other financial information systems taken as a whole;*

*unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during an audit of the financial statements. In determining whether such a conclusion is reasonable, there is a rebuttable presumption that the results of the*

*financial information systems design and implementation services will be subject to audit procedures.*

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## GUIDANCE – Rule 204.4(28)

### General provisions

- 1 The provision of services by a member, firm or network firm to an audit or review client or a related entity that involve the design or implementation of financial information technology systems that are, or will be, used to generate information forming part of the client's or the related entity's financial statements may create a self-review threat.

There are, however, some information technology systems services that may not create a threat to independence, provided that the member or firm does not make a management decision or perform a management function for the client or the related entity. Such services include the following:

- designing or implementing information technology systems that are unrelated to internal controls over financial reporting;
- designing or implementing information technology systems that do not generate information forming a significant part of the accounting records or financial statements subject to audit or review by the member or firm;
- implementing “off-the-shelf” accounting or financial information reporting software that was not developed by the firm if the customization required to meet the client's or related entity's needs is not significant; and
- evaluating and making recommendations with respect to a system designed, implemented or operated by another service provider or the client or related entity.

### Audit or review clients that are not reporting issuers or listed entities

- 2 In addition to complying with the requirements of Rule 204.4(28)(a), a member or firm should also consider whether financial information systems design and implementation services should be provided to an audit or review client or related entity only by members of the firm who are not involved in the audit or review engagement and with different reporting lines within the firm.

### Audit clients that are reporting issuers or listed entities

- 3 For the purposes of Rule 204.4(28)(b), information will be considered to be significant if it is likely to be material to the financial statements. Since materiality determinations may not be complete before the financial statements are prepared, the audit client or related entity and the member or firm should evaluate the general nature of the information as well as system output during the period of the audit engagement.
- 4 Rule 204.4(28) does not preclude a member, a firm or a network firm from:
  - designing or implementing a hardware or software system that is unrelated to the financial statements or accounting records of the reporting issuer or listed entity, or a related entity;
  - as part of the audit, or another assurance engagement, evaluating and making recommendations to management on the internal controls of a system as it is being designed, implemented or operated; or
  - making recommendations on internal control matters to management or other service provider in conjunction with the design and installation of a system by another service provider.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Provision of litigation support services to an audit or review client**

(29) (a) *A member or firm shall not perform an audit or review engagement for a client if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or network firm, provides a litigation support service for the entity or a related entity, or for a legal representative thereof, for the purpose of advancing the entity's or related entity's, interest in a civil, criminal, regulatory, administrative or legislative proceeding or investigation with respect to an amount or amounts that are material to the financial statements subject to audit or review by the member or firm.*

**Provision of litigation support services to a reporting issuer or listed entity audit client**

(29) (b) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or network firm, provides a litigation support service for the entity or a related entity, or for a legal representative thereof, for the purpose of advancing the entity's or related entity's, interest in a civil, criminal, regulatory, administrative or legislative proceeding or investigation.*

**GUIDANCE - Rule 204.4(29)****General provisions**

- 1 Litigation support services include such activities as acting as an expert witness, calculating estimated damages or other amounts that might become receivable or payable as the result of litigation or other legal dispute, and assistance with document management and retrieval in relation to a legal dispute or litigation.
- 2 A self-review threat may exist when a member, firm or network firm provides to an audit or review client or related entity, litigation support services that include the estimation of the possible outcome of a dispute or litigation and thereby affects the amounts or disclosures to be reflected in the client's or related entity's financial statements. The significance of any such threat will depend upon factors such as:
  - the nature of the engagement;
  - the materiality of the amounts involved; and
  - the degree of subjectivity inherent in the matter concerned.

The member or firm should evaluate the significance of any threat so created and, if it is other than clearly insignificant, safeguards should be applied to eliminate it or reduce it to an acceptable level. Such safeguards might include:

- policies and procedures to prohibit individuals who assist the client from making management decisions on the client's or related entity's behalf;
- using a member of the firm who is not part of the engagement team to perform the litigation support service; or
- the involvement of others, such as independent specialists.

If adequate safeguards are not available to reduce a threat to an acceptable level the member, firm or network firm should decline the engagement.

- 3** The effect of Rule 204.4(29) is to prohibit, except for the specified circumstances set out in paragraph 202.4(29)(a), a member, firm or network firm, or a member of the firm or a network firm, from providing specialized knowledge, experience or expertise to advocate or support the audit client's positions, or the positions of a related entity, in an adversarial or similar proceeding such as an investigation, a litigation matter, or a legislative or administrative tribunal. Litigation or other matters frequently escalate to a level, such as a civil, criminal, regulatory, administrative or legislative proceeding or investigation, which creates a self-review or advocacy threat which cannot be reduced to an acceptable level by available safeguards. Accordingly, it is particularly important for members and firms to consider initially, and thereafter reconsider periodically, whether the matter in support of which the service is provided is likely to escalate, or has escalated, to such a level. In addition, members and firms should discuss, with the audit committee, the possibility that a matter could escalate to such a level and the consequential impact on the member's or firm's ability to continue to provide the litigation support service or to continue to perform the audit or review engagement.
- 4** Rule 204.4(29) does not preclude a member, a firm or a network firm, or a member of the firm or a network firm, from being engaged by an audit committee of an audit or review client to assist it in fulfilling its responsibilities to conduct its own investigation of a potential accounting impropriety. For example, if the audit committee is concerned about the accuracy of the inventory records at a subsidiary, it may engage the member, the firm or the network firm, or a member of the firm or a network firm, to conduct a thorough inspection and analysis of these records, the physical inventory at the subsidiary and related matters without impairing independence. This type of engagement may include forensic or other fact-finding work that results in the issuance of a report to the audit client. It will generally require performing procedures that are consistent with, but more detailed or more comprehensive than, those required by generally accepted auditing standards.
- 5** In an investigation or proceeding for an audit or review client, or for a related entity, the member, firm or network firm, or a member of the firm or a network firm, may provide an account or testimony with respect to a matter of fact, such as describing the work performed by the member's firm or the predecessor auditor. The member, firm or network firm, or a member of the firm or network firm, may explain the positions taken or the conclusions reached during the performance of any service provided for the audit or review client.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements*****Provision of legal services to an audit or review client***

(30) *A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or network firm provides a legal service to the entity or a related entity in the resolution of a dispute or litigation in circumstances where the matters in dispute or subject to litigation are material in relation to such financial statements.*

***Provision of legal services to a reporting issuer or listed entity audit client***

(31) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or network firm, provides a legal service to the entity or a related entity.*

**GUIDANCE – Rule 204.4(30) and (31)****General provisions**

- 1 A legal service is any service that may only be provided by a person licensed, admitted, or otherwise qualified to practice law in the jurisdiction in which the service is provided. However, where a jurisdiction outside of Canada requires a service to be provided by a person licensed, admitted, or otherwise qualified to practice law in that jurisdiction and the same service could be provided in the relevant jurisdiction in Canada by a person not licensed, admitted, or otherwise qualified to practice law, such a service is not considered to be a legal service for the purposes of this Rule. Legal services encompass a wide and varied range of corporate and commercial services, including contract support, conduct of litigation, mergers and acquisition advice and support and the provision of assistance to client's internal legal departments.
- 2 Threats to independence created by the provision of legal services to an audit or review client or related entity should be considered based on:
  - the nature of the service to be provided (for example, advocacy as opposed to other legal services);
  - whether the service provider is separate from the engagement team; and
  - the materiality of any pertinent matter in relation to the financial statements that are subject to audit or review by the member or firm.
- 3 The provision of a legal service which involves matters that would not be expected to have a material effect on the financial statements subject to audit or review by the member or firm is not considered to create an unacceptable threat to independence with respect to the engagement to perform the audit or review of those financial statements.
- 4 The provision of a legal service to support an audit or review client or related entity in the execution of a transaction (e.g., contract support, legal advice, legal due diligence and restructuring) may create a self-review threat. The significance of any such threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:
  - using members of the firm who are not on the engagement team to provide the service;

- ensuring the client or related entity makes the ultimate decision in relation to the advice provided; or
- ensuring the service involves the execution of what has been decided by the client or related entity in relation to the transaction.

### **Audit or review clients that are not reporting issuers or listed entities**

**5** The provision of a legal service to assist an audit or review client that is not a reporting issuer or listed entity or a related entity in the resolution of a dispute or litigation may create an advocacy or self-review threat. When a member, firm or network firm is asked to act in an advocacy role for the client or related entity in the resolution of a dispute or litigation in circumstances where the amounts involved are not material to the client's financial statements, the significance of any resulting threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to eliminate it or reduce it to an acceptable level. Such safeguards might include:

- policies and procedures to prohibit members of the firm or network firm from assisting the client or related entity in making management decisions on behalf of the client or related entity; or
- using members of the firm who are not on the engagement team to perform the particular legal service.

**RULE:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements*****Human resource services for a reporting issuer or listed entity audit client***

- (32) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or network firm, provides any of the following services to the entity or a related entity:*
- (a) *searching for or seeking out prospective candidates for management, executive or director positions;*
  - (b) *engaging in psychological testing, or other formal testing or evaluation programs;*
  - (c) *undertaking reference checks of prospective candidates for an executive or director position;*
  - (d) *acting as a negotiator or mediator with respect to employees or future employees with respect to any condition of employment, including position, status or title, compensation or fringe benefits; or*
  - (e) *recommending or advising with respect to hiring a specific candidate for a specific job.*

**GUIDANCE - Rule 204.4(32)****General provisions**

- 1 The recruitment of managers, executives or directors for an assurance client, where the person recruited will be in a position to affect the subject matter of the assurance engagement, may create a current or future self-interest, familiarity or intimidation threat. The significance of such a threat will depend upon factors such as:
  - the role of the person to be recruited; and
  - the nature of the assistance sought.

The significance of any such threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. In all cases, the firm should not make management decisions and the client should make the hiring decision.
- 2 Notwithstanding Rule 204.4(32) a member, firm or network firm, or a member of the firm or a network firm may, upon request of the audit client or a related entity, interview candidates and advise the client or related entity on the candidate's competence for financial accounting, administrative or control positions.

**RULE:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Provision of corporate finance and similar services to an audit or review client**

(33) A member or firm shall not perform an audit or review engagement for an entity if, during the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or network firm, provides any of the following services:

- (a) promoting, dealing in or underwriting the entity's or a related entity's securities;
- (b) advising the entity or a related entity on other corporate finance matters where:
  - (i) the effectiveness of the advice depends on a particular accounting treatment or presentation in the financial statements;
  - (ii) the outcome or consequences of the advice has or will have a material effect on the financial statements; and
  - (iii) the engagement team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework;
- (c) making investment decisions on behalf of the entity or a related entity or otherwise having discretionary authority over the entity's or a related entity's investments;
- (d) executing a transaction to buy or sell the entity's or a related entity's investments; or
- (e) having custody of assets of the entity or a related entity, including taking temporary possession of securities purchased by the entity or a related entity.

**GUIDANCE - Rule 204.4(33)**

1 Rule 204.4(33) sets out in paragraphs (a) to (e) the corporate finance and similar services which a member or firm may not provide to an audit or review client or a related entity.

Where a member or firm has provided advice on corporate finance matters to such a client or entity, Rule 204.4(33)(b) prohibits the member or firm from performing the audit or review engagement if:

- the effectiveness of the advice depends on a particular accounting treatment or presentation in the financial statements;
- the outcome or consequences of the advice has or will have a material effect on the financial statements; and
- the engagement team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

Where the efficacy of implementing such corporate finance advice depends upon a particular accounting treatment or presentation, there may be pressure to adopt an accounting treatment or presentation that is inconsistent with the relevant financial reporting framework. If such an inconsistency were to exist, the member or firm would be prohibited from performing the audit or review engagement. Accordingly, where the circumstances set out in Rule 204.4(33) (b) exist the member or firm must review the materiality of the effect of the advice and the

appropriateness of the related accounting treatment and presentation with the audit or review engagement team as soon as possible prior to completion of the corporate finance advisory service.

- 2** Corporate finance services other than those that are prohibited by Rule 204.4(33) may create an advocacy or self-review threat that may be reduced to an acceptable level by the application of safeguards. Examples of such services include:
- assisting a client in developing corporate strategies;
  - assisting a client in obtaining bank financing by explaining the financial statements to the bank;
  - assisting in identifying or introducing a client to possible sources of capital that meet the client specifications or criteria; and
  - providing structuring advice and assisting a client in analyzing the accounting effects of proposed transactions.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce the threat to an acceptable level. Such a safeguard might be using members of the firm who are not part of the engagement team to provide the services.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Provision of tax planning or other tax advisory services to an audit or review client**

- (34) (a) *A member or firm shall not perform an audit or review engagement for a client if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or a network firm, provides tax planning or other tax advice to the client or a related entity, where:*
- (i) *the effectiveness of the advice depends on a particular accounting treatment or presentation in the financial statements;*
  - (ii) *the outcome or consequences of the advice has or will have a material effect on the financial statements; and*
  - (iii) *the engagement team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.*

**Provision of tax calculations for the purpose of preparing accounting entries for a reporting issuer or listed entity**

- (34) (b) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, in other than emergency situations, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or a network firm, prepares tax calculations of current and future tax liabilities or assets for the reporting issuer or listed entity or a related entity for the purpose of preparing accounting entries that are subject to audit by the member or firm.*

*In the event of an emergency situation, the member or firm may perform the audit and perform such a tax service provided:*

- (i) *those who provide the service are not members of the audit engagement team;*
- (ii) *the provision of the service in such circumstances is not expected to recur;*
- (iii) *the provision of the service would not lead to any members of the firm or a network firm making decisions or judgments which are properly the responsibility of management; and*
- (iv) *the provision of the service receives the prior approval of the audit committee of the reporting issuer or listed entity in accordance with the provisions of Rule 204.4(21).*

**GUIDANCE – Rule 204.4(34)****General provisions**

- 1 Tax services usually include:
- preparation of tax returns;
  - preparation of valuations for tax purposes;

- provision of tax planning and similar tax advisory services on such matters as how to structure business affairs in a tax efficient manner or on the application of tax laws or regulations;
  - provision of tax advocacy services with respect to tax disputes; or
  - preparation of tax calculations for the purpose of preparing accounting entries.
- 2 The provision of tax services may create a self-review threat where the advice or other service affects or will affect the financial statements subject to audit or review by the member or firm, or an advocacy threat where the services involve resolution of a tax dispute with tax authorities. The existence and significance of any threat will depend on factors such as:
- the nature of the tax service that is provided;
  - the degree of subjectivity involved in determining the appropriate treatment of tax advice in the financial statements;
  - the extent to which the outcome of the tax service has or will have a material effect on the financial statements subject to audit or review by the member or firm ;
  - the level of tax expertise of the client's employees;
  - the extent to which the advice is supported by tax law or regulation, other precedent or established practice; and
  - whether the tax treatment is supported by a private ruling or has otherwise been cleared by the tax authority before the preparation of the financial statements.

Providing tax planning advice where the advice is clearly supported by tax authorities or other precedent, by established practice or has a basis in tax law that is likely to prevail does not ordinarily create a threat to independence, unless the circumstances described in Rule 204.4(34)(a) exist.

- 3 The significance of any threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Examples of such safeguards include:
- using professionals who are not members of the assurance engagement team to perform the tax service;
  - having a tax professional, who was not involved in providing the tax service, advise the assurance engagement team on the service and review the financial statement treatment;
  - obtaining advice on the service from an external tax professional; and
  - obtaining pre-clearance or advice from the tax authorities.

#### **Preparation of tax returns**

- 4 Tax return preparation services may involve assisting an audit or review client with its tax reporting obligations by drafting and completing information, including the amount of tax due, as reported on prescribed forms, and as required to be submitted to the applicable tax authorities. Such tax returns are subject to audit or other review by tax authorities. Accordingly, the provision of such services does not ordinarily create a threat to independence provided that management takes responsibility for the returns including any significant judgments made.

#### **Preparation of valuations for tax purposes**

- 5 A firm may be requested to perform a valuation to assist an audit or review client or a related entity with its tax reporting obligations or for tax planning purposes.

Rule 204.4(25) permits the provision of certain valuation services for tax purposes only. Where the valuation is performed for tax purposes only and the valuation relates to amounts that will affect the financial statements subject to audit or review by the member or firm only through accounting entries related to taxation, a threat to independence would not ordinarily be created if the amounts related to the valuation are not material to such financial statements or if the valuation is subject to external review at the discretion of a tax authority or similar regulatory authority.

However, a valuation service that is not subject to such an external review and which results in amounts that are material to the financial statements subject to audit or review by the member or firm, may create a threat to independence. The existence and significance of any threat created will depend upon factors such as:

- the extent to which the valuation methodology is supported by tax law or regulation, other precedent or established practice and the degree of subjectivity inherent in the valuation; and
- the reliability and extent of the underlying data.

The significance of any threat created should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level.

#### **Provision of tax planning or other tax advisory services**

- 6** Members and firms often provide tax planning or advisory services in order to create tax-efficient outcomes for their clients. Where a member or firm has provided tax planning or other tax advice to an audit or review client or a related entity, Rule 204.4(34)(a) prohibits the member or firm from performing the audit or review engagement if:

- the effectiveness of the advice depends on a particular accounting treatment or presentation in the financial statements;
- the outcome or consequences of the advice has or will have a material effect on the financial statements; and
- the engagement team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

Where the efficacy of implementing such tax planning or other tax advice depends upon a particular accounting treatment or presentation there may be pressure to adopt an accounting treatment or presentation that is inconsistent with the relevant financial reporting framework. If such an inconsistency were to exist, the member or firm would be prohibited from performing the audit or review engagement. Accordingly, where the circumstances set out in 204.4 (34) (a) exist, the member or firm must review the materiality of the effect of the tax planning or other tax advice and the appropriateness of the related accounting treatment or presentation with the audit or engagement team as soon as possible prior to completion of the tax planning or other tax advisory service.

#### **Provision of tax advocacy services**

- 7** Tax advocacy services generally involve assisting a client in the resolution of a disputed tax matter with tax authorities. Such services may involve the provision of litigation support services, legal services or both. Accordingly, members and firms should evaluate whether the provision of such a tax advocacy service involves the provision of a service that would be prohibited pursuant to Rules 204.4(29)(a) or (b), (30) or (31).

### Audit or review clients that are not reporting issuers or listed entities

- 8 Rules 204.4(29)(a) and (30) do not preclude members and firms from providing a tax advocacy service that involves assistance in the resolution of a dispute with a tax authority to an audit or review client that is not a reporting issuer or listed entity and where the assistance does not involve acting as an advocate before a public tribunal or court.

Members and firms are also not precluded by Rules 204.4(29)(a) and (30) from providing a tax advocacy service that involves assistance in the resolution of a dispute with a tax authority to an audit or review client that is not a reporting issuer or listed entity where the assistance involves acting as an advocate before a public tribunal or court provided that the disputed matter involves amounts that are not material to the financial statements subject to audit or review by the member or firm.

Rules 204.4(29)(a) and (30) do not preclude members and firms from responding to specific requests for information, providing factual accounts or testimony about the work performed or assisting the client in analyzing the tax issues.

### Audit clients that are reporting issuers or listed entities

- 9 Rules 204.4(29)(b) and (31) do not preclude members and firms from providing a tax advocacy service that involves assistance in the resolution of a dispute with a tax authority to a reporting issuer or listed entity audit client and where the assistance does not involve acting as an advocate before a public tribunal or court.

Pursuant to Rules 204.4(29) and (31), members and firms may not provide a tax advocacy service that involves assistance in the resolution of a dispute with a tax authority to a reporting issuer or listed entity audit client and where the assistance involves acting as an advocate before a public tribunal or court whether or not the amounts involved are material to the financial statements subject to audit or review by the member or firm.

Rules 204.4(29)(b) and (31) do not preclude members and firms from responding to specific requests for information or providing factual accounts or testimony about the work performed.

Members and firms are cautioned that an engagement to provide a permitted tax advocacy service may, in its performance, escalate to a point where the advocacy or self-review threat so created cannot be reduced to an acceptable level by the application of safeguards. Accordingly, the guidance in paragraph 3 of the Guidance to Rule 204.4(29) applicable to litigation support services may also be helpful when considering the provision of tax advocacy services. One of the factors that impacts the significance of any such threat created is whether the tax advocacy service involves acting as advocate before a public tribunal or court, which for this purpose is an adjudicative body that is independent of the tax authority.

### Preparation of tax calculations for the purpose of preparing accounting entries for a reporting issuer or listed entity

- 10 Rule 204.4(34)(b) permits, in the event of an emergency situation and under specified conditions, a member or firm to prepare tax calculations of current and future tax liabilities or assets for a reporting issuer or listed entity audit client or a related entity for the purpose of preparing accounting entries that are subject to audit by the member or firm. Such emergency situations might arise when, due to events beyond the control of the member or firm and the client or related entity,
- there are no viable alternative resources to those of the member or firm with the necessary knowledge of the client's or related entity's business to assist in the timely

- preparation of such tax calculations, and
- a restriction on the member's or firm's ability to provide the services would result in significant difficulties for the client or related entity, for example, as might result from a failure to meet regulatory reporting requirements, in the withdrawal of credit lines, or would threaten the going concern status of the client or related entity. Significant difficulties would not be created simply by virtue of the fact that the client or related entity would be required to incur additional costs to engage the services of an alternative service provider.

Members and firms are also required by Rule 204.5(c) to document both the rationale supporting the determination that the situation constitutes an emergency and compliance with the provisions of subparagraphs (i) through (iv) of Rule 204.4(34)(b).

Members, firms and network firms should fully assess and consider the circumstances that would constitute an emergency situation. Emergency situations are rare, non-recurring and would arise only when clearly beyond the control of the member or firm and the client or related entity. Caution should be exercised when deciding to undertake services under this exception.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Provision of non-assurance services prior to commencement of audit or review services**

- (35) (a) *Where a member, firm, a network firm or a member of the firm or a network firm has provided a non-assurance service referred to in Rules 204.4(22) to (34) to a client prior to the engagement of the member or firm to perform an audit or review engagement for the client but during or after the period covered by the financial statements subject to audit or review by the member or firm, the member or firm shall not perform the audit or review engagement unless the particular non-assurance service was provided before the engagement period and the member or firm:*
- (i) *discusses independence issues related to the provision of the non-assurance service with the audit committee;*
  - (ii) *requires the client to review and accept responsibility for the results of the non-assurance service; and*
  - (iii) *precludes personnel who provided the non-assurance service from participating in the audit or review engagement,*
- such that any threat created by the provision of the non-assurance service is reduced to an acceptable level.*

**Provision of previous non-assurance services to an entity that has become a reporting issuer or listed entity**

- (35) (b) *Where a member, firm, a network firm or a member of the firm or a network firm has performed a non-assurance service referred to in Rules 204.4 (22) to (34) for an audit or review client that has become a reporting issuer or listed entity and the provisions of Rules 204.4(22) to (34) would have precluded the member or firm from performing an audit engagement for a reporting issuer or listed entity, the member or firm shall not perform an audit engagement for the client unless the member or firm:*
- (i) *discusses independence issues related to the provision of the non-assurance service with the audit committee;*
  - (ii) *requires the client to review and accept responsibility for the results of the non-assurance service; and*
  - (iii) *precludes personnel who provided the non-assurance service from participating in the audit engagement,*
- such that any threat to independence created by the provision of the non-assurance service is reduced to an acceptable level.*

**GUIDANCE – Rule 204.4(35)**

- 1 The firm and those on the engagement team should be independent of the assurance client during the period of the assurance engagement.

**Audit or review engagements**

- 2 In the case of an audit or review engagement, independence is also required during the

period covered by the financial statements reported on by the member or firm. When an entity becomes an audit or review client during or after the period covered by the financial statements on which the member or firm will report, the member or firm should consider whether any threats to independence may be created by financial or business relationships with the client during or after the period covered by the financial statements, but prior to the acceptance of the engagement.

Similarly, in the case of an assurance engagement that is not an audit or review engagement, the member or firm should consider whether any financial or business relationships may create threats to independence.

- 3** In the situation described in Rule 204.4(35)(a), the member or firm is required to take a number of measures to reduce any threat created by the provision of the non-assurance service as described in the Rule to an acceptable level.

The determination as to whether any such threat has been so reduced will require the member or firm to consider the nature and impact of the threat to independence and take any further measures that are necessary to reduce it to an acceptable level. Such further measures might include engaging another firm to review the results of the non-assurance service or having another firm re-perform that service to the extent necessary to enable the other firm to take responsibility for the non-assurance service.

If the provision of the non-assurance service creates such a significant threat to independence that compliance with the requirements of Rule 204.4(35)(a) would still not reduce any such threat to an acceptable level, the member or firm is required to decline the audit or review engagement.

Members and firms are reminded that, even where a non-assurance service that is not specifically addressed by the provisions of Rules 204.4(22) to (35) has been provided to an audit or review client, a threat to independence may still be created by the provision of the non-assurance service. In such circumstances, members and firms are required, in accordance with the provisions of Rule 204.3, to evaluate any threats so created and apply safeguards to reduce them to an acceptable level or decline the audit or review engagement.

### **Audit clients that are reporting issuers or listed entities**

- 4** When an entity becomes a reporting issuer or listed entity by virtue of a public offering, the auditor of the entity is required, from that period forward until the entity ceases to be a reporting issuer or listed entity, to comply with the specific prohibitions contained in Rule 204.4 that relate to an audit of a reporting issuer or listed entity. For example, bookkeeping services may not be provided following the date of an initial public offering, except in emergency situations. The provision of bookkeeping services to the entity prior to that date would not impair the firm's independence provided the services were not prohibited by Rule 204.4(23) and provided the firm had complied with the provisions of Rule 204.4(35)(b).

### **Documentation**

- 5** Members and firms are also required by Rule 204.5(e) to document:
- a description of the previously provided non-assurance service;
  - the results of the discussion with the audit committee;
  - any further measures applied to address the threat created by the provision of the previous non-assurance service; and
  - the rationale to support the decision of the member or firm.

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Fees**

- (36) *A member or firm shall not provide an assurance service for a fee that the member or firm knows is significantly lower than that charged by the predecessor member or firm, or contained in other proposals for the engagement, unless the member or firm can demonstrate:*
- (a) *that qualified members of the firm have been assigned to the engagement and will devote the appropriate time to it; and*
  - (b) *that all applicable assurance standards, guidelines and quality control procedures have been followed.*
- (36.1) (a) *A member or firm shall not provide, directly or indirectly, an assurance service on a contingent fee basis.*
- (b) *A member or firm shall not provide an assurance service to a client to whom he or she provides, directly or indirectly, any non-assurance service on a contingent fee basis when the outcome of the non-assurance service and the amount of the fee is dependent on a contemporaneous or future judgment related to a matter that is material to the subject matter of the assurance engagement.*
  - (c) *A member or firm shall not perform an audit or review engagement for a client to whom he or she provides, directly or indirectly, any non-assurance service on a contingent fee basis when:*
    - (i) *the contingent fee that is charged by the firm to the audit or review client is or is expected to be material to the firm;*
    - (ii) *a member of the audit or review engagement team for that client will be entitled to a portion of that contingent fee and that portion is material to that member of the audit or review engagement team; or*
    - (iii) *the outcome of the non-assurance service and the amount of the contingent fee is dependent on a contemporaneous or future judgment related to a matter that is material to the financial statements that are subject to audit or review by the member or firm.*
  - (d) *A member or firm shall not perform an audit or review engagement if a network firm that participates in a significant part of the audit or review engagement provides a non-assurance service on a contingent fee basis to the audit or review client and that contingent fee is expected to be material to that network firm.*

**Relative size of fees of a reporting issuer or listed entity audit client**

- (37) (a) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity when the total revenue, calculated on an accrual basis, for any services provided to the client and its related entities for the two consecutive fiscal years of the firm most recently concluded prior to the date of the financial statements subject to audit by the member or firm, represent more than 15% of the total revenue of the firm, calculated on an accrual basis, in each such fiscal year, unless:*
- (i) *the member or firm discloses to the audit committee the fact that the total of such*

*revenue represents more than 15% of the total revenue of the firm, calculated on an accrual basis, in each of those fiscal years; and*

- (ii) *another professional accountant who is not a member of the firm performs a review, that is substantially equivalent to an engagement quality control review, of the audit engagement, either*
  - (A) *prior to the audit opinion in respect of the financial statements being issued, or*
  - (B) *subsequent to the audit opinion in respect of the financial statements being issued but prior to the audit opinion on the client's financial statements for the immediately following fiscal period being issued.*

*Thereafter, when the total revenue, calculated on an accrual basis, for any services provided to the client and its related entities continues to represent more than 15% of the total revenue of the firm, calculated on an accrual basis, in the firm's most recently concluded prior fiscal year, the member or firm shall not perform the audit unless the requirements of paragraphs (37)(a)(i) and (ii)(A) are met.*

- (b) *A member shall not perform the review required by Rule 204.4(37)(a)(ii) if the member or the member's firm would be prohibited, pursuant to any provision of Rule 204, from performing an audit of the financial statements referred to in Rule 204.4(37)(a).*

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## GUIDANCE - Rule 204.4(36), (36.1) and (37)

### Fees - Pricing

- 1 Rule 204.4(36) provides that a member or firm may not provide an assurance service at a fee level that the member or firm knows is significantly lower than that charged by the predecessor member or firm, or contained in other proposals for the engagement, unless the member or firm can demonstrate that the engagement will be performed properly by qualified staff and in accordance with all applicable professional standards.

### Contingent fees

- 2 Rule 204.4(36.1) sets out the circumstances under which a contingent fee may not be charged for the provision of a non-assurance service to an assurance client.
- 3 However, a threat to independence may also be created by a contingent fee arrangement with an assurance client in situations when such a fee is not prohibited by Rule 204.4(36.1). The significance of any threat created will depend on such factors as:
  - the range of possible fee amounts;
  - whether an appropriate authority determines the outcome of the matter upon which the contingent fee will be determined;
  - the nature of the service; and
  - the effect of the event or transaction on the subject matter of the assurance engagement.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- having another professional accountant review the relevant assurance work or otherwise advise as necessary; and

- using professionals who are not members of the engagement team to provide the service.
- 4 Corporate finance services are often provided on a contingent fee basis. When, in accordance with Rule 204.4(33), a member or firm is permitted to provide a corporate finance service to an assurance client and the corporate finance service is provided on a contingent fee basis, a threat to independence may be created. The significance of any threat created will depend on such factors as:
- the level of sophistication of the parties to the transaction and whether those parties are carrying out additional due diligence regarding the transaction;
  - whether amounts or disclosures in the financial statements of the client have a material impact on the fee;
  - whether the outcome of the corporate finance service depends upon a judgment relative to a material matter related to the subject matter of the assurance engagement, such as a material balance in the financial statements of the client; and
  - the materiality of the amount of the contingent fee to the member or firm.

The evaluation of the materiality of the amount of the contingent fee to a member requires that consideration be given to whether there is any member involved in providing the corporate finance service who is expected to receive compensation that is material to that member as a consequence of the firm receiving the contingent fee and who is also a member of the assurance engagement team.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- having another professional accountant review the relevant assurance work or otherwise advise as necessary; and
  - using professionals who are not members of the engagement team to provide the service.
- 5 Value billing, which is specifically set out as an exception to the definition of a contingent fee, should not be used to justify what is in substance an otherwise inappropriate contingent fee arrangement.

### Fees — Overdue

- 6 A self-interest threat may exist if fees due from an assurance client for professional services remain unpaid for a long time, especially if a significant portion is not paid before the assurance report for the following year is issued. Generally the payment of such fees should be required before that report is issued. The following safeguards may be applicable:
- discussing the level of outstanding fees with the audit committee; and
  - involving another member of the firm who is not part of the engagement team, or a professional accountant who is not a member of the firm, to provide advice or review the work performed.

Members are cautioned that the overdue fees might create the same threats to independence as a loan to the client. Therefore, members should consider whether, because of the significance of such threats, it is appropriate for the firm to continue to provide assurance services to that client.

## Fees — Relative size

- 7 When the total fees generated from an assurance client represent a significant proportion of a member's or firm's total fees, the financial dependence on that client, or group of clients of which it is a part, including the possible concern about losing the client, may create a self-interest threat. The significance of the threat will depend upon factors such as:
- the structure of the firm; and
  - whether the member or firm is well established in practice.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- taking steps to reduce the dependency on the client;
- discussing the extent and nature of fees with the audit committee;
- having firm policies and procedures to monitor and implement quality control of assurance engagements;
- involving another member of the firm who is not on the engagement team to review the work done or advise as necessary;
- arranging for external quality control reviews; or
- consulting a third party, such as a professional regulatory body or a professional accountant who is not a member of the firm.

## Relative size of fees of a reporting issuer or listed entity audit client

- 8 Rule 204.4(37)(a) provides that, unless specified measures are taken, a member or firm may not perform an audit engagement for a client that is a reporting issuer or listed entity, when, for the two consecutive fiscal years of the firm most recently concluded prior to the date of the financial statements subject to audit by the member or firm, the total revenue, calculated on an accrual basis, for services provided to that client and its related entities represent more than 15% of the total revenue of the firm, calculated on an accrual basis, in each such fiscal year. The measures required to be taken by the Rule are:
- disclosing, to the audit committee, that the revenue exceeds the 15% threshold; and
  - completion, by another professional accountant who is not a member of the firm, of either a "pre-issuance" or "post-issuance" review of the audit engagement.

The Rule requires that either such review be substantially equivalent to an engagement quality control review. In the case of a "pre-issuance" review, the review is to be completed prior to the audit opinion in respect of the financial statements being issued. A "post-issuance" review may be completed after the audit opinion in respect of the financial statements has been issued but prior to the audit opinion on the client's financial statements for the immediately following fiscal period being issued.

The Rule also requires the performance of a "pre-issuance" review if the total revenue, calculated on an accrual basis, for any services provided to the client continues to represent more than 15% of the total revenue of the firm, calculated on an accrual basis, in the firm's most recently concluded fiscal year.

### *New August 26, 2016:*

- *New 204.4(36.1)*
- *New Guidance paragraphs 1 to 5, with paragraphs 6, 7 and 8 consequentially renumbered.*
- *Changed wording in Guidance paragraphs 6 and 7 to professional "accountant" from "colleague"*

**RULE:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Evaluation or compensation of partners**

(38) *A member who is or was a key audit partner shall not be evaluated or compensated based on the member's solicitation or sales of non-assurance services to the particular client or a related entity if such solicitation or sales occurred during the period during which the member is or was a key audit partner.*

**GUIDANCE - Rule 204.4(38)**

1 Evaluating or compensating a member of the engagement team for an audit or review client for selling non-assurance services to that audit or review client, may create a self-interest threat. The significance of the threat will depend on such factors as:

- the structure of the firm;
- the size of the fee for the assurance service; and
- the size of the fee for the non-assurance service.

The significance of the threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- discussing the nature and extent of the fees with the audit committee;
- having firm policies and procedures to monitor and implement quality control of assurance engagements;
- involving another member of the firm who is not a member of the engagement team to review the work done or advise as necessary; or
- being subject to external practice inspection.

2 Rule 204.4(38) does not preclude such a key audit partner from being evaluated or compensated in relation to performing such services and sharing in the profits of the audit practice and the profits of the firm. Such a partner's evaluation may take into account a number of factors, including the complexity of his or her engagements, the overall management of the relationship with the client including the provision of non-audit services, and the attainment of specific goals for the sale of assurance services to a client for which the partner is a key audit partner or for the sale of any services to a client for which the partner is not a key audit partner.

Members and firms should consider documenting their evaluation and compensation processes and systems in order to demonstrate compliance with the requirements of Rule 204.4(38).

**RULE:****204.4      *Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements******Gifts and hospitality***

- (39)      *A member or student who participates on an engagement team for an assurance client and the member's or student's firm shall not accept a gift or hospitality, including a product or service discount, from the client or a related entity, unless the gift or hospitality is clearly insignificant to the member, student or firm, as the case may be.*

**RULES:****204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements****Client mergers and acquisitions**

- (40) (a) *A member or firm shall not perform or continue with an audit or review engagement for an entity where, as a result of a merger or acquisition, another entity merges with or becomes a related entity of the audit or review client, and the member or firm has a previous or current activity, interest or relationship with the other entity that would, after the merger or acquisition, be prohibited pursuant to any provision of Rule 204 in relation to the audit or review engagement, unless:*
- (i) *the member or firm terminates, by the effective date of the merger or acquisition, any such activity, interest or relationship;*
  - (ii) *the member or firm terminates, as soon as reasonably possible and, in all cases, within six months following the effective date of the merger or acquisition, any such activity, interest or relationship and the requirements of Rule 204.4(40)(b) are met; or*
  - (iii) *the member or firm has completed a significant amount of work on the audit or review engagement and expects to be able to complete the engagement within a short period of time, the member or firm discontinues in the role of audit or review service provider on completion of the current engagement and the provisions of Rule 204.4(40)(b) are met.*
- (b) *Notwithstanding the existence of the previous or current activity, interest or relationship described in Rule 204.4(40)(a), the provisions of Rule 204.4(40)(a)(ii) and (iii) permit the member or firm to perform or continue with the audit or review engagement provided that:*
- (i) *the member or firm evaluates and discusses with the audit committee the significance of the threat created by any such activity, interest or relationship and the reasons why the activity, interest or relationship is not terminated or cannot reasonably be terminated by the effective date of the merger or acquisition, or within six months thereof, as the case may be;*
  - (ii) *the audit committee requests the member or firm to complete the audit or review engagement;*
  - (iii) *any person involved in any such activity or who has any such interest or relationship will not participate in the audit or review engagement or as an engagement quality control reviewer; and*
  - (iv) *the member or firm applies an appropriate measure or measures, as discussed with the audit committee, to address the threat created by any such activity, interest or relationship.*
- (c) *Where the previous or current activity, interest or relationship described in Rule 204.4(40)(a) creates such a significant threat to independence that compliance with the requirements of paragraphs 204.4(40)(a) and (b) would still not reduce any such threat to an acceptable level, the member or firm shall not perform or continue with the audit or review engagement.*

**GUIDANCE – Rule 204.4(40)**

- 1 Where an activity, interest or relationship that would impair independence is not terminated by the effective date of the merger or acquisition, Rule 204.4(40)(b) describes the circumstances in which the member or firm may perform or continue with the audit or review engagement, including a requirement that the member or firm apply an appropriate measure or measures, as discussed with the audit committee. Examples of such a measure or measures are:
  - having another public accountant review the audit or review or any relevant non-assurance work as appropriate;
  - engaging another firm to evaluate the results of any relevant non-assurance service or to re-perform any relevant non-assurance service to the extent necessary to enable it to take responsibility for the service; and
  - having another professional accountant, who is not a member of the firm performing the audit or review engagement, perform a review that is equivalent to an engagement quality control review.
  
- 2 Rule 204.4(40)(c) provides that even if all of the other requirements of the Rule are met, where an activity, interest or relationship creates such a significant ongoing threat to independence that compliance with paragraphs 204.4(40)(a) and (b) will still not reduce the threat to an acceptable level, the member or firm is required to resign from the particular audit or review engagement. In determining whether the activity, interest or relationship continues to create such a significant threat that the member or firm would be required to resign, consideration should be given to:
  - (a) the nature and significance of the activity, interest or relationship;
  - (b) the extent, if any, to which the activity, interest or relationship continues to affect the financial statements subject to audit or review by the member or firm;
  - (c) the nature and significance of the new relationship with the other entity, for example, whether that other entity becomes a parent, a subsidiary or the client itself; and
  - (d) the adequacy of the actions taken, as described in Rule 204.4(40)(b), to address the activity, interest or relationship.

In addition, members and firms are reminded of the requirement pursuant to Rule 202.2 to perform professional services with an objective state of mind.

**Documentation**

- 3 Members and firms are also required by Rule 204.5(f) to document:
  - a description of the activity, interest or relationship that will not be terminated by the effective date of the merger or acquisition and the reasons why it will not be terminated;
  - the results of the discussion with the audit committee and measures applied to address the threat created by any such activity, interest or relationship; and
  - the rationale to support the decision of the member or firm.

**RULES:****204.5 Documentation**

- (a) *A member or firm who, in accordance with Rule 204.3, has identified a threat that is not clearly insignificant, shall document a decision to accept or continue the particular engagement. The documentation shall include the following information:*
- (i) *a description of the nature of the engagement;*
  - (ii) *the threat identified;*
  - (iii) *the safeguard or safeguards identified and applied to eliminate the threat or reduce it to an acceptable level; and*
  - (iv) *an explanation of how, in the member's or firm's professional judgment, the safeguards eliminate the threat or reduce it to an acceptable level.*
- (b) *A member or firm who, in an emergency situation, provides an accounting or bookkeeping service to a reporting issuer or listed entity audit client in accordance with the requirements of Rule 204.4(24) shall document both the rationale supporting the determination that the situation constitutes an emergency and that the member or firm has complied with the provisions of subparagraphs (i) through (iv) of the Rule.*
- (c) *A member or firm who, in an emergency situation, prepares tax calculations of current and future income tax liabilities or assets for a reporting issuer or listed entity audit client in accordance with the requirements of Rule 204.4(34)(b), for the purpose of preparing accounting entries that are subject to audit by the member or firm shall document both the rationale supporting the determination that the situation constitutes an emergency and that the member or firm has complied with the provisions of subparagraphs (i) through (iv) of the Rule.*
- (d) *A member or firm who, in accordance with the requirements of Rule 204.4(35)(a), performs an audit or review engagement for a client where the member, firm, a network firm or a member of the firm or a network firm has provided a non-assurance service referred to in Rules 204.4(22) to (34) to the client prior to the engagement period but during or after the period covered by the financial statements subject to audit or review by the member or firm, shall document:*
- (i) *a description of the previously provided non-assurance service;*
  - (ii) *the results of the discussion with the audit committee;*
  - (iii) *any further measures applied to address the threat created by the provision of the previous non-assurance service; and*
  - (iv) *the rationale to support the decision of the member or firm.*
- (e) *A member or firm who, in accordance with the requirements of Rules 204.4(35)(b), performs an audit engagement for a client that has become a reporting issuer or listed entity where the member, the firm, a network firm or a member of the firm or a network firm provided a non-assurance service to the client prior to it having become a reporting issuer or listed entity and the provisions of Rules 204.4(22) to (34) would have precluded the member or firm from performing an audit engagement for a reporting issuer or listed entity, shall document:*

- (i) *a description of the non-assurance service;*
  - (ii) *the results of the discussion with the audit committee;*
  - (iii) *any further measures applied to address the threat created by the provision of the non-assurance service; and*
  - (iv) *the rationale to support the decision of the member or firm.*
- (f) *A member or firm who, in accordance with the requirements of Rules 204.4(40)(a) and (b), performs or continues with an audit or review engagement where, as a result of a merger or acquisition, another entity merges with or becomes a related entity of the audit or review client, and the member or firm has a previous or current activity, interest or relationship with the other entity that would, after the merger or acquisition, be prohibited pursuant to any provision of Rule 204 in relation to the audit or review engagement, shall document:*
  - (i) *a description of the activity, interest or relationship that will not be terminated by the effective date of the merger or acquisition and the reasons why it will not be terminated;*
  - (ii) *the results of the discussion with the audit committee and measures applied to address the threat created by any such activity, interest or relationship; and*
  - (iii) *the rationale to support the decision of the member or firm.*

**204.6 Breach of a provision of Rule 204.3 or 204.4****RULES:**

- (a) *When a member or student identifies a breach of any of the provisions of Rule 204.3 or 204.4 with respect to an assurance engagement, the member or student shall immediately communicate the nature of the breach in accordance with the firm's policies and procedures that address the reporting of such breaches.*
- (b) *The individual who has received notification of the breach shall ensure that:*
- (i) *the significance of the breach is evaluated;*
  - (ii) *the actions set out in (d) to (h) are taken; and*
  - (iii) *the nature of the breach is communicated to a network firm, when appropriate.*
- (c) *Notwithstanding the provisions of Rule 204.2, when a breach of the provisions of Rule 204.3 or 204.4 is identified, the affected assurance engagement may be continued provided that:*
- (i) *the activity, interest or relationship that caused the breach is terminated, suspended or eliminated and the consequences of the breach are addressed;*
  - (ii) *any legal or regulatory requirements that apply with respect to the breach are met;*
  - (iii) *the significance of the breach and its impact on objectivity and the ability to issue an audit opinion, review engagement report, or other assurance report, as applicable, is evaluated and a conclusion is reached that it is possible to take action that is appropriate in the circumstances to satisfactorily address the consequences of the breach such that a reasonable observer would be likely to conclude that objectivity has not been compromised, and*
  - (iv) *concurrence with that conclusion is obtained in accordance with the provisions of paragraph (d) below:*
    - (A) *in the case of an assurance engagement that is not an audit or review engagement, from the audit committee or those charged with governance, or the party that engaged the firm, as appropriate; or*
    - (B) *in the case of an audit or review engagement, from the audit committee or those charged with governance.*
- (d) (i) *When a conclusion is reached that action has been or can be taken that is appropriate in the circumstances to satisfactorily address the consequences of the breach, the matter shall be discussed with the audit committee or those charged with governance, or, in the case of an assurance engagement that is not an audit or review engagement, the party that engaged the firm, and concurrence with that conclusion shall be obtained.*
- (ii) *In the case of an assurance engagement that is not an audit or review engagement, the timing for such a discussion shall take into account the circumstances of the engagement and the breach.*
- (iii) *In the case of an audit or review engagement, such a discussion shall take place as soon as possible, unless an alternative timing for reporting less significant breaches has been specified by the audit committee or those charged with governance and the breach is less significant. In addition, the following matters shall be communicated in writing to the*

- audit committee or those charged with governance:*
- (A) *the nature, duration and significance of the breach;*
  - (B) *how the breach occurred and was identified;*
  - (C) *the action taken or proposed to be taken and the rationale as to how the action will satisfactorily address the consequences of the breach and enable the audit or review engagement to continue;*
  - (D) *a description of the firm's policies and procedures relevant to the breach designed to provide 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; and*
  - (E) *the conclusion that objectivity has not been compromised.*
- (e) (i) *If a conclusion is reached that it is not possible to take action that is appropriate in the circumstances to satisfactorily address the consequences of the breach, the matter shall be discussed, as soon as possible, with the audit committee or those charged with governance, or, in the case of an assurance engagement that is not an audit or review engagement, the party that engaged the firm, and the necessary steps shall be taken to terminate the engagement in compliance with any applicable legal or regulatory requirements relevant to terminating the engagement.*
- (ii) *If the audit committee or those charged with governance, or party that engaged the firm does not concur with the conclusion that action can be taken to satisfactorily address the consequences of the breach, the necessary steps shall be taken to terminate the engagement in compliance with any applicable legal or regulatory requirements relevant to terminating the engagement.*
- (f) *If the breach occurred prior to the issuance of a previous audit opinion, review engagement report or other assurance report,*
- (i) *consideration shall be given to the impact of the breach, if any, on any previously issued audit opinions, review engagement reports or other assurance reports;*
  - (ii) *the matter shall be discussed with the audit committee or those charged with governance, or, in the case of an assurance engagement that is not an audit or review engagement, the party that engaged the firm; and*
  - (iii) *consideration shall be given to whether it is necessary to withdraw such opinions or reports.*
- (g) *The following matters shall be documented:*
- (i) *the breach;*
  - (ii) *the action taken;*
  - (iii) *key decisions made;*
  - (iv) *the consideration of the impact of the breach, if any, on previously issued audit opinions, review engagement reports or other assurance reports;*
  - (v) *the conclusion, if such a conclusion is reached, that objectivity has not been compromised such that an audit opinion, review engagement report or other assurance report can be issued;*

- (vi) *an analysis supporting that conclusion;*
  - (vii) *all the matters discussed with the audit committee or those charged with governance, or the party that engaged the firm; and*
  - (viii) *discussions, if any, with CPA Ontario, a relevant regulator or other oversight authority.*
- (h) *In the event of a breach of the provisions of Rule 204.3 or 204.4 that results in a conclusion to withdraw any previously issued audit opinion, review engagement report or other assurance report, information concerning any such breach shall be reported to CPA Ontario.*

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## GUIDANCE- RULE 204.6

- 1 Rule 204.6 addresses a situation when a member or student identifies,
- (a) the existence of an activity, interest or relationship that, had it been identified prior to the commencement of the assurance engagement, would have either prohibited the provision of the engagement or would have created a threat to independence which would have required the evaluation of its significance and the application of safeguards to reduce it to an acceptable level, or
  - (b) that the safeguards implemented to address a threat that was previously identified have not been effective in reducing the threat to independence to an acceptable level.

Such circumstances constitute a breach of Rule 204 and may occur despite the firm having policies and procedures designed to provide reasonable assurance that independence is maintained. A consequence of such a breach may be that termination of the assurance engagement is necessary.

- 2 When a member or student identifies that such a breach has occurred, Rule 204.6 requires that:
- the breach be reported immediately in accordance with the firm's policies and procedures that address the reporting of such breaches;
  - the activity, interest or relationship that caused the breach be terminated, suspended or eliminated; and
  - the consequences of the breach be addressed.

The firm is required by the *CPA Canada Handbook - Assurance (CSQC1)* to establish policies and procedures designed to provide it with reasonable assurance that it is notified of breaches of independence requirements and to enable it to take appropriate actions to resolve such situations. CSQC 1 also requires that such notification be provided to specified individuals within the firm.

- 3 When a breach is identified the individual who has received notification of the breach is required to ensure that an evaluation is made of the significance of that breach, its impact on objectivity and whether an audit opinion, review engagement report, or other assurance report may still be issued or a previously issued report needs to be withdrawn. Such an evaluation requires the exercise of professional judgment, taking into account whether a reasonable observer would be likely to conclude that objectivity would be compromised. 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 assurance

- engagement;
- whether a member of the engagement team had knowledge of the activity, interest or relationship that caused the breach;
  - whether the individual who caused the breach is a member of the engagement team or another individual for whom there are independence requirements;
  - if the breach relates to a member of the engagement team, the role of that individual;
  - if the breach was caused by the provision of a professional service, the impact of that professional service, if any, on the subject matter of the engagement; and
  - the extent of the threat or threats created by the breach.
- 4 Depending upon the significance of the breach, it may be necessary to terminate the assurance engagement or withdraw a previously issued assurance report, or it may be possible to take action that is appropriate in the circumstances to satisfactorily address the consequences of the breach.
- 5 Examples of actions that may be appropriate include:
- removing the relevant individual from the engagement team;
  - conducting an additional review of the affected assurance engagement work or re-performing that work to the extent necessary, in either case using different personnel;
  - recommending that the client engage another firm to review or re-perform the affected assurance engagement work to the extent necessary; and
  - when the breach relates to a non-assurance service that affects the subject matter of the assurance engagement, 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.

*New August 26, 2016: Rule 204.6 and related Guidance*

**RULES:****204.7      *Members Must Disclose Prohibited Interests and Relationships***

- (a) *A member or student who has a relationship or interest, or who has provided a professional service, that is precluded by this Rule shall advise in writing a designated partner of the firm of the interest, relationship or service.*
  
- (b) *A member or student who has been assigned to an engagement team for an assurance client shall advise, in writing, a designated partner of the firm of any interest, relationship or activity that would preclude the person from being on the engagement team.*

**RULE:****204.8 Firms To Ensure Compliance**

*A firm that performs an assurance engagement shall ensure that members of the firm do not have a relationship or interest, do not perform a service and remain free of any influence that would preclude the firm from performing the engagement pursuant to Rules 204.1, 204.3, 204.4 or 204.9.*

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**GUIDANCE - Rule 204.8**

- 1 Members of the firm include all those persons who are associated with the firm in carrying out its activities. Members of the firm, including employees, who are not under the jurisdiction of CPA Ontario could have an interest or relationship or provide a service that would result in the firm being prohibited from performing a particular engagement. Rule 204.8 requires a member who is a partner or proprietor of a firm to ensure that the firm and all members of the firm, including those who are not members of CPA Ontario, do not have a relationship or interest, do not perform a service and remain free of any influence that would preclude the firm from performing the engagement pursuant to Rules 204.1, 204.3, 204.4 or 204.9.

**204.9 Independence: Insolvency Engagements****DEFINITIONS:**

For purposes of Rule 204.9,

**“the Acts”** means the Companies’ Creditor Arrangement Act, the Bankruptcy and Insolvency Act, the Winding-up and Restructuring Act and relevant provincial or territorial legislation, or any combination of them, as the circumstances may require.

**“agent for a secured creditor”**, **“liquidator”**, **“inspector”**, **“receiver”**, **“receiver-manager”**, **“trustee”**, and **“trustee in bankruptcy”** all have the meanings ascribed to them under the Acts.

**RULE:**

A member or firm who engages or participates in an engagement to act in any aspect of insolvency practice, including as a trustee in bankruptcy, a liquidator, a receiver or a receiver-manager, shall be and remain independent such that the member, firm and members of the firm shall be and shall remain free of any influence, interest or relationship which, in respect of the engagement, impairs the professional judgment or objectivity of the member, firm or member of the firm or which, in the view of a reasonable observer, would impair the professional judgment or objectivity of the member, firm or member of the firm.

**GUIDANCE – Rule 204.9**

- 1 Rule 204.9 deals with objectivity and independence in insolvency practice. This Guidance sets out how, in Council’s opinion, a reasonable observer might be expected to view certain situations related to insolvency practice.
- 2 A firm and a member, or member of the firm, and their respective immediate families, should not acquire directly or indirectly in any manner whatsoever any assets under the administration of the member or firm, provided that any of the foregoing may acquire assets from a retail operation under administration of the member or firm where those assets are available to the general public for sale and that no special treatment or preference over and above that granted to the public is offered to or accepted by the firm, the member or the member of the firm and their respective immediate families.
- 3 A member or firm should avoid being placed in a position of conflict of interest and, in keeping with this principle, should not accept any appointment, unless expressly permitted by the court as a receiver, receiver-manager, agent for a secured creditor, or liquidator, or any other appointment under the Acts, except as an inspector, in respect of any debtor, where the member or firm is, or at any time during the two preceding years was:
  - a director or officer of the debtor;
  - an employer or employee of the debtor or of a director or officer of the debtor;
  - related to the debtor or to any director or officer of the debtor; or
  - the auditor, accountant or legal counsel, or a partner or an employee of the auditor, accountant or legal counsel of the debtor.
- 4 Where a conflict of interest may exist, or may appear to exist, a member or a firm should make full disclosure to, and obtain the consent of, all interested parties and, in keeping with this principle, should not accept any appointment:

- as trustee where the member or firm has already accepted an appointment as receiver, receiver-manager, agent of a secured creditor, liquidator, trustee under a trust indenture issued by the bankrupt corporation or by any corporation related to the bankrupt corporation, or on behalf of any person related to the bankrupt without having first made disclosure of such prior appointment. The member or firm should inform the creditors of the bankrupt of the prior appointment as soon as reasonably possible;
  - as receiver, receiver-manager, agent for a secured creditor or on behalf of any person related to the bankrupt where the member or firm has already accepted an appointment as trustee without first obtaining the permission of the inspectors of the bankrupt estate. Where inspectors have not been appointed at the time that the second appointment is to be taken, the member or firm should obtain the approval of the creditors of the bankrupt of having taken the second appointment as soon as reasonably possible; and if the second appointment is taken before obtaining the approval of the creditors, it should be taken subject to their approval;
  - as receiver, receiver-manager, agent for a secured creditor or trustee in respect of any corporation where the member or firm is, or at any time during the two-year period commencing at the date of the last audit report or the last review engagement report was, the trustee (or related to such trustee) under a trust indenture issued by such corporation or by any corporation related to such corporation without first obtaining the permission of the creditors secured under such trust indenture. Upon the acceptance of any such appointment as trustee, the member or firm should inform the creditors of the bankrupt corporation of the prior appointment as (or relationship to) the trustee under a trust indenture issued by the bankrupt corporation or by any corporation related to the bankrupt corporation as soon as reasonably possible;
  - as receiver, receiver manager, agent for a secured creditor, liquidator of an insolvent company in respect of any corporation where the member or firm is related to an officer or director of such corporation; or
  - as receiver, receiver-manager, agent for a secured creditor, or trustee in respect of any person or corporation where the member or firm is a creditor, or an officer or director of any corporation that is a creditor, of such person or corporation unless the relationship is sufficiently remote that the member or firm can act having independence in fact and appearance.
- 5 For purposes of paragraphs 3 and 4 of this Guidance, persons are related to each other if they are defined as such under the Acts.
- 6 A member or firm engaged in insolvency practice should ensure there are no relationships with retired partners which may be seen to impair the member's or firm's independence. For more information on retired members, refer to the information set out in the Guidance related to the definition of "member of a firm" in the Definitions section of Rule 204.

**204.10 Disclosure of Impaired Independence****RULE:**

*A member or firm engaged in the practice of public accounting or any related business or practice, who provides a service not subject to the requirements of Rules 204.1 to 204.9, shall disclose any activity, interest or relationship which, in respect of the engagement, would be seen by a reasonable observer to impair the member's or firm's independence such that the professional judgment or objectivity of the member, firm or member of the firm would appear to be impaired, and such disclosure shall be made in the member's or firm's written report or other written communication accompanying financial statements or financial or other information and the disclosure shall indicate the nature of the activity or relationship and the nature and extent of the interest.*

**GUIDANCE - Rule 204.10**

- 1** Members and firms who provide a professional service which does not require the member or firm to be independent are required by Rule 204.10 to disclose any influence, interest or relationship which, in respect of the professional service, would be seen by a reasonable observer to impair the member's or firm's independence. Members and firms should refer to Rules 204.1 to 204.9 and the related Guidance when determining whether they must be independent and would appear to be independent with respect to particular engagements.
- 2** Such disclosure is required whether or not any written report or other communication is provided and should indicate the nature of the influence or relationship and the nature and extent of the interest. Any written communication concerning or accompanying financial statements or financial or other information must include such disclosure.
- 3** Independence is not required for compilation engagements. Where the provider of the compilation service may be seen to be lacking independence, the disclosure requirement of Rule 204.10 applies.
- 4** For the purposes of Rule 204.10 the preparation of accounting records or journal entries in connection with a compilation engagement is not an activity that requires disclosure in the Notice to Reader unless such preparation involves complex transactions as contemplated by paragraph 11 of the Guidance to Rule 204.4(22) to 204.4(24).
- 5** Tax return services may require disclosure in respect of some of the information filed with the return. If the return is simply the assembling and reporting of information provided by the taxpayer, then the member or firm involved has simply processed that information and disclosure should not be necessary.
- 6** Members and firms are cautioned that disclosure under Rule 204.10 does not relieve them from their obligation to comply with the CPA Code and in particular Rules 201, 202, 205 and 206.

*204.11 to .19 Reserved for future use*

**204.20 Audits under elections legislation****DEFINITIONS:**

*For purposes of Rule 204.20 and its related Guidance:*

*“the Act” means the Canada Elections Act or the relevant provincial or territorial legislation.*

*“electoral candidate” means a candidate as defined by the Act.*

*“registered agent”, “registered party”, “official agent”, “registered association”, “leadership contestant”, “nomination contestant” and “election period” have the meaning given to them in the Act.*

**RULE:**

*A member or firm who performs an audit under federal, provincial, territorial or other legislation in relation to an electoral candidate, registered agent, registered party, official agent, registered association, leadership contestant, or a nomination contestant shall comply with the provisions of Rules 204.1 and 204.3.*

**GUIDANCE - Rule 204.20****Introduction**

- 1 The Act requires the filing of audited returns by the chief agents of registered parties, the official agents of electoral candidates and, in some cases, the financial agents of registered associations, leadership contestants and nomination contestants. Each return is to be reported on by an auditor who is a member in good standing of a corporation, an association or a body of professional accountants and includes a firm.

**Ineligibility Provision - Statutory**

- 2 The Act lists a number of persons (hereinafter referred to as “ineligible persons”) who cannot act as auditors for a registered party, electoral candidate, registered association, leadership contestant or nomination contestant. These are:
  - an election officer or a member of the staff of a returning officer;
  - an electoral candidate;
  - an official agent of an electoral candidate;
  - a chief agent of a registered party or an eligible party;
  - a registered agent of a registered party;
  - electoral district agents of registered associations;
  - leadership contestants and their leadership campaign agents;
  - nomination contestants and their financial agents; and
  - financial agents of registered third parties.
- 3 The Act prohibits an ineligible person from participating in the audit examination of the records or in the preparation of the audit report of an electoral candidate, a leadership contestant or a nomination contestant (except to respond to the auditor’s request for information). There is no similar restriction placed on the auditor of a registered party or a registered association. An

eligible person may be appointed as auditor for an electoral candidate notwithstanding that the person is a member of a firm that has been appointed as an auditor for a registered party or for an electoral candidate in another electoral district.

### Extension of Ineligibility Provisions

- 4 Without wishing to extend the statutory prohibitions unduly, CPA Ontario considers that there are additional interests or relationships to those spelled out in the Act, which could impair, or appear to impair, an auditor's objectivity. This Guidance, therefore, sets out the profession's views on unacceptable interests or relationships, in respect of audits under the Act, encompassing both those prohibited by the statute and those unacceptable professionally.
- 5 Requirements that are too restrictive, coupled with the widespread involvement of members, as citizens, in the political process, could make it almost impossible for the audit provisions of the Act to be given practical effect. Accordingly, this Guidance seeks to cover only the more obvious interests and relationships which might be considered unacceptable. Too narrow an interpretation could, in view of the many conceivable conflicts of interest, make it almost impossible for members or firms to serve the community's needs.

### Audit of a Candidate

- 6 A member or firm may not be complying with Rule 204.1 if the member or firm were to act as auditor of an electoral candidate as well as being:
  - a paid worker during an election period for any electoral candidate or any registered party;
  - a volunteer worker during an election period for that electoral candidate or the registered party of that electoral candidate where:
    - the member or firm exercises any function of leadership or direction in that electoral candidate's or that party's campaign organization, or
    - the member or firm carried on any significant function involving the raising, spending or custody of that electoral candidate's or that party's campaign funds;or if a member's immediate family member, or another person in the firm is:
  - a returning officer, deputy returning officer, assistant returning officer or election clerk in the electoral district of that electoral candidate or is the electoral candidate, official agent of that electoral candidate or a registered agent of that electoral candidate's registered party;
  - a paid worker during an election period for that electoral candidate or that electoral candidate's registered party;
  - a volunteer worker as described above, during an election period, for that electoral candidate or the registered party of that electoral candidate.
- 7 Where a member is an "ineligible person" in respect of a particular electoral candidate, the application of Rule 204.1 means that the firm of which that member is associated may not act as auditor of that electoral candidate.

As noted in paragraph 3, the ineligible persons described in the Act may not participate in the audit examination of any electoral candidate's return. As an extension of this, a member or firm who could not act as auditor for an electoral candidate because of any of the relationships detailed in paragraph 6 above, should also not participate in the audit examination of a candidate's return.

### Audit of a Registered Party, Registered Association, Leadership Contestant or Nomination Contestant

- 8 In addition to the statutory prohibitions set out in the Act, a member or firm may not be complying with Rule 204.1 if the member or firm were to act as auditor of a registered party, registered association, leadership contestant or nomination contestant and the member, or an immediate family member, or another person in the firm is a paid worker or volunteer worker who exercises any function of leadership or direction or carried on any significant function involving the raising, spending or custody of funds belonging to the party, association or contestant, as the case may be.

### Other considerations

- 9 Generally, members or firms contemplating acting as auditors for registered parties, electoral candidates, associations or contestants should be alert to any circumstances, not described in this Guidance, which may place them in the position of impairment of objectivity or where an appearance of impairment might be presented. This type of question tends to arise, for example, where a donation of cash or of professional services is made. Members, as citizens, have the same responsibility to be involved in the political process as other citizens; such involvement may include financial support of a registered party, candidate association or contestant by a member, the member's immediate family or other persons in the firm. The making of a financial contribution or the donation of professional services does not, of itself, necessarily create an impairment of objectivity, in these particular circumstances.

Members or firms should recognize, however, the need to apply judgment to the question of the amount of any such contribution and must be satisfied that any such contribution does not in fact impair their objectivity or independence.

It is of paramount importance that a member or firm accepting an appointment under the Act makes such acceptance known to all other persons in the firm so as to avoid any conflict arising within the provisions of the Act concerning ineligible persons.

## 205 False or misleading documents and oral representations

### RULE:

*A member or firm shall not*

- (a) *sign or associate with any letter, report, statement, representation or financial statement which the member or firm knows, or should know, is false or misleading, whether or not the signing or association is subject to a disclaimer of responsibility, nor*
- (b) *make or associate with any oral report, statement or representation which the member or firm knows, or should know, is false or misleading.*

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### GUIDANCE – Rule 205

- 1 A member or firm who is not in public practice is subject to Rule 205 just as is the member or firm in public practice. It is recognized that this may place such a member or firm in a difficult position with respect to the organization employing the member or firm or entities engaging the member's or firm's services. However, professional duty prohibits a member or firm from being associated with financial statements or other information, whether written or oral, which the member or firm knows, or should know, to be false or misleading.
- 2 When a member or firm finds it necessary to become disassociated from false or misleading information, it would be prudent for the member or firm to consider obtaining legal advice.
- 3 Members are reminded that plagiarism and other forms of academic dishonesty are examples of association with false or misleading representations.

## 206 Compliance with professional standards

### RULES:

- 206.1** *A member or firm shall perform professional services in accordance with generally accepted standards of practice of the profession.*
- 206.2** *A member who, as a member of an entity's audit committee or board of directors or their equivalent, is required to participate in the review or approval, by such committee or board, of the entity's financial statements prepared in accordance with an appropriate financial reporting framework, shall carry out that responsibility with the care and diligence that a competent member would exercise in fulfilling that role.*

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### GUIDANCE – Rule 206

#### Appropriate Financial Reporting Frameworks

- 1 Compliance with Rule 206 necessarily involves the exercise of professional judgment in determining the application of an appropriate financial reporting framework to financial statements. In this regard, the member or firm should refer to the *CPA Canada Handbook – Accounting* or *CPA Canada Public Sector Handbook* (both referred to as “the Handbook”), and to the best of the member or firm’s knowledge and ability, having exercised reasonable due diligence, should ensure that the framework is applied in consideration of the spirit and intent of the applicable financial reporting framework. Other sources of accounting practices, such as recent pronouncements of other standard setting bodies that use a conceptual framework similar to the Handbook, other accounting literature and accepted industry practices, may be considered provided that they do not conflict with the Handbook or the key concepts underlying the conceptual framework of the Handbook and are appropriate in the circumstances.
- 2 Where a specific issue is not addressed by the Handbook, the member or firm should conduct such research and consult such authoritative sources and experts as are necessary in the circumstances to ensure that the presentation is consistent with the relevant conceptual framework of the Handbook. When exercising professional judgment in such situations, members and firms are reminded that no practice should be adopted solely on the basis of its use generally or within a particular industry. Further, the existence of unreasonable interpretations of a source does not constitute evidence that a practice is consistent with the conceptual framework or other sources of accounting standards. No practice should be adopted if it is likely that most parties, exercising professional judgment, would reject the practice because it would result in a conclusion that the financial statements are misleading.
- 3 Members and firms should document the results of research undertaken and any other considerations influencing the choice or acceptance of accounting practices or policies and application of an appropriate financial reporting framework.

#### Practice of Public Accounting

- 4 Members or firms engaged in the practice of public accounting should foster an environment within their firms that encourages the discussion and understanding of the application of financial reporting frameworks and other standards of practice of the profession and provides for a process to deal with professional dissent. Members and firms should encourage others within the firm who disagree with the application of those frameworks and standards in a particular situation to communicate that disagreement to an individual in the firm designated for that purpose.

- 5 A member who participates in an engagement to provide assurance on the financial statements of an entity and who believes the financial statements of the entity contain a misstatement should communicate that belief to the person responsible for the assurance engagement. If, after consultation, the member continues to believe that the financial statements contain a misstatement, the member should communicate that belief to one of the firm's senior partners. Where possible, the communication should be dated and issued prior to the issuance of the financial statements and should be retained by the member and firm for a reasonable period of time.
- 6 Before communicating with one of the firm's senior partners, the member referred to in Paragraph 5, should consider:
- (a) whether the concern results in a material misstatement of the financial statements;
  - (b) whether the member possesses sufficient expertise and knowledge of the circumstances; and
  - (c) whether the member should first discuss the matter with another person in the firm.
- 7 A member who is responsible for issuing an assurance report on an entity's financial statements and who believes that the financial statements prepared by the entity's management contain a misstatement should refer to the guidance contained in the *CPA Canada Handbook - Assurance* and:
- take those steps that are necessary to ensure that the financial statements are not misleading; or
  - issue a report with an appropriate reservation; or
  - resign from the engagement in accordance with appropriate statutory requirements.

### Preparation of Financial Statements

- 8 It is management's responsibility to ensure that an entity's financial statements are presented fairly in accordance with an appropriate financial reporting framework. A member who has the final responsibility for determining management's application of a financial reporting framework to the entity's financial statements must take reasonable and effective steps to ensure that the entity follows an appropriate financial reporting framework. In doing so, the member may obtain advice and counsel from others.
- 9 Members often have responsibility for or oversight of the application of an appropriate financial reporting framework to the preparation of an entity's financial statements. In some cases, a member's responsibility or oversight may be limited to a component of the financial statements, in which case Rule 206.1 applies to that member in respect of a financial reporting framework applicable to that component of the financial statements as well as to the member who has final responsibility for determining management's application of a financial reporting framework to the financial statements of an entity, taken as a whole. The member who has the final responsibility for determining management's application of a financial reporting framework to the financial statements of an entity is responsible for the application of the financial reporting framework in respect of each component of the financial statements and cannot claim undue reliance on the opinion of the member having responsibility for or oversight of a particular component of the financial statements.
- 10 A member who has participated in management's application of a financial reporting framework to all or a portion of the financial statements and who believes the financial statements of the entity have been misstated should communicate that belief to the person

who has final responsibility for determining management's application of the financial reporting framework. If, after consultation, the member continues to believe the presentation is not appropriate, the member should communicate that belief to the entity's audit committee or, where there is no audit committee, the board of directors. Where possible, the communication should be dated and issued prior to the approval of the financial statements by the audit committee or the board, as the case may be.

The member should also communicate that belief to the person responsible for providing assurance on the financial statements. Before communicating with the entity's assurance provider, the member should consider obtaining legal advice.

- 11** Before communicating with the audit committee, board of directors or the entity's assurance provider, the member referred to in Paragraph 10 should consider matters including:
- (a) whether the concern results in a material misstatement of the financial statements;
  - (b) whether the member possesses sufficient expertise or knowledge of the circumstances; and
  - (c) whether the member should first discuss the matter with a more senior employee of the entity.
- 12** A member may prepare or approve financial statements that are not, and are not intended to be, presented in accordance with an appropriate financial reporting framework. Rule 206.1 does not apply when a member prepares or approves financial statements, which are
- (i) prepared solely for internal use within the entity; or
  - (ii) prepared for specified users under the terms and according to the accounting principles agreed to by the preparer and the specified users.

Such financial statements are not general-purpose financial statements.

### Provision of other professional services

- 13** Members or firms providing professional services that do not involve public accounting services or the preparation of financial statements should take reasonable steps to determine whether the professional services that they provide are governed by other professional standards. When such standards exist, the member or firm should become familiar with them, determine their appropriateness to particular engagements and apply them accordingly. For example, other professional services that may be governed by other professional standards include, but are not limited to, business valuation, insolvency, financial planning and investigative and forensic accounting services.

### Service on audit committees and boards of directors

- 14** A member who sits on an entity's audit committee or board of directors is expected to use the professional skills and knowledge that a competent member would possess in fulfilling the member's responsibilities on such committee or board. Competency in the Chartered Professional Accountancy profession is not static and cannot be defined without regard to time and context. Whether a member is competent is necessarily a question of fact at a point in time. Competency does not require a member who sits on an audit committee or board of directors to be an expert in financial accounting, auditing or reporting matters; nor does it require the member to act as a professional advisor to the audit committee or board. However, as noted below, it does require the member to identify and raise the issues that should be discussed by the audit committee or board of directors.

A member who sits on an audit committee or board of directors should encourage the audit committee or board of directors to have substantive discussions with management and with the entity's assurance provider. The *CPA Canada Handbook - Assurance* provides useful guidance on the role that members of the audit committee or board members can play in the oversight of an entity's financial reporting process.

Matters that members who sit on an audit committee or board or directors should discuss with management and the assurance provider are the issues that a competent member would raise, which include, but are not limited to:

- the issues involved, and related judgments made by management, in selecting accounting policies and formulating significant accounting estimates and disclosures;
- any disagreement within management or between management and the assurance provider with respect to the application of an appropriate financial reporting framework and the resolution thereof;
- the assurance provider's conclusions regarding the reasonableness of the estimates made by management and the bases therefor; and
- the independence of the assurance provider.

In addition to the above, a member who sits on an entity's audit committee or board of directors should take reasonable steps to ensure the audit committee or board of directors discusses with management the overall performance of the assurance provider.

Members who are directors of entities should be familiar with the applicable requirements of regulatory bodies and other authoritative pronouncements on corporate governance matters.

### All members and firms

15 Members and firms are reminded of their obligations under the CPA Code:

- to bring to the attention of CPA Ontario any information concerning an apparent breach of the CPA Code or any information raising doubt as to the competence, capacity to practise or integrity of another member (Rule 211.1);
- not to sign or associate with any financial statement that the member or firm knows, or should know, is false or misleading (Rule 205); and
- to report to CPA Ontario those matters that are required to be reported by Rules 101.2 and 102.

## 207 Unauthorized benefits

### RULE:

*A member or firm shall not, without consent, in connection with any transaction, involving a client or an employer, hold, receive, bargain for, become entitled to or acquire, directly or indirectly, any fee, remuneration or benefit for personal advantage or for the advantage of a third party without the consent of the client or employer, as the case may be.*

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### GUIDANCE - Rule 207

- 1 Members are reminded that the term “employer” is defined to include, among other things, an individual or organization that obtains professional services from a member on a voluntary basis. Accordingly, members providing professional services, with or without remuneration, are also governed by Rule 207, for example when serving an organization such as a not-for-profit or charitable organization.

## 208 Confidentiality of information

### RULES:

**208.1** *A member or firm shall not disclose any confidential information concerning the affairs of any client, former client, employer or former employer except when:*

- (a) *properly acting in the course of carrying out professional duties;*
- (b) *such information should properly be disclosed for purposes of Rules 101, 211 or 302;*
- (c) *such information is required to be disclosed by order of lawful authority or, in the proper exercise of its duties, by CPA Ontario;*
- (d) *justified in order to defend the member, firm or any associates or employees of the member or firm, against any lawsuit or other legal proceeding or against alleged professional misconduct or in any legal proceeding for recovery of unpaid professional fees and disbursements, but only to the extent necessary for such purpose; or*
- (e) *the client, former client, employer or former employer, as the case may be, has provided consent to such disclosure.*

**208.2** *A member or firm shall not use confidential information of any client, former client, employer or former employer, as the case may be, obtained in the course of professional work for such client or employer:*

- (a) *for the advantage of the member or firm,*
- (b) *for the advantage of a third party; or*
- (c) *to the disadvantage of such client or employer*

*without the consent of the client, former client, employer or former employer.*

**208.3** *A member or firm shall:*

- (a) *take appropriate measures to maintain and protect confidential information of any client, former client, employer or former employer, as the case may be and to ensure that access to such information by another person is limited to those with legitimate purpose to access the information; and*
- (b) *obtain the written agreement of any such person to carefully and faithfully preserve the confidentiality of any such information and not to make use of such information other than as shall be required in the performance of appropriate professional services.*

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### GUIDANCE – Rule 208

- 1 The duty to keep a client's or employer's affairs confidential should not be confused with the legal concept of privilege. The duty of confidentiality precludes the disclosure of a client's or employer's affairs without the knowledge and consent of the client or employer. The duty of confidentiality to clients or employers and former clients or employers does not expire with time. As confidential information becomes dated, the duty may be of less practical concern to a client or employer, but the duty continues.

The duty of confidentiality also includes establishing, maintaining and upholding appropriate policies and processes to protect confidential information. Such policies and processes include limiting access to the information and implementing appropriate measures to address a situation when the duty of confidentiality has been breached.

- 2 The duty of confidentiality does not excuse a member or firm from complying with a legal requirement to disclose the information. However, the courts have held that a member or firm faced with a subpoena or other request to disclose information should be aware of the member's obligation to bring to the attention of the court or other authority the member's or firm's duty of confidentiality to the client or employer. If there is doubt as to the legitimacy or scope of a claim for disclosure, legal advice should be sought. Ultimately, in a dispute, a court will determine, based on the facts, whether the confidentiality of the information should be maintained.
- 3 A member or firm will not be in contravention of any provision governing confidentiality by reason of obtaining legal advice with respect to the duty of confidentiality, nor will discussing a possible claim in confidence with an insurer constitute a breach of the duty of confidentiality .
- 4 One of the underlying issues when dealing with conflicts of interest is controlling the degree to which persons in an organization share client confidential information. (See also Rule 210.) Rule 208 prohibits the improper use of confidential information, but does not restrain its disclosure within an organization. Members or firms may find they are in a position of conflict of interest due to the general legal presumption that the knowledge of one person in an organization is shared with or attributed to others in the organization.

This legal presumption that knowledge is shared within an organization may be rebutted if the firm can demonstrate that effective institutional mechanisms are in place to limit the sharing of confidential information within the organization.

This basis of sharing information within an organization recognizes that different persons in an organization have different needs for information in order to properly fulfil their responsibilities. For example:

- an assurance provider must have information on all aspects of a client's affairs that might affect the assurance provider's opinion on the financial statements;
  - a tax practitioner, in the course of preparing or reviewing an income tax return, must have information on all aspects of a client's affairs that might affect the income tax return;
  - a person who is employed in the internal audit area of an organization may need to obtain confidential information from a member who is employed in the financial reporting area;
  - a forensic accountant undertaking an investigation of a client's affairs might only require information relating to the subject of the inquiry;
  - it may be appropriate for a member who is providing a professional opinion or other advice on a matter to seek the advice of another person in the organization; or
  - a compliance officer or person in a similar position may need access to confidential information held by a member, for example, within a financial institution or an organization providing financial planning services.
- 5 Where appropriate, members and firms should also inform clients and potential clients that the use of mechanisms to safeguard their confidential information means that a member or firm serving a particular client may not be aware of information that is confidential to another client, which would assist the member's or firm's client and advance that client's interest.

- 6** Members and firms are reminded that the use of electronic communications and storage media may require the use of additional precautions to protect confidential information, such as password, firewall and back up protection. In addition the use of “cloud” or other off-shore computing and storage may increase security requirements as well as concerns related to access to information that is provided by anti-terrorism legislation in some jurisdictions. Members and firms should be particularly aware of these concerns as well as applicable privacy legislation. It may be prudent to provide appropriate disclosure of information related to storage and security policies to clients and other affected parties.

## 209 Borrowing from Clients

### DEFINITIONS:

For the purposes of Rules 209.1(b) and the related Guidance:

**“family”** means any of the following persons

- (a) a spouse (or equivalent); or
- (b) a parent (or equivalent), child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin who is related to the member or the member’s spouse (or equivalent).

### RULES:

**209.1** A member or firm shall not, directly or indirectly, borrow from or obtain a loan guarantee from a client unless either;

- (a) the loan or guarantee has been made under normal commercial terms and conditions, and;
  - (i) the client is a bank or similar financial institution whose business includes lending money to the public; or
  - (ii) the client is a person or entity, a significant portion of whose business is the private lending of money;
- or
- (b)
  - (i) in the case of a member, the client is a family member or an entity over which a family member exercises significant influence; or
  - (ii) in the case of a firm, the client is a family member of a partner or shareholder of the firm or an entity over which a family member of a partner or shareholder of the firm exercises significant influence.

**209.2** Rule 209.1 does not apply to:

- (a) the financing of a bona fide business venture between a member or firm and a client that is not an assurance client;
- (b) amounts received from a client as a retainer or as a deposit on account of future services to be provided by the member or firm; or
- (c) a loan received from a member’s employer.

**209.3** For purposes of Rule 209.1, a client includes a person or entity who has, within the previous two years, engaged the member or firm to provide a professional service and who relies on membership in or registration with CPA Ontario as giving the member or firm particular competence to provide that professional service.

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### GUIDANCE - Rule 209

- 1 It is a fundamental principle of the profession that members and firms provide professional services to their clients that are free of prejudice, conflict of interest or undue influence that

may impair sound professional judgment. When a member or firm borrows money from a client, there is an inherent conflict between the interests of the member or firm and those of the client. Accordingly, members and firms who enter into the types of financing or borrowing arrangements that are allowed under Rule 209.1 or 209.2 are cautioned that they must comply with all of the other provisions of the CPA Code including, but not limited to:

- 201 - Maintenance of the good reputation of the profession;
  - 202 - Integrity and due care and Objectivity;
  - 204 - Independence;
  - 208 - Confidentiality of information; and
  - 210 - Conflicts of interest
- 2 When a member borrows money from or has a loan guaranteed by a client who is a family member or an entity over which a family member exercises significant influence, the member should consider setting out the terms and conditions of the loan or guarantee in writing. Before the loan or guarantee is made, the member should also consider advising the client to obtain independent advice with respect to the matter. Similar considerations should apply when a firm borrows money from or has a loan guaranteed by a family member of a partner or shareholder of the firm or an entity over which a family member of a partner or shareholder of the firm exercises significant influence.
- 3 Rule 209.1 applies only to new borrowings or guarantees or amendments to the terms of existing borrowings or guarantees that occur after the lender becomes a client. When an existing lender or guarantor becomes a client, the member or firm should be mindful of the need to provide services with due care and an objective state of mind and, accordingly, should consider whether the loan should be repaid or the guarantee released.

## 210 Conflicts of Interest

### DEFINITIONS:

For purposes of Rule 210 and the related Guidance:

**“affected party”** is a party who is or may be affected by a conflict of interest as contemplated by Rule 210.2.

**“client”** includes any person or entity for whom the member or firm, or any other person engaged in the practice of public accounting or a related business or practice in association with the member or firm, provides or is engaged to provide a professional service.

### RULES:

- 210.1** A member or firm shall determine, in relation to a particular matter, and before agreeing to undertake or continuing to provide any professional service, whether a conflict of interest may exist as contemplated by Rule 210.2.
- 210.2**
- (a) Subject to the provisions of Rule 210.3, a member or firm shall not undertake or continue to provide any professional service to any client or employer in circumstances where there is a conflict of interest between:
    - (i) the interest of the member or firm and that of the client or employer;
    - (ii) the interests of two or more clients or employers; or
    - (iii) the interests of the client or employer and those of a third party, where the interest of the third party and the member or firm are aligned.
  - (b) Subject to the provisions of Rule 210.3, a member or firm shall not undertake or continue to provide any professional service to any client or employer in circumstances where an interest described in paragraph (a) relating to a former client or former employer creates a conflict of interest in respect of any such proposed or current professional service.
- 210.3** Where the agreement to provide any professional service would result in a conflict of interest under Rule 210.2 or where a previously unidentified conflict of interest under Rule 210.2 arises or is discovered in the course of providing any professional service, the member or firm must decline to provide the professional service or withdraw from providing all of the affected professional services unless:
- (a)
    - (i) the member or firm is able to rely upon conflict management techniques that are generally accepted and the use of such techniques will not breach the terms of any agreement to provide professional services or any duty to another client, employer or third party;
    - (ii) the member or firm informs each affected party of the existence of the conflict of interest and the techniques that will be used to manage it; and
    - (iii) the member or firm obtains the consent of each affected party to accept or continue the professional services engagement or engagements; or
  - (b) the affected parties have knowledge of the conflict of interest and their agreement for the member or firm to accept or continue the professional services engagement is implied by their conduct, in keeping with commonly accepted practice.

- 210.4** *Where a member or firm has determined, in accordance with Rule 210.3, that a professional service in respect of which a conflict of interest exists may be undertaken, the member or firm shall document:*
- (a) *in the case of a conflict of interest in relation to which consent is not implied by the affected parties' conduct in keeping with commonly accepted practice:*
    - (i) *the nature of the conflict of interest that has been identified;*
    - (ii) *the conflict management technique that has been used to manage the conflict of interest;*
    - (iii) *the rationale for the choice of the technique and its effectiveness; and*
    - (iv) *the disclosure that has been made, as necessary, to each of the affected parties; or*
  - (b) *in the case of a conflict of interest in relation to which consent is implied by the affected parties' conduct in keeping with commonly accepted practice, the basis on which the member or firm has concluded that:*
    - (i) *the affected parties have knowledge of the conflict of interest; and*
    - (ii) *their agreement for the member or firm to accept or continue the professional services engagement has been implied.*

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## GUIDANCE - Rule 210

### A Glossary of terms

- 1 The following terms to which this Guidance refers are described here in relation to their use as available means of managing conflicts of interest:

“above the wall”

“Above the wall” is a term used to describe one or more partners or other senior members of a firm or other organization who have access to information about engagements undertaken by the firm or organization and can therefore see both sides of a conflict of interest. These individuals need to be particularly careful to avoid any improper use or dissemination of confidential information to parties on either side of the wall. Partners or other persons in the firm or organization who are “above the wall” will be precluded from participating in the provision of professional services about which they have information received in their positions above the wall.

“fire wall”

A “fire wall” (sometimes referred to as a “Chinese wall” or “ethics wall”) is a conflict management technique maintained in a firm or other organization to restrict the flow of confidential information within the firm or organization only to those who require it in order to fulfill the terms of an engagement. A fire wall is intended to ensure that confidential information is not improperly communicated, inadvertently or otherwise, to others within the firm or organization.

“cone of silence”

A “cone of silence” is an arrangement achieved by means of an undertaking by an affected person not to disclose confidential information relating to a specific party or the provision of a specific professional service to any party. In some circumstances, a cone of silence is achieved implicitly by special conduct of the person. In such circumstances, there should be observable evidence that the cone of silence is effective. Cones of silence may be used to demonstrate foresight of the need to maintain the confidentiality of information about any party and thereby assist in the management of conflicts of interest arising in various professional service areas of a firm or other organization.

“conflict management techniques”

“Conflict management techniques” is used in a general sense to describe effective measures that are formally undertaken by a firm or other organization to manage conflicts of interest and to restrict the flow of confidential information from one person in a firm or organization to another. Such measures may include internal training, internal barriers such as fire walls, cones of silence, restricted access to files, physical separation of personnel or departments and formal firm or organization policies and procedures.

“need to know basis”

The “need to know basis” refers to a policy of restricting the flow of confidential information inside a firm or other organization to those persons who properly require the information to pursue the interest of a party.

## **B Identifying conflicts of interest**

- 2** Members and firms are required to determine whether there exist conflicts of interest as between themselves and the parties to whom they provide or propose to provide professional services, or between the duties and obligations owed to one party and the duties and obligations owed to another party. Where such a conflict of interest is found to exist, the member or firm must decline to provide, or withdraw from providing the professional service, unless the conflict of interest can be managed and consent has been obtained or the agreement of the affected party to proceed or continue to provide the professional services is implied by the conduct of the affected party.

Members and firms are reminded that a conflict of interest may be created by a relationship with, or a professional service that was provided to, a former client or former employer. Rule 210.2(b) precludes the provision of professional services where such a conflict of interest exists. The rule is not intended to preclude members or firms from accepting employment with a competitor employer or providing services to a competitor client. However, members and firms are reminded that:

- each situation requires the exercise of professional judgment to determine whether a conflict of interest exists and to comply with Rule 210 as necessary; and
- Rule 208 prohibits the sharing of confidential information.

- 3** When faced with a possible conflict of interest, members and firms should also refer to Rule 206 which requires compliance with generally accepted standards of practice of the profession and Rule 207 which prohibits members or firms from obtaining unauthorized benefits.

Conflicts of interest in employment situations

- 4** Conflicts of interest in an employment situation may arise when;

- a member provides a professional service in relation to a particular matter for two or more parties whose interests with respect to that matter are in conflict;
- the interests of the member with respect to a particular matter and the interests of a party to whom the member provides professional services related to the same matter are in conflict; or
- the member has a financial interest, including one arising from a compensation or incentive arrangement, or knows of a financial interest held by a close or immediate family member, and the member has the opportunity to manipulate information for financial gain.

Examples of such situations include:

- serving in a management or governance position for two employers and acquiring confidential information from one employer that could be used by the member to the advantage or disadvantage of the other employer;
- providing a professional service to 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 employer when an immediate family member of the member could benefit financially from the transaction;
- serving in a governance capacity for an employer 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; or
- eligibility of a member for a profit-related bonus when the value of the bonus could be affected by decisions made by the member.

Conflicts of interest in a public accounting or related business or practice

- 5 Conflicts of interest in a public accounting or related business or practice generally arise in three broad types of circumstance described as follows.

Independence Issues

As provided in Rule 204, the provision of assurance and insolvency services must be objective, both in fact and appearance. In considering conflicts of interest with respect to an assurance or insolvency engagement, members and firms should refer to Rule 204.

Protecting confidential information

As provided in Rule 208, members and firms must protect confidential information. The only exceptions to this obligation are set out in the Rule itself.

Pursuit of clients' interests

Members and firms have an obligation to all of their clients to provide professional services with integrity and due care. Since members or firms may have a number of clients, they may encounter conflicting client interests when fulfilling their obligations to each client. While a member or firm may be able to provide services to clients whose interests conflict, the extent of obligations to each client must be considered and professional judgment exercised to determine whether any particular conflict of interest must be avoided, or whether consent must be obtained or the situation reflects commonly accepted practice where the agreement of the client to act is implied by the client's conduct. The member or firm must also consider whether the conflict of interest can be managed appropriately.

## C Commonly accepted practice

- 6 The following situations involve implied agreement and reflect commonly accepted practice:

“The firm is acting as auditor for several clients who happen to compete in the same industry. They have hired us for our experience with their industry, and respect our reputation for protecting confidential information.”

It is reasonable for members or firms to conclude that affected parties with knowledge of the circumstances who do not object to a conflict of interest at the outset of an engagement have accepted the conflict of interest.

“I am doing an audit for Company XYZ and they have asked me to do some consulting as well. As an assurance provider, my duty is to report to the shareholders. As a consultant engaged by management, my duty is to the corporation.”

Members and firms must be aware of the implications to their objectivity and independence when providing consulting services to an assurance client and should refer to Rule 204 in relation to such situations.

## D Management of conflicts of interest

- 7 There will be instances where a conflict of interest will arise that can be appropriately managed provided the circumstances are clear to all parties and there is consent on the part of all parties to proceed.

- The following conflict of interest situations may or may not be acceptable to the public:

“I would like to call upon an expert within my organization or firm to assist on a particular matter for one of my clients. This expert is already committed to another client.”

Whether this situation creates a conflict of interest depends on many factors, including the number of experts in the firm.

“My organization or firm has two separate clients who have asked it to take on a merger and acquisition assignment—however, each client is focused on acquiring the same target company.”

Whether this situation creates a conflict of interest depends on the ability to use distinct teams on each engagement and the effectiveness of procedures put in place to safeguard confidential information.

“I have been asked to pursue a strategic marketing study for one of my clients—however, the firm is already undertaking a similar marketing study for another client in the same market.”

Whether this final example is a conflict of interest that can be managed will depend on the ability of the firm to use appropriate conflict management techniques on the two engagements.

- There is a rebuttable presumption that the following conflict of interest situations are unacceptable and, if the presumption is not rebutted, must be avoided:

“I have been asked by the husband and 50% shareholder of a client, Company X, for assistance in purchasing the shares of the other 50% shareholder (his wife) in settling the distribution of assets in a divorce settlement.”

“I have been asked to complete a merger and acquisition assignment for my client but the takeover target is already a client (or former client) of my organization or firm.”

“The firm is conducting a job search engagement for a client. I have found an excellent candidate to fill the position—only this candidate is currently employed by one of our firm’s clients.”

## **E Conflicts of interest encountered by type of professional service area**

**8** Conflicts of interest may arise or change during the course of providing a professional service. This is particularly true when a member or firm is asked to provide any professional service in a situation that is potentially adversarial, even though the parties who engage the member or firm may be in accord initially. Therefore, members or firms must consider the possible existence and management of conflicts of interest throughout the course of providing any professional service.

### **9 Consulting services**

- A member or firm may provide professional services in a variety of engagements such that there are conflicts of interest which may be acceptable in one type of engagement but which are unacceptable in another. Since consulting engagements usually have clearly stated objectives and a defined life span, the issue of possible conflicts of interest is often dealt with in the terms of the engagement (i.e., the extent of the member’s or firm’s obligations are agreed to by contract).
- Consulting engagements may be generally regarded in three categories for the purpose of considering the issue of conflict of interest, as follows:
  - Process and design consulting engagements, which generally involve the provision of specialized knowledge to assist a party to achieve an objective that the party has chosen. It is usual for a consultant to provide such assistance to a wide range of parties, some of whom may have competing interests. Often, the consultant is selected for specialized expertise. The parties recognize that, in the future, the consultant is likely to make that expertise available to others, having built on experience gained along the way. If a specific conflict of interest arises later, it would be prudent to communicate with the affected parties and obtain consent as necessary.
  - Strategic consulting often involves a consultant assisting a party in the selection of optimum business strategies. Strategic consulting is likely to involve the most highly sensitive and confidential business information. Consultants providing these types of services typically recognize this sensitivity and do not work for parties who are in direct competition. It is, however, recognized that the business strategies selected often become publicly known within a short time frame. It is also recognized that the experience that is gained and the research and information that is gathered in relation to one such consulting assignment develops skill and proficiency on the part of a consultant that is relevant to another such assignment. Therefore it is possible that, after a suitable time, a consultant may undertake work for a direct competitor of a party to whom consulting services have been provided previously. However, whether such a situation is acceptable is a matter which should be expressly addressed in the consulting engagement contract.
  - Search consulting involves assisting a party to locate information or resources that are necessary for the party to attain an objective. Since the information or resource is likely to exist within another commercial enterprise, the opportunity for a conflict of interest to arise is particularly great. For this reason, it is customary for the

consultant to disclose at the outset the nature and extent of any limitations on the scope of the search.

Members and firms are reminded that the provision of search consulting services for audit or review clients is limited by Rule 204.4(32).

## 10 Taxation services

- A member or firm providing professional tax services in the form of tax assistance and advice is likely to provide such services to a wide variety of parties who are entitled to expect their affairs to be kept confidential. Such a member or firm is expected to provide each party with the benefit of all of his or her professional knowledge, except as outlined in the next paragraph.
- Such a member or firm is not expected to provide every client with the benefit of all of his or her professional knowledge when the member or firm and one client agree, preferably in writing, that particular knowledge that the member or firm possesses may not be disclosed to third parties because it is proprietary to the first client. The member or firm should make other clients aware that this restriction might exist from time to time.
- A member or firm may be asked to provide tax-planning advice to two parties who will use that advice to pursue an objective that only one of them can achieve. Since both of the parties are in pursuit of the same objective, there is an initial presumption that in such a situation, only the first request to act in the matter can be accepted. It may, however, be possible for different persons within the firm or organization to act for each party through the use of effective conflict management techniques, thus rebutting the initial presumption that both parties cannot be served.
- A member providing professional tax services as part of a firm or other organization may obtain only the information that relates to his or her specific professional services engagement. In such a case, provided that it is possible to satisfy the onus of demonstrating that the firm's or organization's knowledge of a particular party is not automatically shared, it is reasonable to believe that the member will not possess all of the firm's or organization's knowledge of that party .

## 11 Merger/Acquisition services

- Due to the nature of the work provided in relation to mergers and acquisitions, it is recognized that providing such professional services to one party may run contrary to the interest of another affected party to whom services are provided by the firm or organization. It would be prudent to disclose and address this possibility within an engagement letter or the terms of the contract.
- A member or firm involved in mergers and acquisitions is expected to use a variety of conflict management tools to provide the greatest possible assurance that confidentiality of the work will be maintained unless otherwise agreed with the affected party. Such a firm or organization will be expected to regularly employ fire walls and to impose cones of silence on those who are consulted in the work. Where consultations beyond the firm or organization are required, the use of confidentiality agreements will be necessary.
- When a firm or organization discloses the possibility of conflicts of interest in an engagement letter and uses conflict management techniques such as fire walls, it should be recognized that if their use is challenged in a court of law, the firm or organization will be required to demonstrate that its conflict management techniques are effective.
- When one or more of the firm's or organization's merger and acquisition practitioners are working for parties pursuing approximately the same objective within approximately the same time frame, the firm or organization, with the permission of each affected

party, is expected to obtain the consent of all such parties. If such consent cannot be obtained from all affected parties, the firm or organization should resign from all affected engagements .

## 12 Valuation services

- A member providing valuation services may or may not be a chartered business valuator (CBV). Members or firms providing valuation services recognize the need to avoid conflicts of interest by not acting for two or more parties whose interests may conflict, except after adequate disclosure to and with the consent of all parties.
- Members or firms providing valuation services must take care not to create a conflict of interest by agreeing to provide any professional service that will put them in a position of advocacy against another party to whom they are providing or have provided professional services when the member or firm has confidential information of that party. For example, such a member or firm should not agree to provide any professional service in relation to one shareholder group of a company that is being broken up (butterfly transaction) where the member or firm has previously provided professional services to all shareholders of the company. Similar considerations also exist where the parties are a married couple who are divorcing.

## 13 Assurance services

- A member or firm may be asked to provide assurance services for two or more clients who have competing commercial interests. The assurance provider is required to deal with the conflict of interest by obtaining the consent of each client unless there is implied agreement on the part of all clients for the member or firm to act. In either case, the member or firm is required to use procedures to protect confidential information.
- A member or firm may possess confidential information obtained from one assurance client that is important to the fulfilment of the assurance engagement of a second client. For example, a member or firm may learn during the course of an assurance engagement that the assurance client is in serious financial difficulty. If the member or firm also undertakes an assurance engagement for a major supplier of the assurance client, the member or firm will possess confidential information that could result in a material change to the financial statements of the supplier-client. The member or firm may not rely on this confidential information to complete the engagement for the supplier-client. If the supplier-client is unaware of the information relating to the first client, the member or firm has a conflict of interest that must be resolved.
- A member or firm may possess confidential information gained in the course of an assurance engagement that would be useful in the provision of other professional services by the member or firm. Despite this, such confidential information obtained in the course of the assurance engagement must be protected from disclosure or use for other purposes unless prior permission is obtained from the client.
- An assurance provider has the right to obtain the information that is required in order to carry out the assurance engagement. For this reason, the assurance provider is expected to have all knowledge concerning the client that the firm possesses that is relevant to the assurance engagement. Clients are expected to give assurance partners the information directly but may authorize assurance partners to seek out the information from others within the firm. Information protected by legal privilege would be dealt with by following the protocol for enquiries established by the lawyers involved. The refusal of a client to permit the assurance provider to obtain information that is necessary to carry out the engagement may create a scope limitation that must be addressed in the assurance provider's report.

- A member or firm engaged to provide an assurance report to the shareholders on a set of financial statements might be asked by one shareholder for confidential information from the audit working papers to be used by that shareholder in a dispute with another shareholder. Since the assurance provider's duty is to the shareholders as a group and not to individual shareholders, such a request would present a conflict of interest as well as a breach of confidentiality.
- Members and firms should refer to Rule 204 for assistance regarding conflicts of interest that may affect independence and objectivity with respect to an assurance engagement.

#### 14 Services to employers

- A member who is employed by an organization may face situations that give rise to conflicts of interest, as outlined in paragraph 4 of this Guidance. For example, a member may be asked to prepare financial information for certain members of management of an organization employing the member who are seeking to undertake a management buyout. In such a situation, the member may be able to manage the conflict of interest by obtaining consent of all of the parties, taking steps to ensure that information is shared appropriately and fairly with all parties, providing information and not advice and advising all parties to obtain independent advice. If the member is one of the parties participating in such a buyout, the member should be particularly aware that confidential information cannot be used for personal advantage.

#### 15 Serving with a not for profit organization

- A member who serves with a not for profit organization may also face situations that give rise to conflicts of interest. For example, the member may be asked to assist in selection of a supplier to the organization, such as a software supplier, because of expertise in that area. When the member has a personal connection or relationship with a potential supplier, the member may be able to manage the conflict of interest by disclosing that information, showing no preferential treatment for that supplier and refraining from involvement in the final selection decision.

#### 16 Forensic accounting & litigation support services

- A member or firm providing forensic accounting and litigation support services may engage in a number of different types of activity that will involve different expectations from a party to whom such a service is provided. The most common different circumstances are finder of fact (including fraud investigations, breach of law investigations), quantification of losses and expert accounting and auditing testimony (including where a member or firm employs other experts such as actuaries, engineers, and economists).
- In almost all circumstances, there is the real possibility that an engagement will become part of a dispute. There is, therefore, the expectation that the member or firm will respect the obligation to such parties to not act against them. This expectation may be modified in circumstances where the party contracted with the member or firm for a narrow and unrelated purpose (such as a productivity improvement consulting assignment or an employee search assignment), but the member or firm will only be able to rebut the presumption if it is clear the information received from the affected party is not relevant to the matter in dispute.
- In the case where a professional service is currently being provided to more than one party, such services may be provided with the consent of both parties. The use of tools such as consent, cones of silence and fire walls will assist the member or firm to demonstrate that confidential information will be protected.

- It would ordinarily be appropriate for a member or firm to act as a finder of fact for parties on the opposing sides of a conflict where both parties agree to use the fact finding report as an agreed statement of fact within the legal process.

## 17 Actuarial services

A member providing actuarial services may be a member of the Canadian Institute of Actuaries. Conflicts of interest should be less likely in actuarial assignments. However, when actuaries become involved in areas such as merger and acquisitions where conflicts of interest frequently do arise, they are expected to conduct themselves as other members working in those areas.

## 18 Insolvency services

A member providing insolvency and corporate recovery services may be a licensed trustee and a member of the Canadian Association of Insolvency and Restructuring Professionals. Since much of this work is carried out under the auspices of the court or other authorities, there are other requirements that deal with potential conflicts in the various roles in which a member may serve. Although these requirements prevent members from serving roles for different classes of creditor, they do permit the grouping of creditors of a single class into one pool, even though some of these creditors may have conflicting interests.

## F The process for dealing with conflicts of interest

### 19 Step 1: Identify conflicts of interest or potential conflicts of interest

In order to identify conflicts of interest or potential conflicts of interest when accepting a new engagement, a member should seek information from others within the firm or organization as to the interests of other parties to whom professional services are provided and their affiliations. While many conflicts of interest are obvious from the beginning, others may arise during the course of providing professional services. Often, identifying conflicts of interest is more difficult than dealing with them.

### 20 There are three types of conflict of interest, which may overlap, described as follows.

Professional conflicts of interest

Members and others within their firms are required by the profession to observe the CPA Code. Members are also expected to encourage an ethics-based culture within their organizations. In order to preserve the highest possible standards for the CPA profession, each of them is expected to engage only in activities that will maintain the good reputation of the profession and serve the public interest. When this obligation runs contrary to the interest of a party to whom the member or firm provides professional services, a professional conflict of interest exists.

Legal conflicts of interest

Legal conflicts of interest arise primarily out of obligations in relation to specific contractual agreements. A member or firm has a duty within the standards of the profession to pursue the interests of a party to whom the member or firm provides professional services and to protect confidential information. Thus, when two parties have conflicting interests, the member or firm cannot fulfill a duty to both unless appropriate conflict management techniques are in place.

In addition, when a member or firm is acting within the framework of litigation or potential litigation, the courts will want to ensure that the legal process is not compromised by participants, who act as experts, being influenced by interests or relationships which impair or might impair their objectivity.

### Business conflicts of interest

Business conflicts of interest occur when the business interest of a party to whom the member or firm provides professional services is contrary to the business interest of the member or firm or the business interest of another affected party. A business conflict of interest raises management, not professional, issues for the member or firm and can be resolved without reference to the CPA Code, unless it also involves a professional or legal conflict of interest. Business conflicts of interest include the following examples:

- a particular agreement to provide a professional service may require too large a commitment of scarce resources of the member or firm;
- the provision of certain services to a party may preclude the provision of other, more lucrative, services to the same party; or
- the member or firm is dissatisfied with the risk/reward analysis.

**21** Members or firms should develop a process to identify conflicts of interest (a “conflict identification process”) that is appropriate to their circumstances. In some cases, this process may include a database with information about each party to whom professional services are provided and a system that allows for timely access to the database by those within a firm or organization so that real or potential conflicts of interest can be recognized promptly. Inquiries about conflicts of interest should be documented. The database should be kept up-to-date, and should not include confidential information.

**22** For areas of professional service where conflicts of interest must usually be avoided rather than managed, a member’s or firm’s conflict identification process will likely need to be more extensive and formal and should include the identification of a person or persons in the firm or organization to act above the wall as a conflict management officer or officers.

**23** An effective conflict identification process will allow a member or firm to identify conflicts of interest (or possible conflicts of interest) early on when agreeing to provide or providing professional services. The earlier a potential conflict of interest is identified, the greater the chance the member or firm will be able to choose to manage it, rather than have to decline or terminate the provision of the professional services.

**24** A member or firm who is associated with an international firm or organization, will have to exercise professional judgment when deciding who should be consulted when seeking information about conflicts of interest and possible conflicts of interest. Consultation will normally be limited to the country or countries in which the particular professional service will be provided unless the member or firm is aware of the potential for conflicts of interest arising in a broader geographical area. The nature of the association and the interests of the party to whom the professional services will be provided are two factors the member or firm should consider.

**25 Step 2: Assess the conflicts of interest**

After conflicts of interest and possible conflicts of interest have been identified, a member or firm should exercise professional judgment as to whether such conflicts must be avoided altogether by declining to provide the professional service, or whether they can be appropriately managed.

**26** When assessing a conflict of interest, members or firms should consider the following questions.

- Is the conflict solely a business conflict of interest such that it does not require any action under the CPA Code?

- Is it necessary to obtain consent or is the conflict one where agreement to proceed can be implied from the affected party's conduct, in keeping with commonly accepted practice?
- Does the conflict impair the member's or firm's independence and objectivity with respect to an assurance engagement?
- Does the conflict hinder the member's or firm's ability to perform the required duties?
- What will be the impact on the party's ability to obtain professional services should the member or firm choose to decline the engagement? In smaller communities, where there may be less access to professional services, there may be more occasions when it is necessary to manage conflicts of interest.
- Would a reasonable person be satisfied that the proposed conflict management approach is satisfactory to manage the conflict?
- Is it likely the requested service will go before a court where another affected party will be an opposing party? Unless the member or firm has been asked to act as a fact finder or is providing information that is not contested, a court is likely to find it unacceptable for a member or firm to represent two parties who are litigating against each other.
- Will the conflict management techniques available to the member or firm be effective in managing the conflict? This will be determined by the facts of the situation and the onus will be on the member or firm, where necessary, to demonstrate to the courts that the conflict management techniques are effective in protecting confidential information.
- Will the member's or firm's decision to avoid the conflict by terminating the provision of the professional service be a commercially satisfactory solution for the party or parties in conflict? In many cases, the solution to avoid the conflict by terminating the provision of the professional services to each of the parties will not be commercially satisfactory.

**27** Once a member or firm has identified a conflict of interest and assessed its impact, the member or firm may decide to:

- decline/terminate the provision of the professional service - for those conflicts of interest that are not possible or appropriate to manage, the member or firm should inform the affected parties that the provision of professional services will be declined or terminated; or
- develop an effective conflict management approach - for manageable conflicts of interest, the next step is to develop an effective conflict management approach. Members or firms must be aware that the decision to manage such a conflict may be subjected to challenge later; or
- agree to provide the professional service - for those conflicts of interest that, by reason of their commonly accepted practice, a determination may be made that it is not necessary to implement a conflict management approach or obtain consent.

**28 Step 3: Develop a conflict management approach**

Once the member or firm has identified a conflict of interest that is potentially manageable, the next step is to examine the various conflict management techniques that are available to manage the conflict. A conflict management approach is then developed, incorporating the various conflict management techniques selected. While no specific approach is prescribed, each conflict management approach must be effective and the member or firm must be able to demonstrate that it is effective. The member or firm should then proceed only after providing disclosure to and obtaining consent from, each affected party.

**29** Choose the conflict management techniques

The following conflict management techniques may be incorporated in an effective conflict management approach.

#### Organization Structure

An organization, including a firm, may organize itself in a variety of ways to deal with conflict of interest issues, such that the organization itself becomes an effective conflict management technique. Depending on factors such as the size of the organization, some or all of the following conflict management techniques may be adopted as part of its organizational structure:

- adopt conflict of interest management policies that provide those in the organization with guidance on dealing with such conflicts. These policies should recognize the role of professional judgment in the process and require persons in the organization to be able to demonstrate that the interests of the clients of the organization will be served at a high professional standard. The policies should also require that clients be informed as to what they should expect when agreeing to allow an organization with a conflict of interest to act on their behalf.
- implement a reporting structure related to potential conflicts of interest that is overseen by one or more persons within the organization. The role of the responsible person(s) is to (a) identify, at the outset, potential conflicts of interest, and decide whether to avoid such conflicts or manage them and (b) be informed of possible conflicts of interest and provide assistance to others within the organization on exercising professional judgment with respect to conflict management. The person(s) determining or managing a particular conflict of interest should be above the wall with respect to that conflict.
- create separate areas of practice for specialty functions within the organization, which may act as a barrier to the passing of confidential information from one practice area to another within an organization. The flow of information from one area to another should be restricted by policies and procedures. Such policies and procedures would not preclude the cross-departmental sharing of information by members of a particular client service team. Within each separate area, members of the organization must understand the expected limitations in sharing confidential client information across areas. It is recognized that the larger and more complex the organization, the more likely the need for creating separate areas of practice.
- establish policies and procedures to limit access to files. Much of the information obtained throughout the course of an engagement is retained in the files of the organization, either electronically or paper-based. To maintain the confidentiality of these files, an organization may put in place a formal system that limits access to these files to persons who are working directly on the engagement, logs access to files, and documents any access exceptions. The physical segregation of particular confidential information may further enhance its protection. Broad access to non-public information that has been retained by an organization may be viewed by its clients as contrary to its responsibility to protect confidential information.
- use blanket or engagement-specific confidentiality agreements signed by employees, which will emphasize the need to protect confidential information.
- in those professional service areas where it is likely conflicts of interest will arise on a regular basis, use code names or numbers to assist in the use of fire walls and other conflict management tools.

#### Fire walls

The effectiveness of fire walls will be improved by the use of internal procedures such as

designating an above the wall person to monitor the activities within the fire wall(s) and to ensure that the organization as a whole is not acting in an inappropriate manner. This person would:

- ensure that the organization did not engage in activities that it was not appropriate or possible to manage;
- ensure that persons joining or leaving a team within the organization do not create new unacceptable conflicts of interest;
- document the teams' respect for the wall; and
- avoid involvement in or detailed knowledge of information contained within the wall.

Fire walls should involve some combination of the following organizational arrangements:

- physical segregation of people and files;
- an educational program, normally recurring, to emphasize the importance of not improperly or inadvertently divulging confidential information;
- strict and carefully defined procedures for dealing with a situation where it is felt that the wall should be crossed, and maintaining proper records where this occurs;
- monitoring by compliance officers of the effectiveness of the wall; or
- disciplinary sanctions where there has been a breach of the wall.

#### Cones of silence

Cones of silence may be used to:

- demonstrate foresight of the need to maintain confidentiality of information and thereby assist an organization to manage conflicts of interest arising in various areas of its practice;
- allow a specialist within an organization to work on a minor aspect of an engagement without being brought formally within a fire wall; or
- demonstrate the commitment of those involved.

In some rare circumstances, a cone of silence is demonstrated implicitly by the special conduct of a member or another person in the organization. In such circumstances, there should be observable evidence that the cone of silence will be effective.

#### Other techniques

##### Management oversight

In some cases, the active involvement of ownership of the organization in the management and oversight of the organization acts as a conflict management technique. For example, a member may face a conflict of interest created when the member is eligible for a profit-related bonus as well as having responsibility for decisions that could affect the value of the bonus. However, the owners' active involvement in and familiarity with the business, along with the owners' oversight and authorization of any such bonus, acts to control the possibility of manipulation of results,

##### Internal or external review

The review of financial information by either internal or external audit or review can also act as a conflict management technique by establishing accountability and oversight of transactions, evaluating the reasonableness of accounting and other policies and monitoring adherence to them.

Existence of “whistleblower”/Code of Conduct policies

“Whistleblower” policies and protection, and training and education regarding ethical conduct and conflicts of interest are also conflict management techniques. Not only does the existence of such policies and processes deter activity that might constitute a conflict of interest, it also develops a culture where conflicts of interest are more likely to be identified and reported so that they can be properly addressed.

**30** The limitations on the use of organization structure, fire walls and cones of silence must always be recognized and considered in terms of whether the organization’s obligations to its clients can be fulfilled. A professional judgment must always be made in light of the particular facts and circumstances. Conflict management techniques that are set up on an ad hoc basis, after a conflict of interest is identified, will not be seen to protect confidential information that may already have been shared within an organization. Ongoing conflict management techniques used on a regular basis are more likely to be effective and be seen to be effective than those set up on an ad hoc basis.

**31** The uses of conflict management techniques to restrict information flows between units or individuals within an organization may not be effective when:

- a client expects to have complete access to all of the organization’s resources. The use of a fire wall to protect the interest of another client may not be acceptable to the client;
- a member, firm or organization is not able to demonstrate clearly that they have been and will continue to be highly effective in preventing the sharing of confidential information;
- there is a single department, operating unit or a large number of people coupled with a high turnover rate within the wall; or
- a member or firm attempts to hide behind the wall. The existence of a fire wall does not relieve a member or firm from making the appropriate enquiries or exercising professional judgment.

**32** Provide disclosure and obtain consent

A fundamental underpinning to the management of conflicts of interest involves consent by the parties to whom professional services are provided. Unless the conflict of interest is one that reflects commonly accepted practice such that each affected party’s agreement can be inferred from that party’s conduct, consent should be obtained by:

- notifying each affected party of the existence of such a conflict; and
- either obtaining the agreement from each affected party to proceed in spite of the conflict or declining to provide or terminating the professional service giving rise to the conflict.

**33** The onus is on the member or firm to be able to demonstrate that consent has been obtained.

- In cases where the conflict of interest is one referred to in Rule 210.3(b), the agreement must be implied by the affected party’s conduct and acceptance of the circumstances. In all other cases, it is desirable to obtain consent in writing. When such written consent is not obtained, an acknowledgement of the affected party’s verbal consent and the details thereof must be noted in the member’s or the firm’s files. The more direct the conflict is between existing or potential parties to whom professional services are provided, the more important it is to ensure that each of the affected parties know that their interests may conflict with the interests of other parties to whom the member or firm provides professional services and that the member or firm has effective measures in place to

- ensure that confidentiality is maintained. In each case, members or firms should use professional judgment in determining the nature and extent of disclosures required to be made to each affected party and the need to obtain consent.
- In some cases a member may be eligible for a profit-related bonus where the value of the bonus could be affected by decisions made by the member. In such cases, consent may be understood to have been obtained where there is a system of internal control and review over the bonus, such as appropriate authorization and oversight and written employment contracts setting out the terms of the bonus arrangement.
- 34** If notifying the affected parties of the existence of a conflict of interest would, in itself, constitute a breach of confidentiality, the member or firm will have no choice but to decline the engagement.
- 35** The appropriateness of managing a particular conflict of interest is likely to depend on the particular facts and circumstances. As circumstances evolve, affected parties who initially agreed to allow a member or firm with a conflict of interest to act may change their position. The risk and consequences of this possibility should be considered at the outset.
- 36** When a member or firm enters into discussions with an affected party about the impact of possible conflicts of interest on the party's interest, the member or firm should specifically address how the obligations to the party will be met and what restrictions, if any, there will be on access to the expertise of the organization.
- 37** The courts may recognize the contractual clarification of a member's or firm's obligations by considering written or implied terms, disclosure, and the consent or agreement of the affected party. Such clarification might, for example, be provided by:
- an engagement letter or contract to clarify the member's or firm's and the affected party's obligations in an engagement. The following wording might be used to inform a party of potential conflicts of interest in an engagement, restrictions that could apply and the use of conflict management techniques to protect confidential information:  
  
"We provide a wide range of services for a large number of clients and may be in a position where we are providing services to clients whose interests may conflict with your own. We cannot be certain that we will identify all such situations that exist or may develop and it is difficult for us to anticipate all situations that you might perceive to be in conflict. We therefore request that you notify us promptly of any potential conflict affecting the Contract of which you are, or become, aware. Where the above circumstances are identified by us or you and we believe that your interests can be properly safeguarded by the implementation of appropriate procedures, we will discuss and agree with you the arrangements that we will put in place to preserve confidentiality and to ensure that the advice and opinions which you receive from us are wholly independent of the advice and opinions that we provide to other clients. Just as we will not use information confidential to you for the advantage of a third party, we will not use confidential information obtained from any other party for your advantage.";
  - written expression in publicly available policy statements of obligations undertaken, which also appears to be a tool that a member or firm may use to further demonstrate the management of possible conflicts of interest; or
  - to the extent that the matter is not dealt with in the foregoing, clarification of a member's or firm's obligations that is included in final reports, proposals, etc.
- 38** In the engagement letter, public policy statement or contract, the relationship may be clarified by:

- clearly defining the obligations owed to the other party. This may be accomplished through an exclusion clause;
- clearly delineating the rights and duties of all parties; and
- a conflict of interest is managed in part by a party's consent, including provisions that set out the consequences should the party withdraw such consent. It might be agreed, for example, that in such circumstances the member or firm would (or would not) be able to continue to act for one of the other parties, and if so, which one.

### 39 Step 4: Assess the effectiveness of a conflict management plan

After choosing the conflict management techniques that will be relied upon, the member or firm should assess the overall effectiveness of the plan. The onus will be on the member or firm to be able to demonstrate that the conflict management techniques are effective in protecting confidential information. In a particular case, the court may not accept the use of conflict management techniques to manage a conflict of interest. Members and firms must assess the risk of such a finding by a court on a case-by-case basis and, where appropriate, obtain legal advice.

### 40 When assessing the effectiveness of the selected conflict management techniques, members and firms should ask the following questions:

- Will the conflict management techniques work effectively in practice? For example, it may not be possible to obtain the consent of two parties as the mere disclosure of the issue to one party might involve the disclosure of confidential information of the other party.
- Are the persons required to perform the work able to remain within a cone of silence or behind a fire wall for the required period of time?

### 41 Step 5: Re-evaluate the plan during engagement

A professional services relationship will often exist for an extended period of time during which the party's interests may change. When in the course of an engagement for a party, conflict or possible conflict with an engagement for another party is discovered, a member or firm should consider the following actions:

- resign from both assignments without disclosure of the detailed reasons if such disclosure would also disclose confidential information; or with appropriate disclosure of the detailed reasons if confidential information can be protected;
- obtain consent from both parties to continue their engagements in spite of the conflicts of interest;
- seek the consent of both parties to continue for one party; and
- after obtaining the required consent, use existing conflict management techniques such as cones of silence or fire walls, to protect confidential information in appropriate circumstances.

### 42 When the discovery of a conflict of interest occurs while an engagement is in progress, it may be more difficult to then implement conflict management techniques to protect confidential information. It will also be difficult to clarify the member's or firm's obligations by indicating that the member or firm intends to accept engagements for parties whose interests may from time to time conflict with those parties to whom the member or firm is already providing professional services.

### 43 If, however, conflict management techniques such as cones of silence or fire walls have been

in place from the outset of both professional services assignments, and the parties have been informed at the outset of possible conflicts of interest, the task of dealing with new conflicts of interest that arise is made easier.

## **G Documentation**

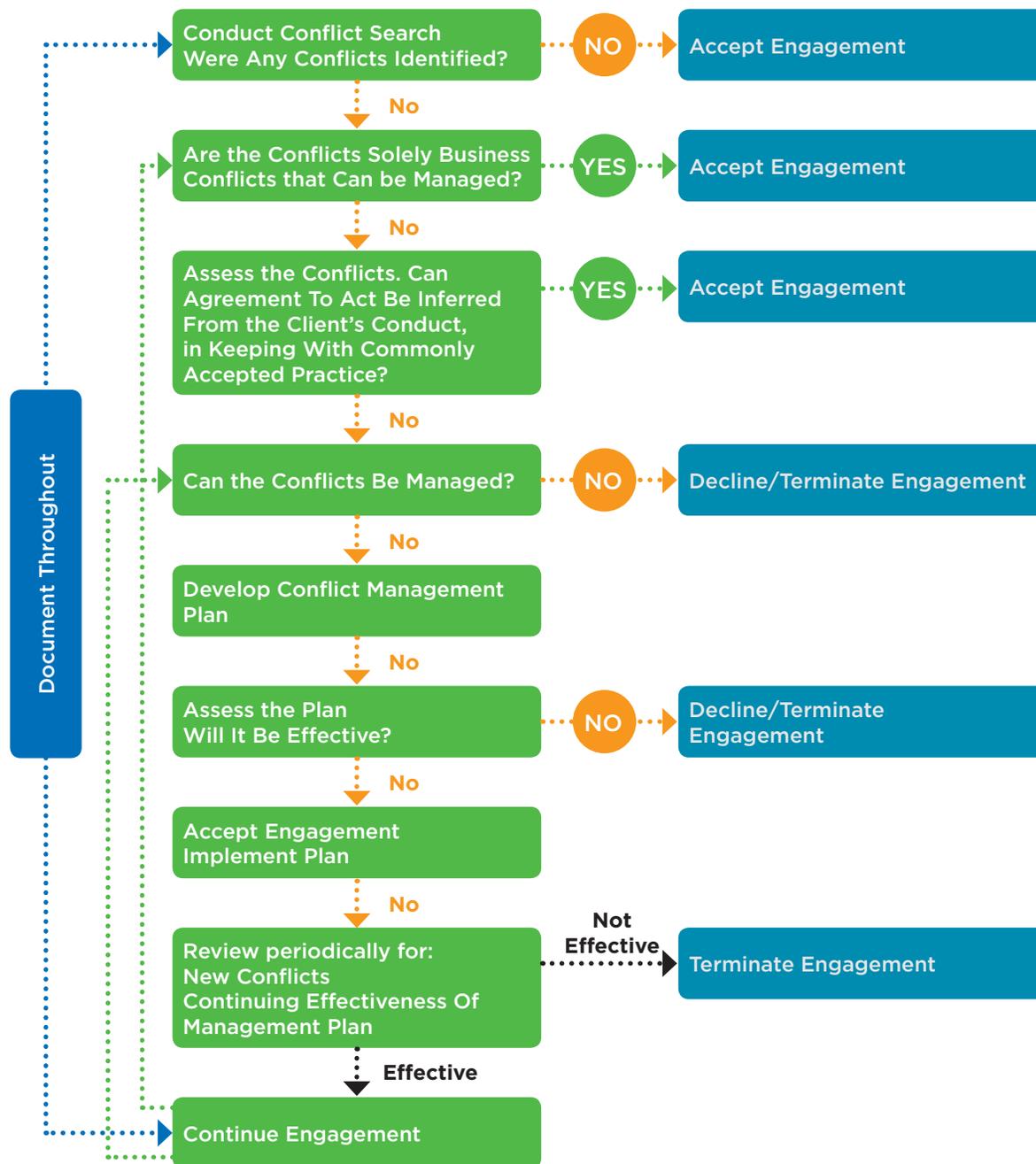
- 44** Since problems with the management of conflicts of interest may arise in the future, it is important to document the process by which such conflicts are assessed and managed. Rule 210.4 sets out specific requirements with respect to documentation which, in general terms, will normally include considerations with respect to the identification of conflicts of interest; the assessment of such conflicts and the facts considered in making the assessment; the conflict management plan adopted with the reasons why the member or firm believes the plan will be effective; and the ongoing assessment of the plan's effectiveness. When the professional judgment of the member or firm is comprehensively documented, both at the outset and while providing the service, the member or firm is more likely to be able to establish that a particular conflict of interest was identified and managed appropriately.

## **H Other conflict of interest considerations**

- 45** When developing a conflict management approach, the member or firm must ensure that the conflict management techniques selected are robust enough to demonstrate that the affected parties' interests will be served within the terms of the engagement or contract.
- 46** The use of such techniques requires the use of professional judgment since ultimately their effectiveness and acceptability will be judged using the standard of "the expectation of an informed, reasonable observer".
- 47** Where relationships or engagements exist for extended periods of time, the question of potential conflicts of interest should be addressed at least annually, perhaps as part of the ongoing review of client continuance decisions or professional services contracts.

### Conflicts of interest management decision chart

The following flowchart outlines a process for dealing with conflicts of interest which can be applied to decisions made in relation to the provision of both public accounting and other professional services.



## 211 Duty to report breach of the CPA Code

### RULES:

**211.1** *A member or firm shall promptly report to CPA Ontario any information concerning an apparent breach of this CPA Code or any information raising doubt as to the competence, integrity or capacity to practise of another member or firm, unless such disclosure would result in:*

- (a) *the breach of a statutory duty not to disclose;*
- (b) *the reporting of information by a member or firm exempted from this rule for the purpose and to the extent specified by Council;*
- (c) *the loss of solicitor-client privilege;*
- (d) *the reporting of a matter that has already been reported; or*
- (e) *the reporting of a trivial matter.*

**211.2** *A member or firm required to report under Rule 211.1 and who is engaged, or is in consultation with a view to being engaged, with respect to a civil or criminal investigation need not report to CPA Ontario any information obtained in the course of such engagement or consultation concerning an apparent breach of this CPA Code or any information raising doubt as to the competence, integrity or capacity to practise of another member or firm until such time as:*

- (a) *the client or employer has provided consent to the release of the information;*
- (b) *the member or firm becomes aware that the information is known to third parties other than legal advisors; or*
- (c) *it becomes apparent to the member or firm that the information will not become known to third parties other than legal advisors.*

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### GUIDANCE – Rule 211

- 1 It is in the public interest that a member or firm be required to report to CPA Ontario apparent breaches by another member or firm of the CPA Code. The good reputation of the profession could adversely be affected if such matters were not reported. Rules 211.1 and 211.2 are not intended to require the reporting of a trivial matters or minor perceived faults of another member or firm. Each mistake or omission by a member or firm is not necessarily a breach of the CPA Code. In deciding when to report, a member or firm should believe that the matter raises doubts as to the competence, reputation or integrity of another member or firm.
- 2 Rule 211.1 sets out specific situations where it does not apply. For example, the Rule does not apply to disclosure of information obtained
  - in the course of the member's employment by an organization, such as a government taxation authority, where there is a legal requirement imposed by statute to maintain the confidentiality of information obtained through this employment;
  - in the member's role as a practice inspector or member advisor, who has been exempted for the purpose and to the extent specified by Council; or
  - in the course of an engagement, such as a litigation support engagement, where disclosure will result in the loss of solicitor-client privilege.

- 3 Under certain circumstances, such as the forensic investigation of a fraud, Rule 211.2 permits the reporting of the matter to be delayed until
  - the client has provided consent to the release of such information;
  - the information has become known to third parties other than legal advisors; or
  - it becomes apparent to the member or firm that the information will not become known to third parties other than legal advisors.
- 4 Rule 211.2 attempts to strike a balance between the duty to the client and the duty to protect the public interest and maintain the reputation of the profession. Clients may assume that a member or firm will not disclose information without consent, resist the obligation of the member or firm to report and even be reluctant to engage a member or firm because of the reporting obligation. In addition, reporting without the client's knowledge or consent could result in a claim against the member or firm. Thus the client must be informed that while the member or firm will seek consent to report the information, ultimately, if the consent is not forthcoming, the obligation to the public and the profession will prevail and the member or firm will be obliged to report.
- 5 A member or firm reporting a matter does not have to carry out an investigation or reach a decision as to whether the CPA Code has been breached. However, it is not enough simply to have a suspicion that there has been professional misconduct. What must be reported are the facts as known to the member or firm along with any supporting documentation.
- 6 If a member or firm knows that a matter involving apparent misconduct on the part of another member or firm has come to CPA Ontario's attention, the member or firm does not have a duty to report the matter. The member or firm must report if the member or firm knows that certain facts have been concealed, distorted or otherwise not reported.
- 7 Having reviewed Rules 211.1 and 211.2 and this Guidance, a member or firm in doubt as to whether a matter should be reported should consult CPA Ontario staff for advice. In certain circumstances, such as those described in paragraph 4 above, the member or firm should also consider obtaining legal advice.

## 212 Handling property of others

### RULES:

#### 212.1 Handling of trust funds and other property

- (a) *A member or a firm that, receiving, handling or holding money or other property in any capacity as a trustee, or as a receiver or receiver/manager, guardian, administrator/manager or liquidator, shall do so in accordance with the terms of the engagement, including the terms of any applicable trust, and the law relating thereto and shall maintain such records as are necessary to account properly for the money or other property; unless otherwise provided for by the terms of the trust, money held in trust shall be kept in a separate trust bank account or accounts.*
- (b) *When a member or a firm receives a retainer for the provision of future services and no written agreement has been executed regarding the terms which must be met for disbursement of the retainer, the member or firm shall consider and handle the retainer as funds held in trust in accordance with paragraph (a) above.*

#### 212.2 Handling property of others

*A member or firm, in the course of providing professional services, shall handle with due care any entrusted property.*

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### GUIDANCE – Rule 212

- 1 In this Guidance the term “trust funds” includes all amounts received by a member or firm to be held or disbursed on the instructions of the person from whom or on whose behalf the amounts are received, such person being referred to as “client”.
- 2 While it may be prudent to obtain legal advice with respect to complying with the law relating to trusts, the following should assist in understanding the Rule:
  - each trust relationship should be documented in writing;
  - trust funds, unless subject to written instructions to the contrary, should be deposited without delay to a separate bank account, a “trust account”, which may be an account in the name of a specific client, but should in all cases include in its title the word “trust”;
  - trust funds and property of others are to be separated from the member’s or firm’s assets and used only for the purpose for which they are intended;
  - withdrawals or disbursements from a trust account should be limited to:
    - funds properly required for payment to or on behalf of the client; or
    - funds properly required for or toward payment of the member’s or firm’s fees for services rendered or disbursements for which a billing has been rendered and approved, preferably in writing, by the client;
  - in the absence of express agreement to the contrary, any interest earned on trust funds should be accounted for to the client;
  - records should be maintained to show clearly trust funds received, paid or held on behalf of clients, clearly distinguishing the funds of each client from those of other clients and from the member’s or firm’s own funds;
  - members and firms should establish appropriate safeguards and controls over receipts and disbursements of trust accounts;

- members and firms should be prepared at all times to account for the trust finds or other property together with any income, dividends or gains generated, to any person who is entitled to any such accounting; and
  - members and firms should consider using a lawyer or financial institution where amounts are large or the situation is unusual or contentious.
- 3** Matters that should be addressed by a written retainer agreement include:
- the manner and timing for billings to be rendered and approved;
  - how the retainer is to be applied, for example whether it is to be applied as billings are approved or is to be held and applied to a final invoice;
  - a requirement for the member or firm to provide periodic reporting to the client regarding outstanding billings and the balance of the retainer;
  - the manner and timing of refunds of any retainer if the engagement cannot be completed or is completed in an amount which is less than the balance of the retainer; and
  - how any dispute with respect to billings is to be resolved.
- 4** There may be occasions when other property is received in trust in lieu of funds. Appropriate safeguards and controls should be established over these properties including, if applicable, the safekeeping of securities or other negotiable instruments.
- 5** If the engagement is one governed by bankruptcy and insolvency legislation, members or firms should refer to the provisions of such legislation and any regulations and directives enacted thereunder.
- 6** Members or firms acting as executors, administrators or trustees should refer to the provisions related to independence as set out in Rule 204.

## 213 Unlawful activity

### **RULE:**

*A member or firm shall not associate with any activity that the member or firm knows, or should know, to be unlawful.*

## 214 Fee quotations and billings

### RULE:

*A member or firm shall*

- (a) *obtain adequate information before providing a fee quotation to perform any professional service; and*
- (b) *render billings for professional services on a fair and reasonable basis and provide such appropriate explanations as are necessary to understand the billing.*

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### GUIDANCE – Rule 214

- 1 A prospective client may wish to obtain some indication of the fee for a member's or firm's services. A member or firm discussing a possible assignment may not be in a position to quote a fee or fee range without becoming more familiar with the requirements of the client. For example, in an audit assignment it would generally be necessary to become familiar with the prospective client's accounting policies and procedures and internal controls. In an accounting assignment it would generally be necessary to assess the prospective client's books and records and the application of the related accounting policies. Without becoming so familiarized or making an appropriate assessment, it would not be possible to estimate the fee.
- 2 As provided in Rule 205, a member or firm should not sign or associate with any letter, report, statement, representation or financial statement which the member or firm knows or should know is false or misleading. Accordingly, a member or firm should not make a representation that specific professional services in current or future periods will be performed for either a stated fee, estimated fee, or fee range, if it is likely at the time of the representation that such fees will be substantially increased and the prospective client is not advised of that likelihood.
- 3 A member or firm obtaining work for a fee significantly lower than that charged by the predecessor, or quoted by others, should be aware that there may be a perception that independence, where required, and/or quality of work could be impaired. Accordingly, a member or firm should be satisfied that a fee quoted to a client for the performance of professional services is sufficient to ensure that:
  - independence, where required, will not be impaired;
  - the quality of work will not be impaired; and
  - due care will be applied to comply with all professional standards in the performance of those services.
- 4 Factors to consider when assessing the fairness and reasonableness of fees for professional services include:
  - the level of training and experience of the persons engaged in the work;
  - the time expended by the persons engaged in the work;
  - the degree of risk and responsibility which the work entails;
  - the priority and importance of the work to the client;
  - the value of the work to the client; and
  - any other circumstances which may exist (e.g. fees fixed by a court or other public authority, fees in insolvency work and the administration of estates and trusts which, by

statute or tradition, are often based on a percentage of realizations and/or assets under administration).

- 5 If a client makes a reasonable request for additional detail and explanation in order to understand a billing, a member or firm is expected to provide such information.

## 215 Contingent fees

### DEFINITIONS:

For the purpose of Rule 215 and the related Guidance:

**“partner”** means a member’s partner, whether or not a member of CPA Ontario, in either the member’s public accounting practice or a related business or practice.

### RULES:

**215.1** A member or firm engaged in the practice of public accounting or in a related business or practice shall not offer or engage to perform a professional service for a contingent fee, where the service is:

- (a) one in respect of which independence is required in accordance with the provisions of Rule 204;
- (b) a compilation engagement; or
- (c) preparation of an income tax return.

**215.2** Other than in respect of an engagement described in Rule 215.1, a member or firm engaged in the practice of public accounting or in a related business or practice may offer or engage to perform a professional service for a contingent fee provided the client has agreed in writing to the basis for determining the fee before the substantial completion of the engagement and:

- (a) the fee arrangement does not constitute an influence, interest or relationship which impairs or, in the view of a reasonable observer, would impair the professional judgment or objectivity of the member or a partner of the member in respect of an engagement for which independence is required in accordance with the provisions of Rule 204; or
- (b) the fee arrangement is not one which influences, or in the view of a reasonable observer would influence, the result of a compilation engagement performed or an income tax return prepared by the member or a partner for the same client.

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### GUIDANCE – Rule 215

- 1 A member or firm is entitled to charge for professional services such fees as the member or firm considers to be fair and reasonable for the work undertaken. Generally it is prudent to refer to fees and the basis on which they are to be computed in an engagement letter to the client or potential client.
- 2 When providing a professional service for a contingent fee, a member or firm must bear in mind the requirements of Rules 202, 203, 205 and 206. These rules require a member or firm to perform services with integrity and due care; to sustain professional competence in all functions in which the member practices; not to associate with any letter, report, statement or representation which the member or firm knows or should know is false or misleading; and to comply with the generally accepted standards of practice of the profession.
- 3 When permitted by the CPA Code to provide a professional service on a contingent fee basis, a member or firm also must ensure that such a contingent fee arrangement does not, in the view

of a reasonable observer, create an influence which would impair professional judgment or objectivity with respect to another engagement for the same client which requires objectivity on the part of the member or firm. .

- 4 The following examples of engagements undertaken on a contingent fee basis are provided as guidance to assist members and firms in determining whether their professional judgment or objectivity may be compromised with respect to the types of engagements for which objectivity is required by the CPA Code or would be seen to influence the result of a compilation engagement or the preparation of an income tax return.

Examples of professional services which might be undertaken on a contingent fee basis, provided that other relevant provisions, including Rule 204, would also permit the provision of such professional services to an assurance client are:

- commodity tax refund claims; and
- preparing notices of objection to tax assessments and reassessments.

Examples of professional services engagements which, if undertaken on a contingent fee basis, may be seen to impair professional judgment or objectivity with respect to another engagement for the same client which requires objectivity on the part of the service provider are:

- executive search services;
- assisting with income tax appeals;
- valuation engagements which involve the expression of a professional opinion;
- assisting with the purchase or sale of all or part of a business;
- financing proposals, the success of which is dependent, in whole or in part, upon the client's financial statements or the client's future oriented financial information;
- litigation support and forensic investigations which use financial statements or other financial information of the client or result in reports which impact on or bear a relationship to the client's financial statements;
- business interruption insurance claims; and
- re-engineering or efficiency studies, the results of which could materially impact on the client's financial statements or other financial information.

- 5 The examples in paragraphs 3 and 4 are not intended to be exhaustive or conclusive in determining whether a particular engagement may be undertaken on a contingent fee basis. A member or firm must always exercise professional judgment in concluding whether a particular engagement may be undertaken on a contingent fee basis in accordance with Rule 215.2.

- 6 Rule 214 permits members or firms to render billings, commonly referred to as value billings, based on criteria which include;
- the level of training and experience of the persons engaged in the work;
  - the time expended by the persons engaged in the work;
  - the degree of risk and responsibility which the work entails;
  - the priority and importance of the work to the client;
  - the value of the work to the client; and
  - any other circumstances which may exist (e.g. fees fixed by a court or other public authority, fees in insolvency work and the administration of estates and trusts which, by statute or tradition, are often based on a percentage of realizations and/or assets under administration).

However, value billing should not be used to justify what is in substance an otherwise inappropriate contingent fee arrangement.

- 7 Members and firms are cautioned that professional engagements may be subject to standards of other professional bodies or organizations which must be considered in determining whether contingent fees are appropriate for a particular engagement. In all such cases, the higher or more stringent standard must be applied.

## 216 Commission or similar compensation arrangements

### DEFINITIONS:

For the purpose of Rule 216 and the related Guidance:

**“assurance client”** means an entity in respect of which a member or firm has been engaged to perform an assurance engagement as contemplated in the CPA Canada Handbook-Assurance. In the application of Rule 216, “assurance client” includes its related entities, and the reference to an assurance client, a client or an entity that is an assurance client shall be read as including all related entities of the assurance client, client or entity as the case may be.

**“clearly insignificant”** means trivial and inconsequential.

**“client”** means any person for whom professional services are performed or to whom products or services are sold or provided by the member or firm directly or through referral to others. In the application of Rule 216, references to “client” shall be read as including all related entities of the client.

**“compensation”** includes, but is not limited to, a commission, rebate, preference, discount, benefit or other consideration, whether monetary or non-monetary, but does not include a fee for services.

**“consent”** means fully informed and voluntary, documented consent, given after disclosure of sufficient information and with sufficient time to make a knowledgeable decision, provided that if more than one person is involved, each needs to provide consent.

### RULES:

**216.1** A member or firm engaged in the provision of professional services to a client may pay or receive any compensation in relation to obtaining a client or the referral of products or services of others, provided that:

- (a) the prohibitions outlined in Rule 216.2 do not apply;
- (b) the member or firm, in respect of the particular products or services to which the compensation relates, shall:
  - (i) identify threats to the objectivity of the member or firm arising from the proposed payment or receipt of compensation;
  - (ii) evaluate the significance of those threats; and
  - (iii) if the threats are other than clearly insignificant:
    - (A) disclose the compensation to the client in writing;
    - (B) obtain the consent of the client prior to payment or receipt of the compensation; and
    - (C) identify and apply any additional safeguards as appropriate to reduce the threats to an acceptable level.

Where safeguards are not available to reduce the threat or threats to an acceptable level, the member or firm shall not pay or accept the compensation.

**216.2** Other than as allowed by Rule 216.3 and Rule 216.4, a member or firm shall not directly or

*indirectly pay or receive any compensation in relation to or in respect of:*

- (a) *obtaining an assurance client;*
- (b) *the referral of an assurance client to others;*
- (c) *the referral of products or services of others to an assurance client; or*
- (d) *the provision of other professional services to an assurance client.*

**216.3** *A member or firm engaged or employed in the practice of public accounting may pay, in relation to obtaining a client or assurance client, a commission or other compensation to any person who is a partner, shareholder or employee of the member or firm or who is another member or firm engaged or employed in the practice of public accounting.*

**216.4** *A member or firm may pay or accept compensation in connection with the sale and purchase of a public accounting practice.*

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## GUIDANCE – Rule 216

### Commission-based compensation arrangements

- 1 A member or firm may be asked by an investment dealer, portfolio manager, insurance broker or software provider to act as agent or sub-agent for the sale of securities or software, provision of investment advice or portfolio management services, or the placement of insurance. A member or firm may also be asked to refer clients or assurance clients directly to a third-party provider of such products or services. A member or firm may, at the same time, be receiving fees from clients or assurance clients for professional services which include advice on the utilization of surplus funds or on insurance coverage. There is a high probability of a conflict of interest between this position and that of providing a referral or acting as agent or sub-agent for the sale of products or provision of services. Acceptance of compensation, whether in the form of money or otherwise, from third parties for such referrals or agency services represents a threat to the principle of objectivity which is fundamental to our profession.

### Commission-based compensation permitted with safeguards

- 2 When providing a professional service in respect of which Rule 216.1 may permit a member or firm to pay or accept compensation, the member or firm is required to first identify threats to objectivity that may arise in the context of the services to be provided and the proposed compensation methodology, and to identify and apply safeguards to reduce such threats to an acceptable level. Professional services, in this context, could include referral of the client to the products or services of a third party, including software, investment or insurance products and wealth management services, or sale to the client of such products or services by the member or firm acting as agent or sub-agent for the third party. An example of such circumstances is where a firm recommends purchase by the client of particular accounting software to assist the firm in providing accounting or bookkeeping services to the client.
- 3 Appropriate safeguards must take into account the nature of the client and the client relationship (for example: Is the client sophisticated? Does the relationship give rise to a fiduciary duty?) At a minimum, member or firm must disclose the proposed compensation to the client in writing and obtain the client's consent to receipt of the proposed compensation. Other appropriate safeguards may include, without limitation:
  - prior disclosure of the relationship between the member or firm and the provider of the product or service;
  - ongoing disclosure of the compensation, including any periodic fees that may result to the member or firm after the initial purchase/referral; and

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- in appropriate circumstances, prior identification and discussion of alternative products or service providers, or alternative compensation structures with the client, allowing the client to make the final choice as to the products or services to be provided and the basis for compensation of the member or firm.

### Consent

- 4 Consent may be written, or else provided in an electronic or digital format that provides a similar level of evidence, such as an electronic signature.

### Incidental advice

- 5 Rule 409 exempts taxation advice provided on an incidental basis from regulated services, provided certain conditions are met. These conditions are primarily applicable to members working for larger financial institutions such as banks or investment dealers. Members who provide taxation services incidental to wealth management services, who meet the conditions set out in Rule 409, may not be considered to be providing accounting services to the public. However, they could be considered to be providing professional services and, if so, are required to adopt the threats and safeguards approach discussed above in connection with the provision of services that could result in the receipt of compensation by the member.

### Alternative compensation where commission-based compensation prohibited

- 6 The effect of Rule 216.2 is that a member or firm engaged in the provision of assurance or other professional services to an assurance client is not permitted to receive compensation for a referral of products or services of others to that assurance client. In this case, the self-interest threat to the principles of objectivity and independence is likely too great to be obviated by the application of safeguards.

In order to provide other professional services to assurance clients, the member or firm must bill in respect of those services in a manner that does not involve receipt of compensation by the member or firm. Such billing methods may include an hourly fee for service, fees based on a percentage of assets under administration, or another arrangement provided it is documented, and approved and paid directly by the client. Where a member or firm establishes arrangements and corporate or other structures in order to facilitate transactions involving the receipt or payment of commission-based compensation, such arrangements or structures are unlikely to change the substance of these transactions. CPA Ontario will consider the substance and effect of any such transactions when making a determination as to whether a breach of the CPA Code has occurred.

Note that for the purposes of Rule 216.2 “member or firm” includes any related business or practice of the member or firm. Compensation received by any such related party of the member or firm is considered to be indirectly received by the member or firm. “Compensation” includes non-monetary compensation, and it also includes compensation in respect of related parties of the assurance client.

### Other regulatory regimes

- 7 Members and firms are reminded that transactions giving rise to the payment or receipt of compensation for the referral of the products or services of others are frequently governed by statute or other regulations setting out specific additional licensing, registration, disclosure and other requirements.

***New August 26, 2016: Rule 216 Commission or similar compensation arrangements. This replaces Rule 216 Payment or receipt of commissions, which has been repealed.***

## 217 Advertising, Solicitation and Endorsements

### DEFINITIONS:

For the purpose of Rule 217 and the related Guidance:

**“endorsement”** means:

- (a) public promotion, support, sponsorship, recommendation, guarantee, sanction or validation of any product or service of another person or entity;
- (b) public indication or implication that the member or firm either:
  - (i) uses a product or service of another person or entity; or
  - (ii) has an association with a product or service of another person or entity that is of a nature that has enabled the member or firm to formulate an opinion or belief as to the quality of the product or service or the benefits to be derived by the purchasers or users of the product or service; or
- (c) agreement, including by acquiescence, to the use of the member’s or firm’s name in connection with any of the activities described in (a) or (b).

### RULES:

#### Advertising

**217.1** Advertising and promotion A member or firm may advertise or seek publicity for the member’s or firm’s services, achievements or products and may seek to obtain new engagements and clients by various means, but shall not do so, directly or indirectly, in any manner

- (a) which the member or firm knows, or should know, is false or misleading or which includes a statement the contents of which the member or firm cannot substantiate;
- (b) which makes unfavourable reflections on the competence or integrity of the profession or any member or firm; or
- (c) which otherwise brings disrepute on the profession.

#### Solicitation

**217.2** Notwithstanding Rule 217.1, a member or firm shall not, either directly or indirectly solicit, in a manner that is persistent, coercive or harassing, any professional engagement.

#### Endorsements

**217.3** A member or firm may advertise or endorse any product or service of another person or entity that the member or firm uses or otherwise has an association with, provided the member or firm has sufficient knowledge or expertise to make an informed and considered assessment of the product or service. However, in doing so,

- (a) the member or firm must act with integrity and due care;
- (b) the member or firm must be satisfied that the endorsement

- (i) *is not false or misleading or does not include a statement the contents of which the member or firm cannot substantiate,*
  - (ii) *does not make unfavourable reflections on the competence or integrity of the profession or any member or firm, and*
  - (iii) *does not otherwise bring disrepute on the profession; and*
- (c) *when associating the CPA designation with an endorsement, the member or firm must conduct appropriate procedures to support the assertions made about the product or service.*

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## GUIDANCE - Rule 217

### 217.1 Advertising

- 1 It is in the public interest and in the interest of all members and firms of CPA Ontario that members and firms be allowed to advertise or otherwise promote services available and the basis of fees charged. Members or firms should be able to receive publicity, identifying them as members or firms of CPA Ontario, in areas which reflect their competence and knowledge, in matters which are within the scope of activities of members of CPA Ontario, and in matters of community or public interest. Advertising and publicity should contribute to public respect for the profession and thus to the professional standing of all members. It is the responsibility of the member or firm to ensure that any promotional material produced by or under the control of the member or firm is factual, and that any commentary is not misleading.
- 2 As guidance to members or firms, the following outlines what is acceptable conduct in a number of areas. Unless specifically noted, this Guidance also applies to members or firms otherwise engaged or employed, and to firms or corporations engaged, in a related business or practice. The objective is to ensure that advertising or other promotional communication is accurate and factual.
- 3 Members and firms that engage public relations, recruiting or other agents are responsible for ensuring that no activity for which the agent is engaged contravenes the CPA Code. While there are matters in which the use of skilled assistance can be advantageous, it should be recognized that there is an inherent danger of contravention of the CPA Code and that close control must be exercised to avoid breaches.
- 4 A member or firm may be the subject of, or may be referred to, in any bona fide news story (including interviews and commentaries) or may publish any work (including any professional paper, report, article, etc.) related to the member's or firm's professional services, provided that the member or firm uses all best efforts to ensure that none of the contents of such news story or work violates the requirements of Rule 217.

#### False or misleading advertising

- 5 It is not appropriate for members and firms to use advertising or promotional communications or media, including electronic media, that bring disrepute on the profession.
- 6 Members and firms should ensure, at all times, that any public reference (in promotional material, websites, stationery, reports, etc.) to themselves or their services is accurate. The following are examples of false or misleading references:
  - any implication that the practising unit is larger than it is, such as by use of plural descriptions or other misleading use of words;

- any implication that a person is a partner of a firm, when the person is not;
  - any implication that separate firms sharing office space, staff or other resources or in other cost-sharing arrangements are in partnership or otherwise share ownership of a firm;
  - any implication that a person is entitled to practise (“as a public accountant,” as appropriate) by including his or her name in public announcements of a practising firm if the person is not licensed (“as a public accountant,” as appropriate);
  - any reference to representation or association which is not in conformity with the facts;
  - the use of obsolete or out of date information;
  - any reference to particular services of any person or firm where the person or firm is not currently able to provide those services;
  - any statement that the practice is restricted to one or more functions, if assignments are accepted in other practice functions; and
  - any statement that may create false or unjustified expectations as to the results of an engagement.
- 7 Any reference to fees which is intended for the information of the public (including prospective clients) should not be misleading. The following are examples of false or misleading fee references:
- fee information if the service at the fee specified will not be available on an ongoing basis for a reasonable length of time;
  - a quotation of specific fee information if the service at the fee specified is conditional upon the acceptance by the client of other services, unless such condition is disclosed;
  - a “rate per hour” or fee or fee range for specified services which does not give a reasonable description of the services included;
  - fee information which quotes an unqualified “average rate”, fee or fee range for services when a particular assignment might likely be billed at a significantly higher amount; and
  - fee information, using terms such as “from \$X”, where fees, rates or ranges are not sufficiently representative of those normally charged.
- 8 Members and firms should ensure that any controllable public references to them, their services or accomplishments, whether written or oral, are not false or misleading.

### Unfavourable reflections

- 9 Since any member or firm may be able to offer services similar to those offered by others, it is not appropriate for any member or firm to claim superiority with respect to the competence or integrity of any other member or firm.

### Use of the term “specialist”

- 10 Individuals who have earned the designation “Chartered Professional Accountant” have demonstrated a high level of education and professional experience. To hold oneself out as a specialist is to imply possession of particular skills, talents and experience.
- 11 Specialization must be distinguished from expertise. Expertise implies extraordinary knowledge about a specific subject – no matter how broad or how narrow. Specialization implies a concentration of professional skills developed and applied over a meaningful period of time. A person may be an expert without being a specialist.

- 12 Members or firms designating themselves or related businesses or practices as specialists must be prepared to substantiate the claim. Failure to provide advice to a specialist standard after accepting an engagement to do so may have serious legal consequences.
- 13 A member seeking identification as a specialist should meet the following minimum criteria:
- the member recognized as such by peers, clients and business associates or holds a credential, designation or both, in a particular professional service area;
  - a significant percentage of the member's, time over a sustained period has been spent in the specialty;
  - the member has completed courses and/or successfully completed appropriate examinations, if applicable, for the specialty;
  - the member continues to complete professional development relevant to the specialty, such as attendance at courses, teaching or writing; and
  - the member continues to devote a significant percentage of time to the specialty.
- 14 Improperly claiming specialist status may violate one or more of the following rules:
- Rule 201.1, which requires members and firms to act in a manner that will maintain the good reputation of the profession;
  - Rule 202, which requires members and firms to perform their services with integrity and due care;
  - Rule 203.1, which requires members to sustain their professional competence in all functions in which they practise;
  - Rule 205, which prohibits members and firms from being associated with false or misleading documents and oral representations;
  - Rule 210, which requires members and firms to avoid conflicts of interest; and
  - Rule 217.1(a), which requires members and firms to refrain from making statements that cannot be substantiated.
- 15 Firms intending to identify themselves as specialists should meet the following minimum criteria:
- the firm is recognized as such by peers, clients and business associates;
  - a significant percentage of the firm's time over a sustained period has been spent in the specialty;
  - firm members have completed courses and/or successfully completed appropriate examinations, if applicable, for the specialty;
  - firm members continue to complete professional development relevant to the specialty, such as attendance at courses, teaching or writing; and
  - the firm continues to devote a significant percentage of time to the specialty.

## 217.2 Solicitation

- 1 Solicitation is an approach to a client or prospective client for the purpose of offering services. The approach may be made in person, through direct mail (including fax or e-mail) or via a third party such as a telemarketer. Regardless of the method used, the approach must comply with relevant legislation as well as the Rules which govern integrity, conflict of interest, payment of commissions and advertising or which otherwise regulate members and firms.
- 2 Communication with a prospective client should cease when the prospect so requests either

directly to the member or firm or through CPA Ontario. Any continued contact will be regarded as harassment, which is contrary to the Rule.

- 3 Participation in a trade or a financial services show or in a seminar arranged for or promoted by a non-member is not prohibited by the Rules, provided that the conduct of the member or firm and any references to the member or firm are in accordance with the Rules and the follow up of contacts are in accordance with Paragraphs 1 and 2 of this Guidance.
- 4 The distribution of technical information such as a tax letter to prospective clients and others is not prohibited.
- 5 Members and firms may serve the interests of the public and the profession by presenting educational and informational seminars and may distribute invitations to attend seminars and provide related informational material. Seminars may be advertised as permitted by Rule 217.1. Such advertising may invite the public to request brochures, letters or other descriptive or informational material from the members or firms responsible for the seminar. Members and firms may arrange, promote, present or otherwise be responsible for such seminars, with or without a fee, subject to the Rules.

#### **Clientele of a deceased member**

- 6 When a member who is a sole proprietor dies, the member's executors should be provided a reasonable opportunity to arrange for transfer of the deceased member's clients to another member or firm. CPA Ontario may be able to assist the estates of deceased members in such circumstances. It is recognized that, in some cases, clients may require immediate service and may not be able to await the orderly disposal of the practice. Any member or firm who is approached to take over the account of a prospective client who had been served by a deceased member should notify the executor upon assuming the account.

#### **217.3 Endorsements**

- 1 When endorsing a product or service that the member or firm uses in business or professional practice, the member or firm should first make an appropriate investigation or assessment of the product or service so as to be able to express an opinion or state a belief about it.
- 2 When endorsing a personal product or service, the member or firm should have sufficient familiarity or acquaintance with the product or service to make an informed and considered decision about it.
- 3 When endorsing any product or service, a member or firm must take care to ensure that the endorsement does not or would not create a conflict of interest or impair objectivity.

## 218 Retention of documentation and working papers

### RULE:

*A member or firm shall take reasonable steps to maintain information for which the member or firm is responsible, including retaining for a reasonable period of time such working papers, records or other documentation which reasonably evidence the nature and extent of the work done in respect of any professional service.*

### GUIDANCE – Rule 218

- 1 Cases may arise where a member or firm may be required to substantiate procedures carried out in the course of providing professional services. If the files do not contain sufficient documentation to confirm the nature and extent of the work done, the member or firm concerned may well have great difficulty in showing that proper procedures were in fact carried out. The importance of adequate documentation cannot be over-emphasized; without it, a member's or firm's ability to outline and defend professional work is seriously impaired.
- 2 There is an obligation to keep the documentation for a reasonable period of time. Unfortunately, it is not possible to give an all-encompassing guideline as to what is reasonable. What is reasonable varies with the circumstances. One of the problems is that an action based in negligence arises, not when the negligent work is done, but when the damage caused by the negligent work becomes known, or ought to have become known, to the person who is harmed. At a minimum, documentation should not be destroyed until legal advice has been obtained with respect to any limitation periods that may apply.
- 3 Further, a member or firm should retain documents for a period of time to provide professional services effectively and to properly serve clients and employers. That time period will depend on the risk associated with the professional service provided and the nature of the specific information that is contained in the files. While a general guideline might be as short a period as the minimum time period required by statute, some documentation may need to be retained indefinitely. Such documentation could include:
  - financial statements;
  - agreements, contracts and leases;
  - minutes;
  - investment/share capital information;
  - written opinions;
  - tax files and assessment notices;
  - detailed continuity schedules for such items as fixed assets and future taxes;
  - estate plans, wills and similar documents; or
  - other files, information and records as appropriate.
- 4 Members and firms may find it helpful to take reasonable steps to segregate information that is property of the client ("client information") from information that is proprietary to the member or firm ("proprietary information") or to ensure that they have the ability to easily segregate such client information. The client may choose to engage another professional service provider in the future, or access to the client information may be demanded through litigation discovery or other legal means. Therefore, it is in the interest of the member or firm to be able to provide client information without also disclosing proprietary information. For example, a member or

firm in public practice should either segregate or be able to easily separate client information, including books and records, general ledgers, account groupings, account compositions, continuity schedules and similar client information from audit or review programs and working papers, tax review documentation and other proprietary information.

- 5** When the member or firm maintains the client's books and records on behalf of the client, it will be particularly helpful if such client books and records are maintained separately from documentation related to any other service that the member or firm may provide to the client. Copies of the books and records should be provided to the client on a timely and regular basis.
- 6** Members and firms are reminded that Rule 208 establishes, among other things, requirements for members and firms to maintain and protect confidential information in a manner and format that permits it to remain accessible to those who should properly access it and that limits inappropriate access to it.

## 300 PROFESSIONAL COLLEAGUES

301 Reserved for future use

## 302 Communication with predecessor

### RULES:

- 302.1** *A member or firm (“successor”) shall not accept an engagement with respect to the practice of public accounting or the provision of a professional service not inconsistent therewith, where the successor is replacing another member, firm or other professional (“predecessor”), without taking reasonable steps to communicate with such predecessor and enquire whether there are any circumstances that should be taken into account which might influence the decision whether or not to accept the engagement.*
- 302.2** *A member or firm shall respond promptly to the communication referred to in Rule 302.1.*
- 302.3**
- (a) *When responding as required by Rule 302.2, if a member or firm was unable to continue with or resigned from an engagement with respect to the practice of public accounting, the member or firm shall inform the successor of the fact of the withdrawal or resignation, as the case may be.*
  - (b) *When a member or firm has been informed of the circumstances described in Rule 302.3(a), the member or firm shall obtain the necessary information to make an informed decision as to whether to accept the client by:*
    - (i) requesting such further information from the client; or
    - (ii) requesting permission from the client to obtain such further information from the predecessor.

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### GUIDANCE – Rule 302

- 1 The purpose of the Rule is to protect a potential successor from accepting an engagement before that member or firm has knowledge of the circumstances under which the predecessor’s services were discontinued. Knowledge of these circumstances might well influence that successor against accepting the engagement. The recommended procedure outlined below should be followed.
- 2 When a successor has been asked by a prospective client to accept an engagement it is recommended that the client be advised that the predecessor should be notified of the proposed change by the client. The successor should then enquire of the predecessor whether there are any circumstances that should be taken into account which might influence the decision whether or not to accept the engagement. No work should be commenced on the account until the successor has communicated with the predecessor, except that in the client’s interest, acceptance of the offered engagement should not be unduly delayed through the failure of the predecessor to reply, if every reasonable effort has been made to communicate with the predecessor.
- 3 Rule 302.2 requires a member or firm to respond promptly to a communication of this nature and to advise whether or not the member or firm withdrew or resigned from the engagement. If there are no circumstances of which the successor should be made aware, a simple response to this effect is all that is necessary. If the withdrawal or resignation resulted from incapacity of the member or firm to continue, that should be communicated. If, on the other hand, the predecessor is aware of circumstances that should be taken into account which might influence

the decision whether or not to accept the engagement or the reason for the withdrawal or resignation does not relate to the member's or firm's capacity, the predecessor should first consider the question of confidentiality. If it appears that the circumstances cannot be disclosed because of confidentiality, the response to the successor should state that there are, in the opinion of the predecessor, circumstances which should be taken into account, but that they cannot be disclosed without the consent of the client. For example, such circumstances may arise where the existence of a suspected fraud has given rise to the withdrawal or resignation. Further, in some cases, such as when the withdrawal or resignation is the result of a conflict of interest, it may not be possible to disclose additional information even with the consent of the client. Where confidentiality is in doubt, the predecessor should consider obtaining legal advice.

- 4 When making an engagement acceptance decision, the successor is required to seek additional information in order to make an informed decision as to whether the circumstances of the withdrawal or resignation are such that the engagement should not be accepted. Such additional information may be obtained directly from the client or permission may be sought from the client to obtain such further information from the predecessor. The nature and reasonableness of any information obtained directly from the client or a refusal of permission from the client to contact the predecessor are factors that should be carefully considered by the successor when making the client acceptance decision.
- 5 The successor should also enquire of the predecessor whether there is any ongoing business of which the successor should be aware, in order to ensure that the client's interests are protected. On the part of the predecessor, there must be readiness to co-operate with the successor, recognizing that the client's interests are paramount whether or not there are fees owing to the predecessor by the former client.
- 6 Members and firms should be cognizant of the provisions of any federal and provincial legislation, including securities legislation regulating changes in professional engagements or requiring notification of such changes to predecessors.
- 7 The attention of members and firms is drawn to the provisions of various federal and provincial statutes, and to any regulations, guidelines or policy pronouncements issued pursuant to such statutes, which place requirements on the acceptance of audit appointments. These include securities legislation and related pronouncements, such as national policies issued by the Canadian Securities Administrators, the provisions of statutes governing financial institutions, and the audit appointment provisions of the Canada Business Corporations Act and the Business Corporations Act (Ontario).

## 303 Provision of client information

### RULES:

- 303.1 (a)** *A member or firm shall, upon written request of the client and on a timely basis, supply reasonable and necessary client information to the member's or firm's successor. Such co-operation is required with any successor accountant ("successor"), including a non-member.*
- (b)** *A member or firm ("predecessor") shall co-operate with the successor on an engagement.*
- 303.2** *A member or firm shall transfer promptly to the client or, on the client's instructions, to another party, all property of the client which is in the member's or firm's possession or control. Such property shall be transferred in the medium in which it is maintained by the member or firm, or such other medium that is mutually agreeable, that will facilitate a timely and efficient transfer which best serves the client's interests. Ordinarily, when electronic copies of the property of the client are readily available, the client's interests will be best served when such information is provided as electronic data, rather than in printed form, provided that supplying the information in such a form will not violate licensing, copyright or similar legal agreements or proprietary rights.*

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### GUIDANCE – Rule 303

- 1 When a client decides, for any reason, to change from one professional service provider to another, the change should be facilitated on the basis of the following fundamental assumptions:
  - the client's interests be placed ahead of the interests of the member or firm;
  - the client is free to have work performed by the professional service provider of the client's choice; and
  - professional courtesy and co operation be maintained in complying with the client's wishes.
- 2 A predecessor should supply reasonable information to the successor about the client. Ordinarily, predecessors are not expected to supply copies of more than information related to the previous year's financial statements and applicable tax returns, unless the predecessor is remunerated for time and expenses to do so.
- 3 A reasonable request for information related to the client includes an opportunity for the successor to discuss with the predecessor the following:
  - the client's accounting policies and consistency of application;
  - the work carried out by the predecessor with respect to material balances in the client's financial statements; and
  - the financial statement groupings and account balance composition (for example, future income taxes) where the client does not have the information.

Members and firms are reminded that the *CPA Canada Handbook – Assurance* includes requirements with respect to obtaining audit evidence related to opening balances. Professional courtesy dictates that the predecessor should co-operate with the successor for the purpose of meeting this requirement through discussion and review of working papers. In addition, the client's interests are likely to be best served when the predecessor co-operates as fully

as possible with successors for this purpose. Reasonable opportunity to review and discuss working papers does not preclude the use of appropriate waivers or releases. However, appropriate waivers or releases should not include requirements for confidentiality which would contravene the successor's obligation to report breaches by another member pursuant to Rule 211 or prevent the successor from otherwise properly serving the best interests of the client.

- 4 Members or firms providing professional services other than public accounting services may also receive requests for client information from successor service providers. Provided that appropriate authorization has been provided by the client, the predecessor should supply reasonable information about the client to the successor. For example, it may be reasonable to supply the successor with:
  - financial statements, copies of wills and other relevant client information that was provided by a client in relation to the preparation of a financial plan;
  - flow charts, procedural manuals and other documentation provided by a client in relation to an engagement to develop systems and controls;
  - environmental scans, procedural manuals and other documentation provided by the client in relation to a management consulting service; and
  - tax information and balances required for a reorganization or other tax planning purpose.
- 5 Rule 303 is not intended to require the transfer of certain proprietary information. Accordingly, predecessors are not expected to supply copies of audit or review programs and working papers or tax review documentation.
- 6 Property of the client does not include information that is proprietary to the member or firm, such as audit or review programs and working papers, review documentation, software or other proprietary material or information. Property of the client does include the work product that is prepared for the client by the service provider, unless the use and distribution of the work product is limited or otherwise protected by specific written agreement between the client and service provider.
- 7 The medium that facilitates a timely and efficient transfer may vary depending on the nature of the engagement and the nature of the property of the client. For greater clarity and without limiting the general meaning of "property of the client", such property includes original transaction documents (cheques, receipts, invoices, for example), banking records, ledgers and similar records. It would also ordinarily include tax returns and information related to financial statement groupings, account balance composition and continuity schedules that have been prepared by the predecessor accountant for the client's benefit. In addition, it includes any of the foregoing or other property of the client that is readily available in electronic form where the client does not also have an electronic copy of the records or information.
- 8 "Property of the client that is readily available in electronic form" is not intended to include electronic information that cannot be easily segregated from proprietary information of the member or firm. Basic financial information such as trial balances, leadsheets and continuity schedules should always be provided, but need not be provided electronically if they are incorporated into software that includes audit or review programs and working papers or tax review documentation. Accordingly, while members and firms should always consider which readily available transfer medium will best serve the interests of the client, members and firms are not required to provide client information electronically in every case.
- 9 Paragraph 5 of the Guidance to Rule 218 includes information on facilitating the separation of information that is property of the client from proprietary information of the member or firm. Such separation of information is recommended to facilitate the ease with which a predecessor can co-operate with a successor to properly serve the client's interests.

## 304 Joint engagements

### RULE:

*A member or firm accepting an engagement jointly with another member or firm shall accept joint and several responsibility for any portion of the work to be performed by either; no member or firm shall proceed in any matter within the terms of such joint engagement without due notice to the other member or firm.*

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### GUIDANCE - Rule 304

- 1 In order to properly serve the interests of the client and prevent misunderstandings, members or firms should take reasonable steps to clarify the specific responsibilities of each participant in a joint engagement, preferably by an agreement in writing, and explain the responsibilities to the client.

## 305 Communication of special engagements to incumbent

### RULES:

- 305.1** *A member or firm engaged in the practice of public accounting or providing a professional service not inconsistent therewith, shall, before commencing any engagement for a client for which another member or firm is the duly appointed auditor or accountant, first notify such auditor or accountant of the engagement, unless the client makes an unsolicited request, evidenced in writing, that such notification not be given.*
- 305.2** *Rule 305.1 applies only where the services to be provided under the terms of the engagement are included in the practice of public accounting or relate to a professional service not inconsistent therewith.*

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### GUIDANCE – Rule 305

- 1 It is important for auditors and accountants to be fully informed about all matters related to their clients' affairs. When a second member or firm is asked by a client of another member or firm to undertake a special engagement, the circumstances of that special engagement may be relevant to the work of the first member or firm in relation to an assurance or compilation engagement. In some cases, the auditor or accountant may have information that is relevant to the performance of the special engagement. For example, the client may be seeking a "second opinion" with respect to a matter that is the subject of a dispute between the client and its auditor or accountant. The client's interests are most likely to be best served when there is full co-operation among professional service providers. Additionally, full co-operation ensures that all of the members or firms who are providing services to the client have the appropriate information to exercise appropriate due care in providing such services.
- 2 When a client makes a request that the potential service provider not provide notification to the auditor or accountant, the potential service provider should inform the potential client of the impact of such a request on the assurance or compilation engagement. In addition, the potential service provider should carefully consider whether the circumstances may be such that the special engagement should be declined.

## 306 Responsibilities owed to an incumbent

### RULES:

#### 306.1 *Responsibilities on accepting engagements*

*A member or firm accepting an engagement, whether by referral or otherwise, to provide professional services to a client of another member or firm having a continuing professional relationship with that client shall not take any action which may impair the ongoing relationship of the other member or firm with the client.*

#### 306.2 *Responsibilities on referred engagements*

*A member or firm receiving an engagement for services by referral from another member or firm shall not provide or offer to provide any additional services to the referred client without the agreement of the referring member or firm. The interest of the client being of overriding concern, the referring member or firm shall not unreasonably withhold such agreement.*

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### GUIDANCE - Rule 306

- 1 The client's overall interests are best served when professional service providers are aware of any relevant services that may be provided to the client by another service provider. Such knowledge is of particular importance to providers of assurance services to develop sufficient knowledge of the client. However, such knowledge also assists other service providers to avoid duplicating services and to plan and co-ordinate services where necessary to better serve the client.

## 400 PUBLIC ACCOUNTING PRACTICES

### 401 Practice names

#### RULE:

*A member or firm shall engage in the practice of public accounting only under a name or style which:*

- (a) is not misleading;*
- (b) is not self-laudatory;*
- (c) does not contravene professional good taste; and*
- (d) has been approved in a manner specified by the Council.*

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#### GUIDANCE - Rule 401

- 1 It is in the interest of all members of CPA Ontario that members and firms be allowed to conduct their practices under names which reflect their individual preferences and which are appropriate for their particular marketplaces. This Guidance provides assistance for members and firms in the selection of practice names and in the identification with other professional service organizations.
- 2 Members, firms and related businesses or practices should ensure, at all times, that any information contained in their practice names about themselves, their firms or their services is accurate. The following are examples of practice names containing inappropriate information:
  - any implication in the practice name that the practising unit is larger than it is, such as by use of plural descriptions or other misleading use of words. The use of “and Company” or similar wording in a practice name is permitted, if it is not misleading with respect to the total number of full-time equivalent persons, whether members or not, performing professional services within the practice;
  - any implication in the practice name that a person is a partner or a former partner of a practice, when the person is not;
  - any reference to representation or association which is not in conformity with the facts;
  - any implication that separate firms sharing office space, staff or other resources or in other cost-sharing arrangements are in partnership or otherwise share ownership of a practice;
  - any reference in the practice name to particular services provided where the practice is not currently able to provide those services; and
  - any statement in the practice name that may create false or unjustified expectations as to the results of a particular engagement.
- 3 When a member or firm engaged in the practice of public accounting or related business or practice participates in an organization whose members practise public accounting internationally, with professional engagements accepted and reports or opinions issued in the international name, the member, firm or related business or practice may refer to such international name on professional stationery and in name plates, directory listings, announcements and brochures by using terms such as “internationally”, “globally” “international firm”, or “global firm”. General references to “offices throughout the world” or

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“offices in principal cities throughout the world” imply broad coverage and should be used only where the international organization’s members practise public accounting in many countries.

- 4 A member or firm engaged in the practice of public accounting or a related business or practice may have an arrangement with another person or organization whereby one acts for the other in a particular location, and the assignment, by agreement, may be in the name of one of them. In such circumstances it is appropriate, if desired, for the member, firm or related business or practice to refer to the fact of such representation by a suitable reference to the location and the name and/or address and professional designation of the representative, with a description of the relationship as being “represented by”. If representation arrangements exist in a number of locations it may not be possible to give full details of each, and in such case it would be appropriate, if desired, to refer to the fact of representation in the particular locations, specifying the locations individually. Generally references such as “represented throughout the world”, which may not be factual and may be misleading, should be avoided. In any public reference to representation, the representative must be a person or organization practising public accounting.
- 5 Members, firms and related businesses or practices may associate themselves with international organizations which do not practise public accounting and which exist primarily to provide their members with access to international public accounting services through referrals or other means. In these cases it is appropriate to make public reference on professional stationery and elsewhere to membership in a bona fide international organization by using a term such as “a member of (name), an international association of accounting firms”. However, terms such as “internationally”, “globally”, “international firm” or “global firm” should not be used in those circumstances. General references such as “members throughout the world” should be used only where there are in fact members of the organization in many countries. References such as “represented throughout the world” should be avoided unless they are factual and not misleading.
- 6 Members, firms and related businesses or practices should ensure that their practice names or styles are not self-laudatory and do not claim superiority over any other member, firm or related business or practice. Care should be taken in using the word “The” in the firm name so that it does not imply exclusivity.

Practice names that might tend to lower public respect for the profession should not be used. Care should also be exercised with respect to the use of acronyms.

- 7 In general, approval will be given to non-personal firm names unless they are misleading, self-laudatory or contravene professional good taste. However, there may be certain other considerations which will affect the approval decision. A practice name that is so similar to that of another firm registered in the same area as to cause confusion in the minds of the public may not be approved. Consideration will also be given to cultural and linguistic sensitivities in deciding whether to approve a non-personal firm name.
- 8 The registrar, in his or her discretion, is permitted to be flexible in transitional situations. For example, a member engaged in the practice of public accounting as a sole proprietor or, where permitted, an incorporated professional, may apply to the registrar for permission to practise for a specified period of time under both the member’s approved name and, with the predecessor’s written authorization, the name used by a predecessor sole proprietor or firm.

Other situations where transitional flexibility may be granted include those where a previously approved firm name becomes inappropriate. An example of such a situation would occur when, due to the departure of a partner, the firm name becomes misleading with respect to the size of the firm. In such cases, the member or firm may apply to the registrar for permission to continue to use the name for a specified period of time.

## 402 Use of descriptive style

### RULES:

- 402.1** *Members and firms shall carry on the practice of public accounting under the descriptive style of “Chartered Professional Accountant(s)” or “public accountant(s)” unless it forms part of the firm name. Regardless of the functions actually performed, the use of “Chartered Professional Accountants(s)” or “public accountant(s)” as part of the firm name or as a descriptive style, in offering services to the public, shall be regarded as carrying on the practice of public accounting for the purposes of the CPA Code.*
- 402.2** *Notwithstanding Rule 402.1, each office in Ontario of any firm engaged in the practice of public accounting and composed of one or more members sharing proprietary interest with other public accountants who are not professional colleagues shall not practise under the style of “Chartered Professional Accountant(s)”.*
- 402.3** *A related business or practice shall not be designated “Chartered Professional Accountant(s)” or “Public Accountant(s)”*
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### GUIDANCE – Rule 402

- 1 The requirement to carry out the practice of public accounting under the descriptive style “Chartered Professional Accountant(s)” does not preclude a firm from advertising professional services without reference to “chartered professional accountant(s)”. However, all material that refers to the practice of public accounting, including printed promotional material and website content, must include a reference to “Chartered Professional Accountant(s)” in conjunction with the firm name. In addition, such a reference must be included on audit reports, review engagement reports, compilation engagement reports and other material and correspondence that relates to the provision of public accounting services, such as engagement letters, invoices, management letters and responses to requests for proposals.
- 2 In a jurisdiction that may permit the use of the initials “CPA” as part of a firm name, such use would not be considered to meet the requirement for the use of the descriptive style “Chartered Professional Accountant(s)” when carrying on the practice of public accounting unless the jurisdiction specifically permits the use of the initials for that purpose.

## 403 Association with firms

### RULE:

*A member shall not associate in any way with any firm practising as chartered professional accountants in Ontario unless:*

- (a) all partners or controlling shareholders resident in Ontario are members, professional corporations or incorporated professionals,*
- (b) at least one partner or controlling shareholder is a member, and*
- (c) all the partners or controlling shareholders are professional colleagues or professional corporations or incorporated professionals provided each such corporation or incorporated professional is recognized and approved for the practice of public accounting by the provincial body in the province concerned.*

*Notwithstanding clause (a), a member may associate with any firm practising as chartered professional accountants in Ontario in which one or more partners as of July 2, 2014 are not members provided that the firm was registered with The Certified General Accountants Association of Ontario on July 2, 2014 and with CPA Ontario by not later than December 31, 2014.*

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### GUIDANCE - Rule 403

- 1 The purpose of Rule 403 is to protect the public by establishing accountability to CPA Ontario by members and firms practising public accounting in Ontario. The ownership and control of such firms by members of CPA Ontario is necessary to establish that accountability.

## 404 Access to members practising public accounting

### RULES:

- 404.1** *Each practice in Ontario of any member or firm engaged in the practice of public accounting shall be under the personal charge and management of a member who shall normally be accessible to meet the needs of clients during the published business hours of the practice.*
- 404.2** *A member or firm shall not operate a part time office except in accordance with such terms and conditions established by Council.*

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### GUIDANCE - Rule 404

- 1 The purpose of the Rule is to ensure that clients' public accounting needs will be met in each instance by properly qualified professional personnel.
- 2 A member is considered to be accessible if the member is available, either in person or by telephone, facsimile, electronically or by some other timely method of communication. When the member is not accessible, the office should be closed for the purpose of providing professional services, or another properly qualified professional should be accessible for that purpose. However, if neither person is accessible, non-professional staff may continue to deal with administrative matters.
- 3 A part-time practice is one where the member having personal charge and management is accessible to meet the needs of clients on a part-time basis only.
- 4 Members are expected to fulfil their obligation to respond to inquiries from the public within a reasonable period of time, whether a practice is operated on a full-time or part-time basis.

## 405 Office by representation

### **RULE:**

*A member or firm engaged in the practice of public accounting shall not hold out or imply that the member or firm has an office in any place where the member or firm is in fact only represented by another accountant or a firm of accountants and, conversely, a member or firm engaged in the practice of public accounting who only represents an accountant or a firm of accountants, shall not hold out or imply that the member or firm maintains an office for such accountant or such firm.*

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### **GUIDANCE - Rule 405**

- 1 Members and firms are referred to Rule 401, Guidance paragraph 2, which addresses offices by representation and situations where association of firms may be implied by shared resources.

## 406 Responsibility for a non-member

### RULES:

- 406.1** *A member or firm engaged in the practice of public accounting who is associated in such practice with a non-member shall be responsible to CPA Ontario for any failure of such non-member, in respect of all areas of practice of the member or firm, to abide by the CPA Code and in the application of this Rule, the CPA Code is deemed to apply as if such non-member were a member.*
- 406.2** *A member or firm engaged in a practice of public accounting to which another business or practice is related, or engaged in such related business or practice, shall be responsible to CPA Ontario for any failure of a non-member who is associated with such related business or practice and who is under the member's or firm's management or supervision or with whom the member or firm shares proprietary or other interest in such related business or practice to comply with the CPA Code. In the application of this Rule, the CPA Code is deemed to apply as if such related business or practice were the practice of public accounting and such non-member were a member.*

407 Reserved for future use

## 408 Association with non-member in public practice

### RULES:

- 408.1** *A member or firm shall not associate in any way with a non-member in a practice of public accounting, or in a related business or practice, unless:*
- (a) *such association maintains the good reputation of the profession and serves the public interest; and*
  - (b) *such business or practice establishes and maintains policies, procedures and arrangements suitable for ensuring that:*
    - (i) *every such non-member is knowledgeable of and complies with*
      - (A) *CPA Ontario's governing legislation, bylaws, regulations and the CPA Code; and*
      - (B) *the ethical and other regulations applicable to members of a recognized professional organization or regulated body of which the non-member is a member; and*
    - (ii) *no style or presentation or communication is used which implies that the non-member is a member.*
- 408.2** *A member may associate with a related business or practice as a proprietor, as a partner, or as a director, officer or shareholder of a corporation and may associate with a non-member for this purpose.*

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### GUIDANCE - Rule 408

- 1 The provisions of Rule 408.1(b) requiring knowledge and compliance on the part of non-members to comply with respect to the governing legislation, bylaws, regulations and the CPA Code are not intended to require knowledge of and compliance with provisions of those documents that are clearly not applicable to a non-member, such as payment of membership fees or completion of continuing professional development requirements.

## 409 Practice of public accounting in corporate form

### RULE:

*A member or firm shall not associate in any way with any corporation engaged in Canada or Bermuda in the practice of public accounting, except to the extent permitted in clauses (a), (b) (c) and (d) of this Rule:*

- (a) a member or firm may engage to provide to the corporation any of the services included in the practice of public accounting;*
- (b) a member, other than a member engaged in the practice of public accounting, may associate with a corporation which provides taxation services involving advice, counsel or interpretation provided such services are only a small part of the corporation's activities;*
- (c) a member or firm may associate with a professional corporation engaged in the practice of public accounting in Ontario provided such corporation:
  - (i) is incorporated or continued under the Business Corporations Act (Ontario); and*
  - (ii) holds a valid registration certificate under the legislation, and bylaws of CPA Ontario; and*
  - (iii) complies with such other requirements as pertain in the circumstances;**
- (d) a member or firm may associate with a professional corporation or incorporated professional engaged in the practice of public accounting in a province or territory other than Ontario if the corporation or incorporated professional is recognized and approved for such practice by the provincial body in the province or territory concerned and the corporation or incorporated professional does not engage in the practice of public accounting in Ontario. Without limiting the generality of the foregoing, a corporation shall be deemed to be engaged in the practice of public accounting even though the corporation provides a service included in the definition of "practice of public accounting" only to another member or firm engaged in the practice of public accounting or to a public accountant.*

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### GUIDANCE - Rule 409

- 1 The provisions of Rule 409 are intended to ensure that the practice of public accounting in corporate form is carried out only in accordance with the CPA Ontario's legislation and bylaws. Without limiting the specific requirements of the Rule or the legislation of CPA Ontario, in general, a member may practice public accounting in corporate form through a professional corporation and may associate with other professional corporations. A member or firm may also associate with a corporation or incorporated professional that practises in a province or territory other than Ontario, if that corporation or incorporated professional is properly registered in the other province or territory but does not practise in Ontario.

## 500 FIRMS

### 501 Policies and procedures for compliance with professional standards

**RULE:**

*A firm shall establish, maintain and uphold appropriate policies and procedures designed to ensure that its services are performed in accordance with generally accepted standards of practice of the profession and the standards of the particular business or practice, provided that the standards of the particular business or practice are not lower than or inconsistent with those of the profession in which case the generally accepted standards of the profession must be followed.*

## 502 Policies and procedures for the conduct of a practice

### RULE:

*A firm shall establish, maintain and uphold appropriate policies and procedures designed to ensure that, in the conduct of the practice, the members who are associated with the firm and any other employees of the firm or other persons with whom the firm contracts to carry out its professional services comply with the CPA Code, and in particular:*

- (a) conduct themselves in a manner which will maintain the good reputation of the profession and serve the public interest;*
- (b) perform their professional services with objectivity, integrity and due care;*
- (c) comply with the independence requirements of CPA Ontario;*
- (d) comply with the conflict of interest requirements of CPA Ontario;*
- (e) sustain their professional competence and keep informed of and comply with developments in professional standards in all functions in which they practise or are relied on because of their calling;*
- (f) ensure only authorized individuals have access to or are permitted to appropriately use or release financial and confidential information relating to clients;*
- (g) do not sign or associate themselves with any letter, report, statement, representation or financial statement which they know or should know is false or misleading, whether or not the signing or association is subject to a disclaimer of responsibility, nor make or associate themselves with any oral report, statement or representation which they know or should know is false or misleading;*
- (h) ensure that partners or others who are not professional colleagues:*
  - (i) cannot supersede decisions of members relating to the performance of client engagements within the definition of the practice of public accounting; and*
  - (ii) are familiar with and comply with the Act, regulations, bylaws and the CPA Code; and*
  - (i) ensure that persons in the firm who are members of other professional associations comply with those associations' bylaws and code of ethics.*

## 503 Association with firms

### **RULE:**

*A firm engaged in the practice of public accounting shall not associate professionally with any other firm practising as Chartered Professional Accountants in Ontario unless the other firm meets the ownership requirements set out in Rule 403 (a), (b) and (c).*