PUBLIC ACCOUNTANCY BOARD

Rules of Professional Conduct – MARCH 2017

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PREFACE

Public Accountancy Board

The Public Accountancy Board (the Board) is a public body, created by the Public Accountancy Act 1968. The Board's mandate is to promote, in the public interest acceptable standards of professional conduct among registered public accountants in Jamaica, and, in particular to perform the functions assigned to the Board by the other provisions of the Act.

The Public Accountancy Act provides that the Board shall –

(a) register applicants who qualify as public accountants

(b) establish systems for the review of the products, methods and records of work of registered public accountants to ensure adherence to –

  (i) any prescribed standard of professional conduct; and

  (ii) established accounting and auditing standards;

(c) make, with the approval of the Minister, rules in relation to the promotion by the Board, in the public interest of acceptable standards of professional conduct among registered public accountants;

(d) take disciplinary action against registered public accountants for breach of any provision of this Act or any regulation made hereunder; and

(e) remove from the register persons who no longer qualified to be registered public accountants.

In the conduct of its mandate to strengthen the accountancy profession in Jamaica the Board is authorized to:

- Establish, evaluate and monitor the experience requirements of registered public accountants
- Establish, evaluate and monitor accounting and auditing standards to be compiled with by the registered public accountants

- Establish, implement and regulate a system of continuing professional education for registered public accountants, prescribe requirements therefor and monitor compliance with the requirements
- Implement, regulate and monitor a system of quality control reviews or perform such other monitoring functions as it considers necessary or expedient.

Any person seeking to engage in the practice of accountancy in Jamaica shall register with the Public Accountancy Board to obtain a practising certificate.

The Board's mission is to promote, in the public interest, acceptable standards of professional conduct among registered public accountants in Jamaica, and, in particular (but without prejudice to the generality of the foregoing) to perform the functions assigned to the Board by the other provisions of the Public Accountancy Act. In pursuit of this mission the Board in relation to the practice of accountancy, may issue or specify any statement of professional ethics required to be observed, maintained or otherwise applied by persons registered to practise accountancy in Jamaica.

In connection with the foregoing, the Board adopts a programme of timely:

(a) informing Registrants of every pronouncement, and

(b) implementing those pronouncements,

It is not practical to establish ethical requirements that apply to all situations and circumstances that Registrants may encounter. Registrants should therefore consider the published ethical standards as the minimal requirements they should follow in performing their work.

International Federation of Accountants

The Public Accountancy Board supports and is committed to the broad objective of the International Federation of Accountants (IFAC), of developing and enhancing a coordinated accountancy profession with common standards. IFAC is committed to the values of integrity, transparency and expertise. IFAC also seeks to reinforce professional accountants' adherence to these values through the International Ethics Standards Board for Accountants' *Code of Ethics for Professional Accountants (*IESBA Code*).*

The Rules of Professional Conduct were revised in 2016 and conform to the IESBA *Code of Ethics for Professional Accountants*. The requirements and definitions contained in the Rules are consistent in all material aspects with the IESBA Code. Every person who is registered as a public accountant shall observe these Rules of Professional Conduct and also the Public Accountancy Board's pronouncements on all professional matters issued from time to time.

Registered Public Accountants are obligated to familiarize themselves with the ethical requirements set forth in these Rules of Professional Conduct. The Rules of Professional Conduct can be downloaded free of charge from the Board's website www,pab.gov.jm. The IESBA Code can be downloaded free of charge from the IFAC's website http//www.ifac.org

RULES OF PROFESSIONAL CONDUCT FOR REGISTRANTS

As professionals, registered public accountants perform an essential role in society. Consistent with that role, Registrants have responsibilities to all those who use their professional services. Registrants also have a continuing responsibility to cooperate with each other to improve the art of accounting, and maintain the public's confidence.

These Rules of Professional Conduct recognize that the objectives of the accountancy profession are to work to the highest standards of professionalism, to attain the highest levels of performance and generally to meet the public interest requirement.

The Board requires Registrants to comply with these Rules of Professional Conduct. Failures by Registrants to comply with the Rules are liable to be enquired into under the authority of the Board, and disciplinary action may result. Disciplinary action may include an order that the name of the registrant be removed from the Board's register.

In carrying out their responsibilities as professionals, Registrants should exercise sensitive professional and ethical judgments in all their activities.

Professional accountants are recognized as trusted expert business professionals. A professional accountant should possess qualities that include competence, integrity, objectivity, quality and professionalism. These are the key concepts or principles that you will find to be the focus throughout this document.

Clients and employers and others who rely on the Registrant's work expect these ethical principles to be a fundamental part of their professional work and behaviour. Registrants are expected to commit to providing professional services competently and with due care. This requires extensive knowledge and

experience, and the ability to make appropriate judgments. In addition, Registrants are expected also to commit to continuous improvement in the quality of professional services and the profession itself.

Fundamental Principles

The Rules of Professional Conduct are based on a number of Fundamental Principles that represent the basic tenets of ethical and professional behaviour and conduct. (Please see 100.4).

The Public Interest

The public interest is defined as the collective well-being of the community of people and institutions that the profession serves. The accountancy profession's public consists of clients, government, employers, employees, investors, creditors, the business and financial community, and others Registrants should accept the obligation to act in a way that will serve the public interest, honour the public trust, and demonstrate commitment to professionalism.

Registrants have a public interest responsibility. Registrants can remain in this position only if they are seen to be regulated, and can demonstrate that their services are provided to high levels of performance in accordance with ethical standards designed to maintain public confidence that the accountancy profession will act in the public interest.

In discharging their professional responsibilities, Registrants may encounter conflicting pressures. In resolving those conflicts, Registrants should act with integrity, guided by the precept that when they fulfill their responsibility to the public, clients' and employers' interests are best served.

Compliance

The use of the word “shall” in these Rules impose a requirement on the Registered Public Accountant to comply with the specific provision in which “shall” has been used. Compliance is required unless an exception is permitted by these Rules.

Registrants are bound not merely by the terms but also by the spirit of the Rules of Professional Conduct. The fact that particular behaviour or conduct does not receive a specific mention within the Rules of Professional Conduct does not prevent it from amounting to breach of ethics.

Detailed issues of applicability of these Rules are discussed in Appendix 1, which covers issues such as non-registrant partners and directors, Registrants’ responsibility for the conduct of others, and the ethical requirements applicable to services performed outside Jamaica.

The Rules of Professional Conduct are established on the basis that unless a limitation is specifically stated, the requirements are equally applicable to all Registrants.

Structure of the Rules of Professional Conduct

The Rules of Professional Conduct have been structured around the Fundamental Principles that form the basis of the behaviour expected of Registrants.

The requirements of the Rules of Professional Conduct are arranged by sections as under:

Part A – deals with the general application of the Rules of Professional Conduct (Paragraph 100-150)’

Part B – deals with the general requirements for Registrants (Paragraphs 200-291).

Also included are supplementary requirements and guidance.

All references to professional standards, guidance notes and legislation are references to those provisions as amended from time to time.

In circumstances not specifically covered by the Rules of Professional Conduct, Registrants must have regard to the Fundamental Principles and should be guided by any similar situations specifically covered by the Rules.

PART A – GENERAL APPLICATION OF THE RULES OF CONDUCT

SECTION 100: INTRODUCTION AND FUNDAMENTAL PRINCIPLES

100.1 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore, a public accountant's responsibility is not exclusively to satisfy the needs of an individual client or employer. In acting in the public interest a public accountant should observe and comply with the ethical requirements of these Rules.

100.2 The Rules of Conduct are in two parts. Part A establishes the fundamental principles of professional ethics for public accountants and provides a conceptual framework for applying those principles. Public accountants are required to apply this conceptual framework.

(a) to identify threats to compliance with the fundamental principles

(b) to evaluate their significance and, if such threats are other than clearly insignificant

(c) to apply safeguards to eliminate threats or reduce them to an acceptable level. Safeguards are necessary when the Registrant determines that the threats are not at a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the registrant at that time, that compliance with the fundamental principles is not compromised.

A Registrant shall use professional judgment in applying this conceptual framework.

100.3 Part B deals with the general requirements for Registrants. The Section also describes how the conceptual framework applies in certain situations. It provides guidance on safeguards that may be appropriate to address threats to compliance with the fundamental principles.

Fundamental Principles

100.4 A registered public accountant shall comply with the following fundamental principles:

(a) *Integrity* – to be straightforward and honest in all professional and business relationships.

(b) *Objectivity* – to not allow bias, conflict of interest or undue influence of others to override professional or business judgments.

(c) *Professional Competence and Due Care* – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.

(d) *Confidentiality* – to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the registrant or third parties.

(e) *Professional Behaviour* – to comply with relevant laws and regulations and avoid any action that discredits the

profession.

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

Conceptual Framework Approach

100.5 The circumstances in which Registrants operate may create specific threats to compliance with the fundamental principles. It is impossible to define every situation that creates threats to compliance with the fundamental principles and specify the appropriate action. In addition, the nature of engagements and work assignments may differ and, consequently, different threats may be created, requiring the application of different safeguards. Therefore, these Rules establish a conceptual framework that requires a registrant to identify, evaluate, and address threats to compliance with the fundamental principles. The conceptual framework approach assists Registrants in complying with the ethical requirements of these Rules and meeting their responsibility to act in the public interest. It accommodates many variations in circumstances that create threats to compliance with the fundamental principles and can deter a registrant from concluding that a situation is permitted if it is not specifically prohibited.

100.6 When a Registrant identifies threats to compliance with the fundamental principles and, based on an evaluation of those threats, determines that they are not at an acceptable level, the Registrant shall determine whether appropriate safeguards are available and can be applied to eliminate the threats or reduce them to an acceptable level. In making that determination, the Registrant shall exercise professional judgment must take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the registrant at the time would be likely to conclude that the threats would be eliminated or

reduced to an acceptable level. By the application of the safeguards, compliance with the fundamental principles are not likely to be compromised.

100.7 A Registrant shall evaluate any threats to compliance with the fundamental principles when the registrant knows, or could reasonably be expected to know, of circumstances or relationships that may compromise compliance with the fundamental principles.

100.8 A Registrant shall take qualitative as well as quantitative factors into account when evaluating the significance of a threat. When applying the conceptual framework, a Registrant may encounter situations in which threats cannot be eliminated or reduced to an acceptable level, either because the threat is too significant or because appropriate safeguards are not available or cannot be applied. In such situations, the registrant shall decline or discontinue the specific professional service involved or, when necessary, resign from the engagement (in the case of a Registrant) or the employing organization (in the case of a Registrant in employment with an audit firm).

100.9 Sections 290 and 291 contain provisions with which a professional accountant shall comply if the professional accountant identifies a breach of an independence provision of the Code. If a registrant identifies a breach of any other provision of this Code, the registrant shall evaluate the significance of the breach and its impact on the accountant's ability to comply with the fundamental principles. The accountant shall take whatever actions that may be available, as soon as possible, to satisfactorily address the consequences of the breach. The accountant shall determine whether to report the breach, for example, to the Public Accountancy Board

100.10 When a Registrant encounters unusual circumstances in which the

application of a specific requirement of the Rules would result in a disproportionate outcome or an outcome that may not be in the public interest, it is recommended that the registrant consult with a member body or the relevant regulator.

Threats and Safeguards

100.11 Threats may be created by a broad range of relationships and circumstances. When a relationship or circumstance creates a threat, such a threat could compromise, or could be perceived to compromise, a Registrant's compliance with the fundamental principles. A circumstance or relationship may create more than one threat, and a threat may affect compliance with more than one fundamental principle. Threats fall into one or more of the following categories:

(a) *Self-interest threat* – the threat that a financial or other interest will inappropriately influence the Registrant's judgment or behaviour;

(b) *Self-review threat* – the threat that a Registrant will not appropriately evaluate the results of a previous judgment made or service performed by the Registrant, or by another individual within the Registrant's firm on which the accountant will rely when forming a judgment as part of providing a current service;

(c) *Advocacy threat* - the threat that a Registrant will promote a client's position to the point that the Registrant's objectivity is compromised;

(d) *Familiarity threat* – the threat that due to a long or close relationship with a client, a Registrant will be too sympathetic to their interests or too accepting of their work; and

(e) *Intimidation threat* - the threat that a Registrant will be deterred from acting objectively because of actual or

perceived pressures, including attempts to exercise undue influence over the registrant.

100.12 Safeguards are actions or other measures that may eliminate threats or reduce them to an acceptable level. They fall into two broad categories;

(a) Safeguards created by the profession, legislation or regulation; and

(b) Safeguards in the work environment.

100.13 Part B of the Rules of Professional Conduct explains how these categories of threats may be created for Registrants as well as discusses ethical requirements and safeguards in the work environment for Registrants. Safeguards created by the profession, legislation or regulation include:

- Educational, training and experience requirements for entry into the profession.
- Continuing professional development requirements.
- Corporate governance regulations.
- Professional standards.
- Professional or regulatory monitoring and disciplinary procedures.
- External review by an egually empowered third party of the reports, returns, communications or information produced by a Registrant.

100.14 Certain safeguards may increase the likelihood of identifying or deterring unethical behaviour. Such safeguards may include:

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

Ethical Conflict Resolution

100.15 Registrants are required to resolve conflicts in complying with the fundamental principles.

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

- The Registrant undertakes a professional activity related to a particular matter for two or more parties whose interests with respect to that matter are in conflict

  Or
- The interests of the Registrant with respect to a particular matter and the interests of a party for whom the Registrant undertakes a professional activity related to that matter are in conflict.

100.17 Part B discusses conflicts of interest for Registrants.

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

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

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

100.19 Where a matter involves a conflict with an organization, a Registrant shall determine whether to consult with those charged with governance of the organization, such as the board of directors or the audit committee. It may be in the best interests of the Registrant to document the substance of the issue, the details of any discussions held, and the decisions made concerning that issue.

100.20 If a significant conflict cannot be resolved, a Registrant may consider obtaining professional advice from a relevant professional body or from legal advisors or the Public Accountancy Board. The Registrant generally can obtain guidance on ethical issues without breaching the fundamental principle of confidentiality if the matter is discussed with the relevant professional body on an anonymous basis or with a legal advisor under the protection of legal privilege. Instances in which the Registrant may consider obtaining legal advice vary.

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

SECTION 110: INTEGRITY

The Fundamental Principle of Integrity

Registrants must behave with Integrity in all professional and business relationships.

To maintain and broaden public confidence, Registrants should perform all professional responsibilities with the highest sense of integrity.

110.1 The principle of integrity imposes an obligation on all Registrants to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness. Integrity requires a Registrant to be, among other things, honest and candid within the constraints of client confidentiality. Service and the public trust should not be subordinated to personally gain an advantage. Integrity can accommodate the inadvertent error and the honest difference of opinion; it cannot accommodate deceit or subordination of principle.

110.2 Integrity is an element of character fundamental to professional recognition. It is the quality from which the public trust derives and the benchmark against which a registrant must ultimately test all decisions.

110.3 A Registrant shall not knowingly be associated with reports, returns, communications or other information where the Registrant believes that the information:

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

110.4 When a Registrant becomes aware that he has been associated with such information, the registrant shall immediately take steps to be disassociated from that information.

110.5 A Registrant will be deemed not to be in breach of paragraph 110.3 if the Registrant provides a modified report in respect of a matter contained in that paragraph.

SECTION 120: OBJECTIVITY

The Fundamental Principles of Objectivity

A registrant should maintain objectivity and be free of conflicts of interest in discharging professional responsibilities

Registrants must be fair, impartial and intellectually honest, and must not allow prejudice or bias, conflict of interest or influence of others to override Objectivity.

120.1 The fundamental principle of Objectivity imposes the obligation on Registrants to be fair, impartial, intellectually honest and free of conflict of interest.

120.2 Objectivity is essential for any Registrant exercising professional judgment. Objectivity is a state of mind, a quality that lends value to a Registrant's services. It is a distinguishing feature of the profession. For a Registrant, the maintenance of objectivity requires a continuing assessment of client relationships and public responsibility.

120.3 A Registrant may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. A Registrant shall not perform a professional service if a circumstance or relationship biases or unduly influences his professional judgment with respect to that service.

SECTION 130: PROFESSIONAL COMPETENCE AND DUE CARE

The Fundamental Principles of Competence and Due Care

130.1 The principle of professional competence and due care imposes the following obligations on Registrants:

(a) To maintain professional knowledge and skill at the level required to ensure that clients receive competent professional service; and

(b) To act diligently in accordance with applicable technical and professional standards when providing professional services

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

(a) Attainment of professional competence; and

(b) Maintenance of professional competence.

130.3 The maintenance of professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continuing professional development enables a registrant to develop and maintain the abilities to perform competently within the professional environment.

130.4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.

130.5 A Registrant shall take reasonable steps to ensure that those working

under his/her authority in a professional capacity have appropriate training and supervision.

130.6 Where appropriate, a Registrant shall make clients, employers or other users of the Registrant's professional services aware of the limitations inherent in the services.

SECTION 140: CONFIDENTIALITY

Fundamental Principle of Confidentiality

Registrants must respect the confidentiality of information acquired in the course of their professional work and must not disclose such information without proper and specific authority in writing or unless there is a legal or professional right or duty to disclose the information.

140.1 The principle of confidentiality imposes an obligation on Registrants to refrain from:

(a) Disclosing outside the firm confidential information acquired as a result of professional and business relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and

(b) Using confidential information acquired as a result of professional and business relationships to their personal advantage or the advantage of third parties.

140.2 A Registrant shall maintain confidentiality, including in a social environment, being alert to the possibility of inadvertent disclosure, particularly to a close business associate or member.

140.3 A Registrant shall maintain confidentiality of information disclosed by a prospective client.

140.4 A Registrant shall maintain confidentiality of information within the firm

140.5 A Registrant shall take reasonable steps to ensure that staff under his/her control and persons from whom advice and assistance is obtained respect

the Registrant's duty of confidentiality.

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

140.7 The following are circumstances where Registrants are or may be required to disclose confidential information or when such disclosure may be appropriate:

(a) Disclosure is permitted by law and is authorized by the client

(b) Disclosure is required by law, for example:

(i) Production of documents or other provision of evidence in the course of legal proceedings; or

(ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and

(c) There is a professional duty or right to disclose, when not prohibited by law:

(i) To comply with the quality review of a member body or professional body;

(ii) To respond to an inquiry or investigation by a regulatory body;

(iii) To protect the professional interests of a Registrant in legal proceedings; or

(iv) To comply with technical standards and ethical requirements

SECTION 150: PROFESSIONAL BEHAVIOUR

The Fundamental Principles of Professional Behaviour

Registrants must conduct themselves with courtesy and consideration towards all they come into contact with during their professional work, including clients, other Registrants, staff, third parties and the general public.

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

150.2 In marketing and promoting themselves and their work, Registrants shall not bring the profession into disrepute. Registrants shall be honest and truthful and not:

(a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or

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

150.3 Registrants must conduct themselves with courtesy and consideration towards all they come into contact with during their professional work, including clients, other Registrants, staff, third parties and the general public.

150.4 Registrants must behave professionally in all aspects of their professional work. This includes a Registrant's dealings with current and prospective clients, employers, other business contacts, other Registrants, the Public Accountancy Board, and the general public.

150.5 Other areas where Professional Behaviour is particularly important and expected are:

(a) the publicity and promotion of professional services;
(b) the charging of professional fees;
(c) resolving disputes with clients; and
(d) accepting new assignments.

PART B – GENERAL REQUIREMENTS FOR REGISTRANTS

SECTION 200: INTRODUCTION

200.1 This Part of the Rules describes how the conceptual framework contained in Part A applies in certain situations to Registrants. This Part does not describe all of the circumstances and relationships that could be encountered by a Registrant that create or may create threats to compliance with the fundamental principles. Therefore, the Registrant is encouraged to be alert for such circumstances and relationships and to apply the necessary safeguards in the event that any threat to compliance may exist.

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

Threats and Safeguards

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

Threats fall into one or more of the following categories:

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

These threats are discussed further in Part A of these Rules.

200.4 Examples of circumstances that create self-interest threats for a Registrant include:

(a) A member of the assurance team having a direct financial interest in the assurance client.

(b) A Registrant having undue dependence on a disproportionally high percentage of his fees from a client.

(c) A member of the assurance team having a significant close business relationship with an assurance client.

(d) A Registrant being concerned about the possibility of losing a significant client.

(e) A member of the audit team entering into employment negotiations with the audit client.

(f) A firm entering into a contingent fee arrangement relating to an assurance engagement.

(g) A Registrant discovering a significant error when evaluating the results of a previous professional service performed by a member of the Registrant's firm.

200.5 Examples of circumstances that create self-review threats for a Registrant include:

(a) A Registrant issuing an assurance report on the effectiveness of the operation of financial systems after designing or implementing the systems.

(b) A Registrant having prepared the original data used to generate records that are the subject matter of the assurance engagement.

(c) A member of the assurance team being, or having recently been, a director or officer of the client.

(d) A member of the assurance team being, or having recently been, employed by the client in a position to exert significant influence over the subject matter of the engagement.

(e) The firm performing a service for an assurance client that directly affects the subject matter information of the assurance engagement.

200.6 Examples of circumstances that create advocacy threats for a Registrant include:

(a) The firm promoting shares in an audit client.

(b) A Registrant acting as an advocate on behalf of an audit client in litigation or disputes with third parties.

200.7 Examples of circumstances that create familiarity threats for a Registrant include:

(a) A member of the engagement team having a close or immediate family member who is a director or officer of the client.

(b) A member of the engagement team having a close or immediate family member who is an employee of the client who is in a position to exert significant influence over the subject matter of the engagement.

(c) A director or officer of the client or an employee in a position to exert significant influence over the subject matter of the engagement having recently served as the engagement partner.

(d) A Registrant accepting gifts or preferential treatment from a client, unless the value is trivial or inconsequential.

(e) Senior personnel having a long association with the assurance client.

200.8 Examples of circumstances that create intimidation threats for a Registrant include:

(a) A Registrant being threatened with dismissal from a client engagement.

(b) An audit client indicating that it will not award a planned non-assurance contract to the firm if the firm continues to disagree with the client's accounting treatment for a particular transaction.

(c) A Registrant being threatened with litigation by the client.

(d) A Registrant being pressured to reduce inappropriately the extent of work performed in order to reduce fees.

(e) A Registrant feeling pressured to agree with the judgment of a client employee because the employee has more expertise on the matter in question.

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

(a) Safeguards created by the profession, legislation or regulation; and

(b) Safeguards in the work environment.

Examples of safeguards created by the profession, legislation or regulation are described in paragraph 100.13 of Part A of these Rules.

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

200.11 In the work environment, the relevant safeguards will vary depending on the circumstances. Work environment safeguards comprise firm-wide safeguards and engagement-specific safeguards.

200.12 Examples of areas of safeguards to be aware of and which applies to the work environment include:

(a) Leadership of the firm that stresses the importance of compliance with the fundamental principles.

(b) Leadership of the firm that establishes the expectation that members of an assurance team will act in the public interest.

(c) Policies and procedures to implement and monitor quality control of engagements.

(d) Documented policies regarding the need to identify threats to compliance with the fundamental principles, evaluate the significance of those threats, and apply safeguards to eliminate or reduce the threats to an acceptable level, or when appropriate safeguards are not available or cannot be applied, terminate or decline the relevant engagement.

(e) Documented internal policies and procedures requiring compliance with the fundamental principles.

(f) Policies and procedures that will enable the identification of interests or relationships between the Registrant, his firm or members of engagement teams and clients.

(g) Policies and procedures to monitor and, if necessary, manage the reliance on revenue received from a single client.

(h) Using different partners and engagement teams with separate reporting lines for the provision of non-assurance services to an assurance client.

(i) Policies and procedures to prohibit individuals who are not members of an engagement team from inappropriately influencing the outcome of the engagement.

(j) Timely communication of a firm's policies and procedures, including any changes to them, to all partners and professional staff, and appropriate training and education on such policies and procedures.

(k) Designating a member of senior management to be responsible for overseeing the adequate functioning of the firm's quality control system.

(l) Disclosing to partners and professional staff of assurance clients and related entities from which independence is required.

(m) A disciplinary mechanism to promote compliance with policies and procedures.

(n) Published policies and procedures to encourage and empower staff to communicate to senior levels within the firm any issue relating to compliance with the fundamental principles that concerns them.

200.13 Examples of engagement-specific safeguards in the work environment include:

(a) Having a Manager or Partner in the Registrant's firm who was not involved with the non-assurance service review the non-assurance work performed or otherwise advise as necessary.

(b) Having a Manager or Partner who was not a member of the assurance team review the assurance work performed or otherwise advise as necessary.

(c) Consulting an independent third party, such as a committee of independent directors, a professional regulatory body or another Registrant.

(d) Discussing ethical issues with those charged with governance of the client.

(e) Disclosing to those charged with governance of the client the nature of services provided and extent of fees charged.

(f) Involving another Registrant to perform or re-perform part of the engagement.

(g) Rotating senior assurance team personnel.

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

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

(a) The client requires persons other than management to ratify or approve the appointment of a firm to perform an engagement.

(b) The client has competent employees with experience and seniority to make managerial decisions.

(c) The client has implemented internal procedures that ensure objective choices in commissioning non-assurance engagements.

(d) The client has a corporate governance structure that provides appropriate oversight and communications regarding the firm's services.

SECTION 210: PROFESSIONAL APPOINTMENT

Client Acceptance and Continuance

210.1 Before accepting a new client relationship, a Registrant shall determine whether acceptance would create any threats to compliance with the fundamental principles. Potential threats to integrity or professional behaviour may be created from, for example, questionable issues associated with the client (its owners, management or activities).

210.2 Questionable issues associated with the client that, if known, could threaten compliance with the fundamental principles include, for example, client involvement in illegal activities (such as money laundering), dishonesty, questionable financial reporting practices or other unethical behaviour.

210.3 A Registrant shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level.

Examples of such safeguards include:

(a) Obtaining knowledge and understanding of the client, its owners, managers and those responsible for its governance and business activities; or

(b) Securing the client's commitment to address the questionable issues, for example, through improving corporate governance practices or internal controls.

210.4 Where it is not possible to reduce the threats to an acceptable level, the Registrant shall decline to enter into the client relationship.

210.5 Potential threats to compliance with the fundamental principles may have been created after acceptance that would have caused the Registrant to decline the engagement had that information been available earlier. A Registrant shall, therefore, periodically review acceptance decisions for recurring client engagements. For example, a threat to compliance with the fundamental principles may be created by a client's unethical behaviour such as improper earnings management or balance sheet valuations. If a Registrant identifies a threat to compliance with the fundamental principles, the accountant shall evaluate the significance of the threats and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level. Where it is not possible to reduce the threat to an acceptable level, the Registrant shall terminate the client relationship.

Engagement Acceptance[1]

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

210.7 A Registrant shall evaluate the significance of threats and apply safeguards, when necessary, to eliminate them or reduce them to an acceptable level. Examples of such safeguards include:

1 A professional accountant contemplating accepting a specific client engagement is also referred to the paragraphs under the

heading “Changes in a professional appointment”

(a) Acquiring an appropriate understanding of the nature of the client’s business, the complexity of its operations, the specific requirements of the engagement and the purpose, nature and scope of the work to be performed.

(b) Acquiring knowledge of relevant industries or subject matters.

(c) Possessing or obtaining experience with relevant regulatory or reporting requirements.

(d) Assigning sufficient staff with the necessary competencies.

(e) Using experts where necessary.

(f) Agreeing on a realistic timeframe for the performance of the engagement.

(g) Complying with quality control policies and procedures designed to provide reasonable assurance that specific engagements are accepted only when they can be performed competently.

210.8 When a Registrant intends to rely on the advice or work of an expert, the Registrant shall determine whether such reliance is warranted. Factors to consider include: reputation, expertise, resources available and applicable professional and ethical standards. Such information may be gained from prior association with the expert or from consulting others.

Changes in a Professional Appointment

210.9 A Registrant who is asked to replace another Registrant, or who is considering tendering for an engagement currently held by another

Registrant, shall determine whether there are any reasons, professional or otherwise, for not accepting the engagement, such as circumstances that create threats to compliance with the fundamental principles that cannot be eliminated or reduced to an acceptable level by the application of safeguards. For example, there may be a threat to professional competence and due care if a Registrant accepts the engagement before knowing all the pertinent facts.

210.10 Depending on the nature of the engagement, this may require direct communication with the incumbent Registrant to establish the facts and circumstances regarding the proposed change so that the Registrant can decide whether it would be appropriate to accept the engagement. For example, the apparent reasons for the change in appointment may not fully reflect the facts and may indicate disagreements with the existing accountant that may influence the decision to accept the appointment.

210.10A Communication with the incumbent Registrant is not just a matter of professional courtesy. Its main purpose is to enable a Registrant to ensure that there has been no action by the client which would on ethical grounds preclude the Registrant from accepting the appointment and that, after considering all the facts, the client is someone for whom the Registrant would wish to act. Thus, a Registrant shall communicate with the existing Registrant on being asked to accept appointment for any recurring work, except where the client has not previously had a Registrant acting for them.

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

(a) When replying to requests to submit tenders, stating

in the tender that, before accepting the engagement, contact with the existing accountant will be requested so that inquiries may be made as to whether there are any professional or other reasons why the appointment should not be accepted.

(b) Asking the incumbent Registrant to provide known Information on any facts or circumstances that, in the incumbent Registrant's opinion, the proposed accountant needs to be aware of before deciding whether to accept the engagement; or

(c) Obtaining necessary information from other sources.

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

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

210.12A Before accepting such work, a Registrant shall determine whether to communicate with the incumbent Registrant to inform them of the general nature of the complementary or additional work.

210.12B It is in the client's interest that the incumbent Registrant is aware of the additional work being undertaken. This will facilitate the transfer of information between the advisers and aid them in carrying out their respective appointments.

210.12C In very exceptional circumstances a Registrant may not be required to communicate with the incumbent Registrant.

210.13 An incumbent Registrant is bound by confidentiality. Whether that Registrant is permitted or required to discuss the affairs of a client with a proposed Registrant will depend on the nature of the engagement and on:

(a) Whether the client's permission to do so has been obtained; or

(b) The legal or ethical requirements relating to such communications and disclosure, which may vary by jurisdiction.

Circumstances where the Registrant is or may be required to disclose confidential information or where such disclosure may otherwise be appropriate are set out in Section 140.7 of Part A of these Rules.

210.14 A Registrant will generally need to obtain the client's permission, preferably in writing, to initiate discussion with an incumbent Registrant. Once that permission is obtained, the incumbent Registrant shall comply with relevant legal and other regulations governing such requests. Where the existing Registrant provides information, it shall be provided honestly and unambiguously. If the proposed Registrant is unable to communicate with the existing Registrant the proposed Registrant who is the client is seeking to engage shall take reasonable steps to obtain information about any possible threats by other means, such as through inquiries of third parties or background investigations of senior management or those

charged with governance of the client.

210.15 If the incumbent Registrant continues to fail to reply, or fails to supply satisfactory replies, the proposed Registrant shall generally send a further letter by a recorded delivery service. The letter shall state that unless a reply is received within a stated period, say seven days, the Registrant who the client is seeking to engage will assume there are no matters of which he/she should be aware and, at the end of the stated period, will proceed to accept the appointment.

210.16 If a client refuses permission to the incumbent Registrant to discuss their affairs, the incumbent Registrant shall inform the proposed Registrant of this fact. The proposed Registrant shall inform the client that he/she is not prepared to accept the appointment.

210.17 Where the incumbent Registrant receives permission, as set out in paragraph 210.23(b) below, he/she shall provide all reasonable information (in addition to transfer information) in response to a request from the proposed Registrant. It is for the incumbent Registrant to decide what information is reasonable and what he/she considers may be relevant to the proposed Registrant's decision on whether or not to accept the appointment. (The issue of transfer of information is considered separately at paragraph 210.36).

210.18 The Registrant may not prevent the proposed Registrant from acting on behalf of the client.

210.19 Any information supplied by the existing Registrant shall be considered carefully by the proposed Registrant before deciding to accept or reject the appointment.

210.20 The proposed Registrant shall try to establish the reason for the change

of Registrant. The Registrant shall be careful that, by accepting an appointment, he/she is not assisting the client to act improperly or unlawfully.

210.21 For example, the proposed Registrant may find that the existing Registrant has been conscientious in his/her duty as an independent professional, but has encountered client opposition. The existing Registrant may have declined to give way on what he/she considers to be a matter of principle. In such circumstances the proposed Registrant shall generally decline the appointment.

210.22 The proposed Registrant shall treat any information given by the existing Registrant in the strictest confidence.

Matters to be communicated to proposed clients

210.23 The proposed Registrant shall ask the proposed client to write to their existing Registrant to:

(a) notify them of the proposed change, and
(b) give permission for the existing Registrant to discuss the client's affairs with the proposed Registrant.

210.24 If a Registrant receives a communication from a proposed Registrant but has not received permission to discuss the client's affairs with the proposed Registrant, the Registrant shall notify the client of the contact. Additionally, the Registrant shall write to the proposed Registrant declining to give information and stating his/her reasons.

Matters to be communicated to proposed Registrants

210.25 If the existing Registrant considers there are matters to be brought to the

attention of the proposed Registrant, the existing Registrant shall be prepared to specify the nature and details of such matters.

210.26 If the existing Registrant considers there are no matters to be brought to the attention of the proposed Registrant, the existing Registrant shall write to state this fact.

210.27 It is recommended that the incumbent and proposed Registrants communicate in writing. If oral discussions take place, each party shall make and retain their own contemporaneous record of matters discussed and decisions and agreements made.

210.28 Where the existing Registrant has suspicions of some guilty or unlawful act, e.g. defrauding the tax authorities, but has no proof, it is for the existing Registrant to determine whether, and to what extent, his/her suspicions shall be conveyed to the proposed Registrant.

Unpaid fees of previous Registrant

210.29 The proposed Registrant is not expected to refuse to act where there are unpaid fees owed to the existing Registrant.

210.30 It is a matter for the proposed Registrant's own judgment to decide how far he/she may properly go in assisting the existing Registrant to recover fees.

210.31 The proposed Registrant would generally be expected to draw the attention of the client to the fact that fees are due and unpaid and to suggest that they be paid.

Transfer of accounting records

210.32 Once a new Registrant has been appointed, or on otherwise ceasing to hold office, the former Registrant shall ensure that all books and papers

belonging to his/her former client which are in the former Registrant's possession are promptly transferred, whether the new Registrant or the client has requested them or not, except where the former Registrant claims to exercise a lien or other security over them in respect of unpaid fees.

210.33 Registrants are advised to refer to Section B5, Legal ownership of, and rights of access to, books, files, working papers and other documents.

Transfer of information

210.34 In order to ensure continuity of treatment of a client's affairs, the former Registrant shall promptly provide the new Registrant with all reasonable transfer information that the new Registrant requests, free of charge.

210.35 All reasonable transfer information shall be provided even where there are unpaid fees.

210.36 "Reasonable transfer of information" is defined as:

(a) a copy of the last set of accounts formally approved by the client; and

(b) a detailed trial balance that is in agreement with the accounts referred to in (a) above.

210.37 Any information in addition to the reasonable transfer information, as defined in paragraph 210.36 above, is provided purely at the discretion of the former Registrant, who may render a charge to the person requesting the information.

Changes in audit appointment

210.38 A Registrant shall comply with the requirements of the Companies Act, the Banking Services Act and any other relevant legislation with regard to the change of auditors.

210.39 The proposed Registrant shall ensure that he/she has been properly appointed and that his/her predecessor has vacated office in a correct and valid manner.

Casual vacancy in auditorship

210.40 Where there is a casual vacancy in the auditorship of a company, that vacancy will generally be filled by the directors appointing an auditor.

210.41 A Registrant invited to fill a casual vacancy shall follow a course of action similar to that outlined in this section.

210.42 If the casual vacancy has arisen through the death or incapacity of the previous Registrant, the necessary contacts will have to be made with the former Registrant's partners, if any, or with the person who is temporarily responsible for maintaining the practice.

SECTION 220: CONFLICTS OF INTEREST

220.1 A Registrant shall take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may create threats to compliance with the fundamental principles. For example, a threat to objectivity may be created when a Registrant competes directly with a client or has a joint venture or similar arrangement with a competitor of a client. A threat to objectivity or confidentiality may also be created when a Registrant performs services for clients whose interests are in conflict or the clients are in dispute with each other in relation to the matter or transaction in question.

220.2 A Registrant shall evaluate the significance of any threats of conflict of interest and apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level. Before accepting or continuing a client relationship or specific engagement, the Registrant shall evaluate the significance of any threats created by business interests or relationships with the client or a third party.

220.3 Depending upon the circumstances giving rise to the conflict, application of one of the following safeguards is generally necessary

(a) Notifying the client of the firm's business interest or activities that may represent a conflict of interest and obtaining their consent preferably in writing to act in such circumstances; or

(b) Notifying all known relevant parties that the Registrant is acting for two or more parties in respect of a matter where their respective interests are in conflict and obtaining their consent preferably in writing to so act; or

(c) Notifying the client that the Registrant does not act exclusively for any one client in the provision or proposed services (for example, in a particular market sector or with respect to a specific service) and obtaining their consent preferably in writing to so act.

220.4 The Registrant shall also determine whether to apply one or more of the following safeguards:

(a) The use of separate engagement teams;

(b) Procedures to prevent access to information (e.g. strict physical separation of such teams, confidential and secure data filing);

(c) Clear guidelines for members of the engagement team on issues of security and confidentiality;

(d) The use of confidentiality agreements signed by employees and partners of the firm; and

(e) Regular review of the application of safeguards by a senior individual not involved with relevant client engagements.

220.5 Where a conflict of interest creates a threat to one or more of the fundamental principles, including objectivity, confidentiality, or professional behaviour, that cannot be eliminated or reduced to an acceptable level through the application of safeguards, the Registrant shall not accept a specific engagement or shall resign from one or more conflicting engagements.

220.6 Where a Registrant has requested consent from a client to act for another party (which may or may not be an existing client) in respect of a matter where the respective interests are in conflict and that consent has been refused by the client, the Registrant shall discontinue acting for one or all

of the parties in the matter giving rise to the conflict of interest.

220.7 Any decision on the part of a sole practitioner shall take account of the fact that the safeguards at (a) to (e) of paragraph 220.4 above will not be available to him/her. Similar considerations apply to small firms.

Conflicts between Registrants' and clients' interests

220.8 A Registrant shall not accept or continue an engagement in which there is, or is likely to be, a significant conflict of interest between the Registrant and the client.

220.9 Any form of financial or other advantage gain which accrues or is likely to accrue to a Registrant as a result of an engagement, or as a result of using information known to him/her about a client, will always amount to a significant conflict of interest between the Registrant and the client unless the financial gain is declared under the provisions of paragraph 220.11 below.

220.10 Whether any other form of interest is such as to amount to significant conflict will depend on all the circumstances of the case.

Commission and other financial gains

220.11 Where any commission, fee, reward or other financial gain is received by a registrant, firm or anyone in the firm, in which he is a partner in return for the introduction of clients, as a result of advice or other services given to clients, or as a result of using information known about clients, the Registrant shall, when necessary, establish safeguards to eliminate the threats or reduce them to an acceptable level. Such safeguards shall generally include:

(a) disclosing to the client in writing any arrangement to receive a referral fee, both of the fact that such commission, fee, reward or other financial gain will be or has been received and, as soon as practicable, of its amount and terms; and

(b) obtaining advance agreement from the client for any referral arrangement in connection with the sale by a third party of goods or services to the client.

220.12 The provisions in paragraph 220.11 apply to any commission, fee, reward or other financial gain received, whether it relates to a single transaction concerning a client or more than one client, or a series or group of transactions concerning a client or more than one client. For the avoidance of doubt, this includes “override” commission, whereby in some jurisdictions a commission may be earned if the number of financial products of a particular type sold by a Registrant reaches a certain level.

220.13 Where the commission, fee, reward or financial gain or any other advantage results from advice given to a client, special care shall be taken that the advice is in fact in the best interests of the client.

220.14 The acceptance by a Registrant of an agency for the supply of services for products may present a conflict of interest which threatens compliance with the fundamental principles.

220.15 Before accepting or continuing an agency, a Registrant shall satisfy himself/herself that:

(a) his/her compliance with the fundamental principles would not be compromised; and

(b) such acceptance or continuance would not be rendered inappropriate by the nature of the services he/she is to provide under the agency, or the manner in which those services may be brought to the attention of the public.

220.16 In this section, references to “clients” are references to clients of the firm. A person does not become a client of the firm merely by virtue of being a customer or member of the organization for which the firm is an agent. However, where the firm provides advice to such a person (whether gratuitously or for a fee) that person may become a client of the firm.

Conflicts between the interests of different clients

220.17 There is, on the face of it, nothing improper in a firm having two or more clients whose interests may be in conflict, provided the work that the firm undertakes is not, itself, likely to be the subject of dispute between those clients.

220.18 In such cases, however, the firm’s work shall be so managed as to avoid the interests of one client adversely affecting those of another.

220.19 Where the acceptance or continuance of an engagement would, even with safeguards, materially prejudice the interests of any client, the appointment shall not be accepted or continued.

220.20 Such prejudice might arise in a variety of ways, including the leakage of information from one client to another and the firm being forced into a position where it has to choose between the interests of different clients.

Managing conflicts between clients' interests

220.21 All reasonable steps shall be taken to ascertain whether any conflict of interest exists, or is likely to arise in the future, both in regard to new engagements and to the changing circumstances of existing clients, and including any implications arising from the possession of confidential information.

220.22 Relationships with clients and former clients need to be reviewed before accepting a new appointment and regularly thereafter.

220.23 Where a registrant becomes aware of possible conflict between the interests of two or more clients, all reasonable steps shall be taken to manage the conflict and thereby avoid any adverse consequences.

220.24 Relationships which ended over two years before are unlikely to constitute conflict. The nature of the engagement is relevant in this connection. (Registrants are referred to Section B12, Corporate finance advice including take-overs.).

Conflicts between the interests of Registrants and firms

220.25 A Registrant obtaining confidential information as a result of his/her role as principal or employee of a firm shall not use, or appear to use, that information for his/her personal advantage or the advantage of a third party.

220.26 Such a requirement shall generally be incorporated in the partnership agreement or contract of employment. However, before incorporating such a requirement into the partnership agreement or contract of employment, it is strongly recommended that Registrants to seek legal advice.

Disengagement

220.27 Whenever a Registrant is required to disengage from an existing engagement, he/she shall do so as speedily as is compatible with the interests of the clients concerned.

SECTION 230: SECOND OPINIONS

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

230.2 When asked to provide such an opinion, a Registrant shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level. Examples of such safeguards include seeking client permission to contact the existing Registrant, describing the limitations surrounding any opinion in communications with the client and providing the existing Registrant with a copy of the opinion.

230.3 If the company or entity seeking the opinion will not permit communication with the other Registrant, a Registrant shall determine whether, taking all the circumstances into account, it is appropriate to provide the opinion sought.

230.4 Not at issue are opinions provided pursuant to litigation, expert testimony and assistance provided to other firms and their clients jointly.

230.5 A Registrant giving an opinion on the application of accounting standards

or other standards or principles, relating to a hypothetical situation and not based on the specific facts or circumstances of a particular organization, shall ensure that the nature of the opinion is made clear.

SECTION 240: FEES AND OTHER TYPES OF REMUNERATION

240.1 When entering into negotiations regarding professional services, a Registrant may quote whatever fee is deemed appropriate. The fact that one Registrant may quote a fee lower than another is not in itself unethical. Nevertheless, there may be threats to compliance with the fundamental principles arising from the level of fees quoted. For example, a self-interest threat to professional competence and due care is created if the fee quoted is so low that it may be difficult to perform the engagement in accordance with applicable technical and professional standards for that price.

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

(a) Making the client aware of the terms of the engagement and, in particular, the basis on which fees are charged and which services are covered by the quoted fee;

(b) Assigning appropriate time and qualified staff to the task.

240.2A If, in the course of an investigation into allegations of unsatisfactory work, there is evidence of the work having been obtained or retained through quoting a fee that is not economic in terms of the factors mentioned in paragraph 240.2 above, that fact may be taken into account in considering the conduct of a Registrant having regard to the fundamental principles.

Basis of fees

240.2B Letters of engagement shall state the fees to be charged or the basis upon which the fees are calculated.

240.2C Where the letter of engagement is not explicit with regard to the basis on which fees are calculated, the Registrant shall charge a fee which is fair and reasonable. This may have regard to any or all of the following to the extent that they are not referred to in the letter of engagement:

(a) the seniority and professional expertise of the persons necessarily engaged on the work

(b) the time expended by each

(c) the degree of risk and responsibility which the work entails

(d) the urgency of the work to the client; and

(e) the importance of the work to the client.

240.2D PAB does not prescribe the basis for calculating fees nor does it set charge-out rates.

240.2E Registrants are, however, reminded that they have certain professional responsibilities in relation to fees, and these aspects are discussed further in the following paragraphs.

240.3 Contingent fees are widely used for certain types of non-assurance engagements[2]. They may, however, create threats to compliance with the fundamental principles in certain circumstances. These may create a self-interest threat to objectivity. The existence and significance of such threats will depend on factors including:

(a) The nature of the engagement.

(b) The range of possible fee amounts.

(c) The basis for determining the fee.

(d) Whether the outcome or result of the transaction is to be reviewed by an independent third party.

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

(a) An advance written agreement with the client as to the basis of remuneration
(b) Disclosure to intended users of the work performed by the Registrant and the basis of remuneration.
(c) Quality control policies and procedures.
(d) Review by an independent third party of the work performed by the Registrant.

240.4A In order to preserve the Registrants' objectivity, fees shall not be charged on a percentage, contingency or similar basis, save where that course of action is generally accepted practice for certain specialized work or as provided for in the succeeding paragraphs. Particularly, Registrants are reminded that fees charged in respect of expert or insolvency work may be subject to the requirements of law.

[2]Contingent fees for non-assurance services provided to audit clients and other assurance clients are

discussed in Section 290 and 291 of this Part of the Code

Referral Fees and Commission

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

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

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

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

A Registrant may purchase all or part of another firm on the basis that payments will be made to individuals formerly owning the firm or to their heirs or estates. Such payments are not regarded as commissions or referral fees for the purpose of paragraphs 240.5-240.7 above.

240.8A A Registrant should note that under the Corruption (Prevention) Act, there are provisions governing acceptance of any payment by someone who is in an agent-principal relationship with another person. For example, if an agent receives payment from another for doing something or showing favour to another in relation to the affairs of business of the agent's principal (who may be the agent's employer or in some other relationships with the agent which involve trust and confidence), the permission of the principal should be obtained first before receiving the payment in order to avoid the risk of contravening the Corruption (Prevention) Act. The same principle applies to someone who is paying another person who is in an agent-principal relationship with some other person: the payer should ensure that the agent has obtained permission from his principal for receiving the payment.

240.8B Whether an agent-principal relationship exists in any given situation depends on the facts of each case, Registrants should consult their own legal advisors as and when necessary.

240.8C A Registrant may purchase all or part of another firm on the basis that payments will be made to individuals formerly owning the firm or to their heirs or estates. Such payments are not regarded as commissions or referral fees for the purpose of paragraphs 240.5-240.7 above.

Commission on indemnity terms

240.9 A Registrant may receive commission in respect of transactions effected on the basis that this must be repaid in certain circumstances. In these circumstances, the Registrant may agree with clients any one of the following options:

(a) to delay refunding the clients' commission until the expiry of the term; or

(b) to place the commission into a designated deposit account until the expiry of the term and then to refund the commission to clients with interest; or

(c) to rebate the clients' commission annually over the term; or

(d) to request persons paying commission to pay only the commission due each year, retaining the balance; or

(e) to forgo all commission; or

(f) to instruct the persons offering commission to retain the commission for the benefit of clients' pension or other policies.

240.10 Nothing in this Code prohibits a Registrant from refunding the commission to clients either with or without clients' confirmation that they would reimburse the Registrant in the event that the commission became payable.

Management buy-out and raising venture capital

240.11 There are circumstances, such as advising on a management buy-out or the raising of venture capital, where in some instances fees cannot realistically be charged save on a contingency basis, for example, where the ability of clients to pay is dependent upon the success or failure of the

venture.

240.12 Where work is subject to a contingency or percentage fee, the capacity in which the Registrant has worked and the basis of his/her remuneration shall be made clear in any document upon which a third party may rely.

Fee disputes

240.13 When a Registrant is about to render a fee note which is substantially different from fee rendered to the same client on earlier occasions for which the work would appear to be comparable, it is good practice to explain to the client the reason for the variation.

240.14 To the extent that the increased fee reflects a charge for extra work, the reason for the extra work shall be explained in writing to the client. To the extent that the increased fee reflects an increase in disbursements or costs, this shall also be explained in writing to the client.

240.15 In cases where the fee note rendered is in excess of a quotation or estimate or indication of fees, the client may consider it to be excessive. The client may be prepared to pay a smaller amount and may tender such a sum. If the Registrant does not wish to waive the balance of his/her fees, it is recommended that the Registrant accept the sum but, at the same time, notify the client in writing that the sum is accepted in part payment of the fees.

240.16 When a client behaves in such manner, it is possible that the client has genuine doubts as to the propriety of the fee, and is not actuated by malice or lack of means. In such circumstances, the Registrant is reminded that, on written application by both the parties to the dispute, PAB can arrange for an arbitrator to be appointed to determine any dispute over fees charged.

240.17 A Registrant whose fees have not been paid may in certain circumstances exercise a lien over certain books and papers of the client upon which the Registrant has been working. Registrants are referred to Section B5, Legal ownership of, and rights of access to, books, files, working papers and other documents.

240.18 A Registrant shall be prepared to provide the client with reasonable explanation of the fees charged. The explanation shall be provided without charge and shall be sufficient to enable the client to understand the nature of the work carried out. A Registrant shall also take all reasonable steps to resolve speedily any dispute which arises.

Advertisements

240.19 The attention of Registrants is drawn to the guidance contained in Section 250, Marketing professional services, relative to the mention of fees in advertisements.

SECTION 250: MARKETING PROFESSIONAL SERVICES

250.A A Registrant may inform the public of the services he/she is capable of providing by means of advertising or other forms of promotion subject to the general requirement that the medium shall not reflect adversely on the Registrant, PAB or the accountancy profession.

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

250.2 In marketing and promoting themselves and their work, Registrants shall not bring the profession into disrepute. Registrants shall be honest and truthful and not:

(a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or

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

If the Registrant is in doubt about whether a proposed form of advertising or marketing is appropriate, the Registrant shall consider consulting with the PAB.

250.2A Advertisements and promotional material prepared or produced by a Registrant shall not (either in content or presentation):

(a) bring the PAB into disrepute or bring discredit to the Registrant, firm or the accountancy profession;

(b) discredit the services offered by others, whether by claiming superiority for the Registrant's own services or otherwise;

(c) be misleading, either directly or by implication;

(d) fall short of any local regulatory or legislative requirements, such as the Fair Trading Act.

250.3 An advertisement shall be clearly distinguishable as such.

Reference to fees in promotional material

250.4 Where reference is made in promotional material to fees, the basis on which those fees are calculated, hourly or other charging rates, etc. shall be clearly stated.

250.5 The greatest care shall be taken to ensure that any reference to fees does not mislead the reader as to the precise range of services and time commitment that the reference is intended to cover.

250.6 A Registrant may make comparisons in promotional material between the Registrant's fees and the fees of other accounting practices, only registrants have 'awarding practices, providing that any such comparison shall not give a misleading impression.

250.7 The danger of giving a misleading impression is particularly pronounced when constraints of space limit the amount of information which can be given.

250.8 Promotional material which is based on the offer of percentage discounts

on existing fees is permitted.

250.9 A Registrant may offer a free consultation at which levels of fees will be discussed.

Promotional material and promotional activities

250.10 Promotional material may contain any factual statement, the truth of which the Registrant is able to justify, but it shall not make unflattering references to, or unflattering comparisons with, the services of others.

250.11 Registrants are reminded that any promotional activity shall be carried out in accordance with any relevant legislation. For example, a Registrant shall comply with legislation relating to the making of unsolicited telephone calls, facsimile transmissions or other electronic communication to a non-client with a view to obtaining professional work.

250.12 Any promotional activity undertaken by a Registrant, or his/her agent, shall not be allowed to constitute harassment of the non-client.

SECTION 260: GIFTS AND HOSPITALITY

260.1 A Registrant, or an immediate or close family member may be offered gifts and hospitality from a client. Such an offer may create threats to compliance with the fundamental principles. For example, a self-interest or familiarity threat to objectivity may be created if a gift from a client is accepted; and intimidation threat to objectivity may result from the possibility of such offers being made public.

260.2 The existence and significance of any threat will depend on the nature, value, and intent of the offer. Where gifts or hospitality are offered that a reasonable and informed third party, weighing all the specific facts and circumstances, would consider trivial and inconsequential, a Registrant may conclude that the offer is made in the normal course of business without the specific intent to influence decision making or to obtain information. In such cases, the Registrant may generally conclude that any threat to compliance with the fundamental principles is at an acceptable level. This should be documented.

260.3 A Registrant shall evaluate the significance of any threats and apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level. When the threats cannot be eliminated or reduced to an acceptable level through the application of safeguards, a Registrant shall not accept such an offer.

SECTION 270: CUSTODY OF CLIENT ASSETS

270.1 A Registrant shall not assume custody of client monies or other assets unless permitted to do so by law and, if so, in compliance with any additional legal duties imposed on a Registrant holding such assets.

270.2 The holding of client assets creates threats to compliance with the fundamental principles; for example, there is a self-interest threat to professional behaviour and may be a self-interest threat to objectivity arising from holding client assets. A Registrant entrusted with money (or other assets) belonging to others shall therefore:

(a) Keep such assets separately from personal or firm assets;
(b) Use such assets only for the purpose for which they are intended;
(c) At all times be ready to account for those assets and any income, dividends, or gains generated, to any persons entitled to such accounting; and
(d) Comply with all relevant laws and regulations relevant to the holding of and accounting for such assets.

270.3 As part of client and engagement acceptance procedures for services that may involve the holding of client assets, a Registrant shall make appropriate inquiries about the source of such assets and consider legal and regulatory obligations. For example, if the assets were derived from illegal activities, such as money laundering, a threat to compliance with the fundamental principles would be created. In such situations, the Registrant may consider seeking legal advice or not accepting custody of the client's assets.

Clients' monies

270.4 A Registrant is strictly accountable for all clients' monies that the Registrant receives.

270.5 In this section, the term "clients' monies" includes all monies received by a Registrant to be held or disbursed by the Registrant on the instructions of the persons from whom or on whose behalf they are received and includes insolvency monies.

[Paragraphs 270.6 and 270.7 are intentionally left blank]

Clients' accounts

270.8 Clients' monies shall be paid without delay into a bank account, separate from other accounts of the firm.

270.9 Such accounts may be either general accounts or accounts in the name of the specific client. All such accounts shall include in their title the word "client". Any such bank accounts are referred to herein as "a client account".

270.10 Where it is anticipated that the monies of individual clients in excess of J$2 million will be held by the Registrant for more than 30 days, the money shall be paid into a separate bank account designated for the purpose of holding client funds. Where required by law or practice, e.g. Insolvency, a separate bank account should be paid into a second bank account for each client.

270.11 The term "bank" is defined in paragraph 270.31 below.

Opening a client bank account

270.12 Whenever a firm opens a client account, it shall give written notice in clear terms to the bank concerned as to the nature of the account.

270.13 The notice shall require the bank to acknowledge in writing that it accepts the terms of the notice.

Payments into a client bank account

270.14 Where a firm receives funds that include both clients' monies and other monies, it shall pay them into a client account.

270.15 Once monies have been received into such a client account, the firm shall withdraw from that account such part of the sum received as can properly be transferred to an office account in accordance with the guidance set out in paragraphs 270.17 to 270.18 below.

270.16 Save as referred to in paragraph 270.15 above, no monies other than clients' monies shall be paid into a client account.

Withdrawals from a client bank account

270.17 The following may be withdrawn from a client bank account, provided that the sums withdrawn shall not exceed the total of the monies held for the time being in the account of the client concerned:

(a) monies properly required for a payment to or on behalf of a client;

(b) monies properly required for or towards payment of debts due to the firm from a client, otherwise than in respect of fees or commissions earned by the firm;

(c) monies properly required for or towards payment of fees or commissions payable to the firm by a client for work properly carried out by the firm;

All monies drawn must be supported by writing on a client's authority or in conformity with any contract between the firm and a client.

270.18 Monies shall not be withdrawn from a client bank account for or towards payment of fees or commissions payable under paragraph 270.17 above unless:

(a) the client has been notified in writing that monies held or received on the client's behalf will be applied against those fees or commissions, and the client has not disagreed; and

(b) a principal of the firm has expressly authorized the withdrawal; and

(c) either:

(i) 30 days have elapsed since the date of delivery of the client of the notification; or

(ii) the precise amount to be withdrawn has been agreed with the client in writing or has been finally determined by a court or arbitrator.

270.19 A firm shall be careful to differentiate, both in its records and, where appropriate, in its use of client accounts, between monies held on behalf of clients in their personal capacity and those, with the knowledge of the firm, held on behalf of those same clients as trustees for others. A separate client account shall be opened to receive the trust monies of each separate trust.

270.20 Bank charges for maintaining client accounts shall be paid out of the firm's own account and not from any client account. However the firm may cover such charges as an expense in undertaking the assignment on behalf of the client.

Fees paid in advance

270.21 Fees paid by clients in advance for professional work agreed to be performed and clearly identifiable as such shall not be regarded as clients' monies for the purposes of this Code.

270.22 Registrants are reminded that, where professional work paid for in advance is not carried out, fees advanced by the client shall be returned to him/her. A Registrant shall ensure that sufficient financial resources to meet any such repayment are available.

Interest payable on client account monies

270.23 Subject to paragraph 270.24 below, in respect of all monies held by a firm on behalf of clients, the firm shall pay clients interest of not less than the lowest rate offered by the firm's bank on deposits for the period that the funds are held on behalf of the client.

270.24 The obligation in paragraph 270.23 e may be over-ridden by express written agreement between the Registrant and a client. For instance, clients could agree to forgo sums of interest less than, agreed amounts, or a funds held on the clients' behalf for periods of less than (say) one month.

270.25 This number is intentionally left blank.

Monies held by the firm as stakeholder

270.26 Monies held by a Registrant as stakeholder shall be regarded as clients' monies and shall be paid into separate bank account maintained for the purpose or into a client bank account.

Maintaining records

270.27 A firm shall at all times maintain accurate records and controls (e.g. by way of reconciliations) so as to show clearly the monies it has received, held, and paid on account of their clients, and the details of any other monies dealt with by them through a client account, clearly distinguishing the monies of clients from the firm's own monies.

270.28 A Registrant shall maintain such records for a period of not less than six years from the date of the last transaction recorded.

Fees and fee disputes

270.29 The attention of Registrants is drawn to the guidance on fees contained in Section 240, Fees and other types of remuneration.

270.30 A Registrant shall not withhold due payment out of monies to clients for the sole reason that a dispute exists in relation to fees.

Bank

270.31 ***The term "bank" means an institution licensed under the Banking Act or Banking Services Act and includes a Building Society registered under the Building Societies Act.***

Untraceable funds

270.32 In exceptional circumstances client money may be withdrawn from a client account on the written authorization of PAB, which may impose the condition that the money be paid by the professional accountant to a charity which gives an indemnity against any legitimate claim subsequently made for the money in question.

SECTION 280: OBJECTIVITY – ALL SERVICES

280.1 A registrant shall determine when providing any professional service whether there are threats to compliance with the fundamental principle of objectivity resulting from having interests in, or relationships with, a client or its directors, officers or employees. For example, a familiarity threat to objectivity may be created from a family or close personal or business relationship or a long standing contractual arrangement.

280.2 A Registrant who provides an assurance service shall be independent of the assurance client. Independence of mind and in appearance is necessary to enable the Registrant to express a conclusion, and be seen to express a conclusion, without bias, conflict of interest, or undue influence of others. Sections 290 and 291 provide specific guidance on independence requirements for Registrants when performing assurance engagements.

280.3 The existence of threats to objectivity when providing any professional service will depend upon the particular circumstances of the engagement and the nature of the work that the Registrant is performing.

280.4 A Registrant shall evaluate the significance of any threats to independence and apply safeguards when necessary to eliminate them or reduce them to an acceptable level. Examples of such safeguards include:

- Withdrawing from the engagement
- Supervisory procedures.
- Terminating the financial or business relationship giving rise to the threat.
- Discussing the issue with other registrants within the firm
- Discussing the issue with those charged with governance of

the client.

- Having an independent review by another Registrant.

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

SECTION 290: INDEPENDENCE – AUDIT AND REVIEW ENGAGEMENTS

Structure of Section

'A Registrant should be independent in fact and appearance when providing auditing and other assurance services.'

290.1 This section addresses the independence requirements for audit engagements and review engagements, which are assurance engagements in which a Registrant expresses a conclusion on financial statements. Such engagements comprise audit and review engagements involving the reporting on a complete set of financial statements or a single financial statement. Independence requirements for assurance engagements that are not audit or review engagements are addressed in Section 291.

290.2 In certain audit engagements where the audit report includes a restriction on use and distribution, provided certain conditions are met, the independence requirements in this section may be modified as provided in paragraphs 290.500 to 290.514 below. The modifications are not permitted in the case where the audit of financial statements is required by law or regulation.

290.3 In this section, the term(s):

- "Audit", "Audit team", "audit engagement", "audit client" and "audit report" includes review, review team, review engagement, review client and review report; and
- "Firm" includes network firm, except where otherwise stated.

A Conceptual Framework Approach to Independence

290.4 In the case of audit engagements, it is in the public interest and, therefore,

required by these Rules of Professional Conduct, that members of audit teams, firms and network firms shall be independent of audit clients.

290.5 The objective of this section is to assist firms and members of audit teams in applying the conceptual framework approach described below to achieve and maintain independence.

290.6 Independence comprises:

(a) *Independence of Mind*

The state of mind that permits the expression of a conclusion without being affected by influences and compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional skepticism at all times.

(b) *Independence in Appearance*

The avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm's or a member of the audit team's independence, integrity, objectivity or professional skepticism has been compromised.

290.7 The conceptual framework approach shall be applied by Registrants to:

(a) Identify threats to independence;

(b) Evaluate the significance of the threats identified; and

(c) Apply safeguards, when necessary, to eliminate the threats or reduce them to an acceptable level.

When the Registrant determines that appropriate safeguards are not

available or cannot be applied to eliminate the threats or reduce them to an acceptable level, the Registrant shall eliminate the circumstance or relationship creating the threats or decline or terminate the audit engagement.

A Registrant shall use professional judgment in applying this conceptual framework.

290.8 Many different circumstances, or combinations of circumstances, may be relevant in assessing threats to independence. It is impossible to define every situation that creates threats to independence and to specify the appropriate action. Therefore, these Rules establish a conceptual framework that requires firms and members of audit teams to identify, evaluate, and address threats to independence. The conceptual framework approach assists Registrants in complying with the ethical requirements in these Rules. It accommodates many variations in circumstances that create threats to independence and can deter a Registrant from concluding that a situation is permitted if it is not specifically prohibited.

290.9 Paragraph 290.100 and onwards describe how the conceptual framework approach to independence is to be applied. These paragraphs do not address all the circumstances and relationships that create or may create threats to independence.

290.10 In deciding whether to accept or continue an engagement, or whether a particular individual may be a member of the audit team, a firm shall identify and evaluate threats to independence. If the threats are not at an acceptable level, and the decision is whether to accept an engagement or include a particular individual on the audit team, the firm shall determine whether safeguards are available to eliminate the threats or reduce them

to an acceptable level. If the decision is whether to continue an engagement, the firm shall determine whether any existing safeguards will continue to be effective to eliminate the threats or reduce them to an acceptable level or whether other safeguards will need to be applied or whether the engagement needs to be terminated. Whenever new information about a threat to independence comes to the attention of the firm during the engagement, the firm shall evaluate the significance of the threat in accordance with the conceptual framework approach.

290.11 Throughout this section, reference is made to the significance of threats to independence. In evaluating the significance of a threat, qualitative as well as quantitative factors shall be taken into account.

290.12 This section does not, in most cases, prescribe the specific responsibility of individuals within the firm for actions related to independence because responsibility may differ depending on the size, structure and organization of a firm. The firm is required by International Standards on Quality Control (ISQCs) to establish policies and procedures designed to provide it with reasonable assurance that independence is maintained when required by relevant ethical requirements. In addition, International Standards on Auditing (ISAs) require the engagement partner to form a conclusion on compliance with the independence requirements that apply to the engagement. The PAB through these rules adopts these requirements of the ISQCs and ISAs.

Networks and Network Firms

290.13 If a firm is deemed to be a network firm, the firm shall be independent of the audit clients of the other firms within the network (unless otherwise stated in these Rules). The independence requirements in this section that apply to a network firm apply to any entity, such as a consulting

practice or professional law practice, that meets the definition of a network firm irrespective of whether the entity itself meets the definition of a firm.

290.14 To enhance their ability to provide professional services, firms frequently form larger structures with other firms and entities. Whether these larger structures create a network depends on the particular facts and circumstances and does not depend on whether the firms and entities are legally separate and distinct. For example, a larger structure may be aimed only at facilitating the referral of work, which in itself does not meet the criteria necessary to constitute a network. Alternatively, a larger structure might be such that it is aimed at cooperation and the firms share a common brand name, a common system of quality control, or significant professional resources and consequently is deemed to be a network.

290.15 The judgment as to whether the larger structure is a network shall be made in light of whether a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that the entities are associated in such a way that a network exists. This judgment shall be applied consistently throughout the network.

290.16 Where the larger structure is aimed at cooperation and it is clearly aimed at profit or cost sharing among the entities within the structure, it is deemed to be a network. However, the sharing of immaterial costs does not in itself create a network. In addition, if the sharing of costs is limited only to those costs related to the development of audit methodologies, manuals, or training courses, this would not in itself create a network. Further, an association between a firm and an otherwise unrelated entity to jointly provide a service or develop a product does not in itself create a network.

290.17 Where the larger structure is aimed at cooperation and the entities within

the structure share common ownership, control or management, it is deemed to be a network. This could be achieved by contract or other means.

290.18 Where the larger structure is aimed at cooperation and the entities within the structure share common quality control policies and procedures, it is deemed to be a network. For this purpose, common quality control policies and procedures are those designed, implemented and monitored across the larger structure.

290.19 Where the larger structure is aimed at cooperation and the entities within the structure share a common business strategy, it is deemed to be a network. Sharing a common business strategy involves an agreement by the entities to achieve common strategic objectives. An entity is not deemed to be a network firm merely because it cooperates with another entity solely to respond jointly to a request for a proposal for the provision of a professional service.

290.20 Where the larger structure is aimed at cooperation and the entities within the structure share the use of a common brand name, it is deemed to be a network. A common brand name includes common initials or a common name. A firm is deemed to be using a common brand name if it includes, for example, the common brand name as part of, or along with, its firm name, when a partner of the firm signs an audit report.

290.21 Even though a firm does not belong to a network and does not use a common brand name as part of its firm name, it may give the appearance that it belongs to a network if it makes reference in its stationery or promotional materials to being a member of an association of firms. Accordingly, if care is not taken in how a firm describes such memberships, a perception may be created that the firm belongs to a

network.

290.22 If a firm sells a component of its practice, the sales agreement sometimes provides that, for a limited period of time, the component may continue to use the name of the firm, or an element of the name, even though it is no longer connected to the firm. In such circumstances, while the two practices may be practising under a common name, the facts are such that they do not belong to a larger structure aimed at cooperation and are, therefore, not network firms. Those entities shall determine how to disclose that they are not network firms when presenting themselves to outside parties.

290.23 Where the larger structure is aimed at cooperation and the entities within the structure share a significant part of professional resources, it is deemed to be a network. Professional resources include:

- Common systems that enable firms to exchange information such as client data, billing and time records;
- Partners and staff;
- Technical departments that consult on technical or industry specific issues, transactions or events for assurance engagements;
- Audit methodology or audit manuals; and
- Training courses and facilities.

290.24 The determination of whether the professional resources shared are significant, and therefore the firms are network firms, shall be made based on the relevant facts and circumstances. Where the shared resources are limited to common audit methodology or audit manuals, with no exchange or personnel or client or market information, it is unlikely that the shared resources would be significant. The same applies to a common training

endeavour. Where, however, the shared resources involve the exchange of people or information, such as where staff are drawn from a shared pool, or a common technical department is created within the larger structure to provide participating firms with technical advice that the firms are required to follow, a reasonable and informed third party is more likely to conclude that the shared resources are significant.

Public Interest Entities

290.25 Section 290 contains additional provisions that reflect the extent of public interest in certain entities. For the purpose of this section, public interest entities are:

(a) All listed entities; and

(b) Any entity:

(i) defined by Jamaican regulation or legislation as a public interest entity or

(ii) for which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of listed entities. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

290.26 Firms are required to determine whether to treat additional entities, or certain categories of entities, as public interest entities because they have a large number and wide range of stakeholders. Factors to be considered include:

- The nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders.

Examples may include financial institutions, such as banks and insurance companies, and pension funds;

- Size; and
- Number of employees.

Currently under the legislation in Jamaica, there is no definition of public interest entity or requirement for audit of an entity to be conducted with the same independence requirements applicable to the audit of listed entities. Hence, there is no entity falling within this part of the definition under the legislation in Jamaica.

Related entities

290.27 In the case of an audit client that is a listed entity, references to an audit client in this section include related entities of the client (unless otherwise stated). For all other audit clients, references to an audit client in this section include related entities over which the client has direct or indirect control. When the audit team knows or has reason to believe that a relationship or circumstance involving a related entity of the client is relevant to the evaluation of the firm's independence from the client, the audit team shall include that related entity when identifying and evaluating threats to independence and applying appropriate safeguards.

Those charged with governance

290.28 Even when not required by the Rules, applicable auditing standards, law or regulation, regular communication is encouraged between the firm and those charged with governance of the audit client regarding relationships and other matters that might, in the firm's opinion, reasonably bear on independence. Such communication enables those charged with governance to

(a) consider the firm's judgments in identifying and evaluating threats to independence;

(b) consider the appropriateness of safeguards applied to eliminate them or reduce them to an acceptable level; and

(c) take appropriate action, when necessary.

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

Documentation

290.29 Documentation provides evidence of the Registrant's judgments in forming conclusions regarding compliance with independence requirements. The absence of documentation is not a determinant of whether a firm considered a particular matter nor whether it is independent, but it may raise the inference that no consideration took place.

The Registrant shall document conclusions regarding compliance with independence requirements, and the substance of any relevant discussions that support those conclusions. Accordingly:

(a) When safeguards are required to reduce a threat to an acceptable level, the Registrant shall document the nature of the threat and the safeguards in place or applied that reduce the threat to an acceptable level; and

(b) When a threat required significant analysis to determine whether safeguards were necessary and the Registrant concluded that they were not because

the threat was already at an acceptable level, the Registrant shall document the nature of the threat and the rationale for the conclusion.

Engagement period

290.30 Independence from the audit client is required both during the engagement period and the period covered by the financial statements. The engagement period starts when the audit team begins to perform audit services. The engagement period ends when the audit report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has terminated or the issuance of the final audit report.

290.31 When an entity becomes an audit client during or after the period covered by the financial statements on which the firm will express an opinion, the firm shall determine whether any threats to independence are created by:

(a) Financial or business relationships with the audit client during or after the period covered by the financial statements but before accepting the audit engagement; or

(b) Previous services provided to the audit client.

290.32 If a non-assurance service was provided to the audit client during or after the period covered by the financial statements but before the audit team begins to perform audit services and the service would not be permitted during the period of the audit engagement, the firm shall evaluate any threat to independence created by the service. If a threat is not at an acceptable level, the audit engagement shall only be accepted if safeguards are applied to eliminate any threats or reduce them to an acceptable level. Examples of such safeguards include:

- Not including personnel who provided the non-assurance service as members of the audit team;
- Having a member review the audit and non-assurance work as appropriate; or
- 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.

Mergers and acquisitions

290.33 When as a result of a merger or acquisition, an entity becomes a related entity of an audit client, the firm shall identify and evaluate previous and current interests and relationships with the related entity that, taking into account available safeguards, could affect its independence and therefore its ability to continue the audit engagement after the effective date of the merger or acquisition.

290.34 The firm shall take steps necessary to terminate, by the effective date of the merger or acquisition, any current interests or relationships that are not permitted under these Rules. However, if such a current interest or relationship cannot reasonably be terminated by the effective date of the merger or acquisition, for example, because the related entity is unable by the effective date to effect an orderly transition to another service provider of a non-assurance service provided by the firm, the firm shall evaluate the threat that is created by such interest or relationship. The more significant the threat, the more likely the firm's objectivity will be compromised and it will be unable to continue as auditor. The significance of the threat will depend on factors such as:

- The nature and significance of the interest or relationship;
- The nature and significance of the related entity relationship (for example, whether the related entity is a subsidiary or parent); and
- The length of time until the interest or relationship can reasonably be terminated.

The firm shall discuss with those charged with governance the reasons why the interest or relationship cannot reasonably be terminated by the effective date of the merger or acquisition and the evaluation of the significance of the threat.

290.35 If those charged with governance request the firm to continue as auditor, the firm shall do so only if:

(a) the interest or relationship will be terminated as soon as reasonably possible and in all cases within six months of the effective date of the merger or acquisition;

(b) any individual who has such an interest or relationship, including one that has arisen through performing a non-assurance service that would not be permitted under this section, will not be a member of the engagement team for the audit or the individual responsible for the engagement quality control review; and

(c) appropriate transitional measures will be applied, as necessary, and discussed with those charged with governance. Examples of transitional measures include:

- Having a review the audit or non-assurance work as appropriate with a view to arriving at an independent assurance to ensure that the interest or relationships that negatively impacted the firm's independence did not compromise the objectivity of the audit;
- Having a another registrant, who is not a member of the firm expressing the opinion on the financial statements, perform a review that is equivalent to an engagement quality control review; or
- 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.

(d) The request to continue is in writing and notes the concerns re threats as existing/a possibility.

290.36 The firm may have completed a significant amount of work on the audit prior to the effective date of the merger or acquisition and may be able to complete the remaining audit procedures within a short period of time. In such circumstances, if those charged with governance request the firm to complete the audit while continuing with an interest or relationship identified in 290.33, the firm shall do so only if it:

(a) Has evaluated the significance of the threat created by such interest or relationship and discussed the evaluation with those charged with governance;

(b) Complies with the requirements of paragraph 290.35(b)-(c); and

(c) Ceases to be the auditor no later than the issuance of the audit report.

290.37 When addressing previous and current interests and relationships covered by the paragraphs 290.33 to 290.36, the firm shall determine whether, even if all the requirements could be met, the interests and relationships create threats that would remain so significant that objectivity would be compromised and, if so, the firm shall cease to be the auditor.

290.38 The Registrant shall document any interests or relationships covered by paragraphs 290.34 and 36 that will not be terminated by the effective date of the merger or acquisition and the reasons why they will not be terminated, the transitional measures applied, the results of the discussion with those charged with governance, and the rationale as to why the previous and current interests and relationships do not create threats that would remain so significant that objectivity would be compromised.

Other considerations

290.39 There may be occasions when there is an inadvertent violation of this section. If such an inadvertent violation occurs, it generally will be deemed not to compromise independence provided the firm has appropriate quality control policies and procedures in place. Equivalent to those required by International Standards on Auditing, to maintain independence and, once discovered, the violation is corrected promptly and any necessary safeguards are applied to eliminate any threat or reduce it to an acceptable level. The firm shall determine whether to discuss the matter with those charged with governance.

[Paragraphs 290.40 to 290.99 are intentionally left blank.]

Application of the Conceptual Framework Approach to Independence

290.100 Paragraphs 290.102 to 290.228 describe specific circumstances and relationships that create or may create threats to independence. These paragraphs describe the potential threats and the types of safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level and identify certain situations where no safeguards could reduce the threats to an acceptable level. The paragraphs do not describe all of the circumstances and relationships that create or may create a threat to independence. The firm and the members of the audit team shall evaluate the implications of similar, but different, circumstances and relationships and determine whether safeguards, including the safeguards in paragraphs 200.12 to 200.15, can be applied when necessary to eliminate the threats to independence or reduce them to an acceptable level.

290.101 Paragraphs 290.102 to 290.125 contain references to the materiality of a financial interest, loan or guarantee, or the significance of a business relationship. For the purpose of determining whether such an interest is material to an individual, the combined net worth of the individual and the individual's immediate family members may be taken into account.

Financial interests

290.102 Holding a financial interest in an audit client may create a self-interest threat. The existence and significance of any threat created depends on: (a) the role of the person holding the financial interest, (b) whether the financial interest is direct or indirect, and (c) the materiality of the financial interest.

290.103 Financial interests may be held through an intermediary (e.g. 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 control over the investment vehicle or the ability to influence investment decisions exists, these Rules define that financial interest to be a direct financial interest. Conversely, when the beneficial owner of the financial interest has no control over the investment vehicle or ability to influence its investment decisions, these Rules define that financial interest to be an indirect financial interest.

290.104 If a member of the audit team, a member of that individual's immediate family, of a firm has a direct financial interest or a material indirect financial interest in the audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, none of the following shall have a direct financial interest or a material indirect financial interest in the client: a member of the audit team; a member of that individual's immediate family, or the firm.

290.105 When a member of the audit team has a close family member who the audit team member knows has a direct financial interest or a material indirect financial interest in the audit client, a self-interest threat is created. The significance of the threat will depend on factors such as:

- The nature of the relationship between the member of the audit team and the close family member; and
- The materiality of the financial interest to the close family member.

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

- The close family member disposing, as soon as practicable, of all of the financial interest or disposing of a sufficient portion of an indirect financial interest so that the remaining interest is no longer material;
- Having a Registrant review the work of the member of the audit team; or
- Removing the individual from the audit team.

290.106 If a member of the audit team, a member of that individual's immediate family, or a firm has a direct or material indirect financial interest in an entity that has a controlling interest in the audit client, and the client is material to the entity, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, none of the following shall have such a financial interest: a member of the audit team; a member of that individual's immediate family; and the firm.

290.107 The holding by a firm's retirement benefit plan of a direct or material indirect financial interest is an audit client creates a self-interest threat. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

290.108 If other partners in the office in which the engagement partner practices in connection with the audit engagement, or their immediate family members, hold a direct financial interest or a material indirect financial interest in that audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, neither such partners nor their immediate family members shall hold any such financial interests in such an audit client.

290.109 The office in which the engagement partner practices in connection with the audit engagement is not necessarily the office to which that partner is assigned. Accordingly, when the engagement partner is located in a different office from that of the other members of the audit team, professional judgment shall be used to determine in which office the partner practices in connection with that engagement. .

290.110 If other partners and managerial employees who provide non-audit services to the audit client, except those whose involvement is minimal, or their immediate family members, hold a direct financial interest or a material indirect financial interest in the audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, neither such personnel nor their immediate family members shall hold any such financial interests in such an audit client.

290.111 Despite paragraphs 290.108 and 290.110, the holding of a financial interest in an audit client by an immediate family member of

(a) a partner located in the office in which the engagement partner practices in connection with the audit engagement; or

(b) a partner or managerial employee who provides non-audit services to the audit client,

is deemed not to compromise independence if the financial interest is received as a result of the immediate family member's employment rights (e.g., through pension or share option plans) and, when necessary, safeguards are applied to eliminate any threat to independence or reduce it to an acceptable level.

However, when the immediate family member has or obtains the right to

dispose of the financial interest or, in the case of a stock option, the right to exercise the option, the financial interest shall be disposed of or forfeited as soon as practicable.

290.112 A self-interest threat may be created if the firm or a member of the audit team, or a member of that individual's immediate family, has a financial interest in an entity and an audit client also has a financial interest in that entity. However, independence is deemed not to be compromised if these interests are immaterial and the audit client cannot exercise significant influence over the entity. If such interest is material to any party, and the audit client can exercise significant influence over the other entity, no safeguards could reduce the threat to an acceptable level. Accordingly, the firm shall not have such an interest and any individual with such an interest shall, before becoming a member of the audit team, either:

(a) Dispose of the interest; or
(b) Dispose of a sufficient amount of the interest so that the remaining interest is no longer material; or
(c) The firm shall decline the audit engagement.

290.113 A self-interest, familiarity or intimidation threat may be created if a member of the audit team, or a member of that individual's immediate family, or the firm, has a financial interest in an entity, when a director, officer or controlling owner of the audit client is also known to have a financial interest in that entity. The existence and significance of any threat will depend upon factors such as:

- The role of the professional on the audit team;
- Whether ownership of the entity is closely or widely held;
- Whether the interest gives the investor the ability to control or significantly influence the entity; and

- The materiality of the financial interest.

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

- Removing the member of the audit team with the financial interest from the audit team; or
- Having a member review the work of the member of the audit team.

290.114 The holding by a firm, or a member of the audit team, or a member of that individual's immediate family, of a direct financial interest or a material indirect financial interest in the audit client as a trustee creates a self-interest threat. Similarly, a self-interest threat is created when

(a) a partner in the office in which the engagement partner practices in connection with the audit,
(b) other partners and managerial employees who provide non-assurance services to the audit client, except those whose involvement is minimal; or
(c) their immediate family members, hold a direct financial interest or a material indirect financial interest in the audit client as trustee.

Such an interest shall not be held unless:

(a) Neither the trustee, nor an immediate family member of the trustee, nor the firm are beneficiaries of the trust;
(b) The interest in the audit client held by the trust is not

material to the trust;

(c) The trust is not able to exercise significant influence over the audit client; and

(d) The trustee, an immediate family member of the trustee, or the firm cannot significantly influence any investment decision involving a financial interest in the audit client.

290.115 Members of the audit team shall determine whether a self-interest threat is created by any known financial interests in the audit client held by other individuals including:

(a) Partners and professional employees of the firm, other than those referred to above, or their immediate family members; and

(b) Individuals with a close personal relationship with a member of the audit team.

Whether these interests create a self-interest threat will depend on factors such as:

- The firm's organizational, operating and reporting structure; and
- The nature of the relationship between the individual and the member of the audit team.

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

- Removing the member of the audit team with the personal

relationship from the audit team;

- Excluding the member of the audit team from any significant decision-making concerning the audit engagement; or
- Having another registrant review the work of the member of the audit team.

290.116 If a firm or a partner or employee of the firm, or a member of that individual's immediate family, receives a direct financial interest or a material indirect financial interest in an audit client, for example, by way of an inheritance, gift or as a result of a merger and such interest would not be permitted to be held under this section, then:

(a) If the interests received by the firm, the financial interest shall be disposed of immediately, or a sufficient amount of an indirect financial interest shall be disposed of so that the remaining interest is no longer material;

(b) If the interest is received by a member of the audit team, or a member of that individual's immediate family, the individual who received the financial interest shall immediately dispose of the financial interest, or dispose of a sufficient amount of an indirect financial interest so that the remaining interest is no longer material; or

(c) If the interest is received by an individual who is not a member of the audit team, or by an immediate family member of the individual, the financial interest shall be disposed of as soon as possible, or a sufficient amount of an indirect financial interest shall be disposed of so that the remaining interest is no longer material. Pending the disposal of the financial

interest, a determination shall be made as to whether any safeguards are necessary; or

(d) The audit engagement is declined.

290.116A When an inadvertent violation of this section as it relates to a financial interest in an audit client occurs, it is deemed not to compromise independence if:

(a) The firm has established policies and procedures that require prompt notification to the firm or any breaches resulting from the purchase, inheritance or other acquisition of a financial interest in the audit client.

(b) The actions in paragraph 290.116 (a)-(c) are taken as applicable; and

(c) The firm applies other safeguards when necessary to reduce any remaining threat to an acceptable level. Examples of such safeguards include:

- Having another registrant review the work of the member of the audit team; or
- Excluding the individual from any significant decision-making concerning the audit engagement.

The firm shall determine whether to discuss the matter with those charged with governance.

Loans and Guarantees

290.117 A loan, or a guarantee of a loan, to a member of the audit team, or a member of that individual's immediate family, or the firm from an audit client that is a bank or a similar institution may create a threat to independence. If the loan or guarantee is not made under normal lending

procedures, terms and conditions, a self-interest threat would be created that would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, neither a member of the audit team, a member of that individual's immediate family, nor a firm shall accept such a loan or guarantee.

290.118 If a loan to a firm from an audit client that is a bank or similar institution is made under normal lending procedures, terms and conditions and it is material to the audit client or firm receiving the loan, it may be possible to apply safeguards to reduce the self-interest threat to an acceptable level. An example of such a safeguard is having the work reviewed by another registrant from a network firm that is neither involved with the audit nor received the loan.

290.119 A loan, or a guarantee of a loan, from an audit client that is a bank or a similar institution to a member of the audit team, or a member of that individual's immediate family, does not create a threat to independence if the loan or guarantee is made under normal lending procedures, terms and conditions. Examples of such loans include home mortgages, bank overdrafts, car loans and credit card balances.

290.120 If the firm or a member of the audit team, or a member of that individual's immediate family accepts a loan from, or has a borrowing guaranteed by, an audit client that is not a bank or similar institution, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level, unless the loan or guarantee is immaterial to both (a) the firm or the member of the audit team and the immediate family member, and (b) the client.

290.121 Similarly, if the firm or a member of the audit team, or a member of that individual's immediate family, makes or guarantees a loan to an audit

client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level, unless the loan or guarantee is immaterial to both (a) the firm or the member of the audit team and the immediate family member, and (b) the client.

290.122 If a firm or a member of the audit team, or a member of that individual's immediate family, has deposits or a brokerage account with an audit client that is a bank, broker or similar institution, a threat to independence is not created if the deposit or account is held under normal commercial terms.

Business relationships

290.123 A close business relationship between a firm, or a member of the audit team, or a member of that individual's immediate family, and the audit client or its management, arises from a commercial relationship or common financial interest and may create self-interest or intimidation threats. Examples of such relationships include:

- Having a financial interest in a joint venture with either the client or a controlling owner, director, officer or other individual who performs senior managerial activities 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.
- Distribution or marketing arrangements under which the firm distributes or markets the client's products or services, or the client distributes or markets the firm's products or services.

Unless any financial interest is immaterial and the business relationship is insignificant to the firm and the client or its management, the threat

created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, unless the financial interest is immaterial and the business relationship is insignificant, the business relationship shall not be entered into, or it shall be reduced to an insignificant level or terminated.

In the case of a member of the audit team, unless any such financial interest is immaterial and the relationship is insignificant to that member of the audit team, the individual shall be removed from the audit team.

If the business relationship is between an immediate family member of a member of the audit team and the audit client or its management, the significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

290.124 A business relationship involving the holding of an interest by the firm, or a member of the audit team, or a member of that individual's immediate family (referred to hereafter as "the investor or investors"), in a closely-held entity when the audit client or a director or officer of the client, or any group thereof, also holds an interest in that entity does not create threats to independence if:

(a) The business relationship is insignificant to the firm, the member of the audit team and the immediate family member, and the client;
(b) The financial interest is immaterial to the investor or group of investors, and
(c) The financial interest does not give the investor, or group of investors, the ability to control the closely-held entity.

290.125 The purchase of goods and services from an audit client by the firm, or a member of the audit team, or a member of that individual's immediate family, does not generally create a threat to independence if the transaction is in the normal course of business and at arm's length. However, such transactions may be of such a nature or magnitude that they create a self-interest threat. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Eliminating or reducing the magnitude of the transaction; or
- Removing the individual from the audit team.

Family and personal relationships

290.126 Family and personal relationships between a member of the audit team and a director or officer of certain employees (depending on their role) of the audit client may create self-interest, familiarity or intimidation threats. The existence and significance of any threats will depend on a number of factors, including the individual's responsibilities on the audit team, the role of the family member or other individual within the client and the closeness of the relationship.

290.127 When an immediate family member of a member of the audit team is:

(a) A director or officer of the audit client; or

(b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion,

or was in such a position during any period covered by the engagement or the financial statements, the threats to independence can only be reduced

to an acceptable level by removing the individual from the audit team. The closeness of the relationship is such that no other safeguards could reduce the threat to an acceptable level. Accordingly, no individual who has such a relationship shall be a member of the audit team.

290.128 Threats to independence are created when an immediate family member of a member of the audit team is an employee in a position to exert significant influence over the client's financial position, financial performance or cash flows, the significance of the threats will depend on factors such as:

- The position held by the immediate family member; and
- The role of the professional on the audit team.

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

- Removing the individual from the audit team; or
- Structuring the responsibilities of the audit team so that the professional does not deal with matters that are within the responsibility of the immediate family member.

290.129 Threats to independence are created when a close family member of a member of the audit team is:

(a) A director or officer of the audit client; or

(b) An employee in position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

The significance of the threats will depend on factors such as:

- The nature of the relationship between the member of the audit team and the close family member;
- The position held by the close family member; and
- The role of the professional on the audit team.

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

- Removing the individual from the audit team; or
- Structuring the responsibilities of the audit team so that the professional does not deal with matters that are within the responsibility of the close family member.

290.130 Threats to independence are created when a member of the audit team has a close relationship with a person who is not an immediate or close family member, but who is a director or officer or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion. A member of the audit team who has such a relationship shall consult in accordance with firm policies and procedures. The significance of the threats will depend on factors such as:

- The nature of the relationship between the individual and the member of the audit team;
- The position the individual holds with the client; and
- The role of the professional on the audit team.

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

- Removing the professional from the audit team; or
- Structuring the responsibilities of the audit team so that the professional does not deal with matters that are within the responsibility of the individual with whom the professional has a close relationship.

290.131A Self-interest, familiarity or intimidation threats may be created by a personal or family relationship between (a) a partner or employee of the firm who is not a member of the audit team and (b) a director or officer of the audit client or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion. Partners and employees of the firm who are aware of such relationships shall consult in accordance with firm policies and procedures. The existence and significance of any threat will depend on factors such as:

- The nature of the relationship between the partner or employee of the firm and the director or officer or employee of the client;
- The interaction of the partner or employee of the firm with the audit team;
- The position of the partner or employee within the firm; and
- The position the individual holds with the client.

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

- Structuring the partner's or employee's responsibilities to reduce any potential influence over the audit engagement; or
- Having a Registrant review the relevant audit work performed.

290.131B When an inadvertent violation of this section as it relates to family and personal relationships occurs, it is deemed not to compromise independence if:

(a) The firm has established policies and procedures that require prompt notification to the firm of any breaches resulting from changes in the employment status of their immediate or close family members or other personal relationships that create threats to independence;

(b) The inadvertent violation relates to an immediate family member of a member of the audit team becoming a director or officer of the audit client or being in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion, and the relevant professional is removed from the audit team; and

(c) The firm applies other safeguards when necessary to reduce any remaining threat to an acceptable level. Examples of such safeguards include:

(i) Having a Registrant review the work of the member of the audit team; or

(ii) Excluding the relevant professional from any significant decision-making concerning the

engagement.

The firm shall determine whether to discuss the matter with those charged with governance.

Employment with an audit client

290.132 Familiarity or intimidation threats may be created if a director or officer of the audit client, or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion has been a member of the audit team or partner of the firm.

290.133 If a former member of the audit team or partner of the firm has joined the audit client in such a position and a significant connection remains between the firm and the individual, the threat would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, independence would be deemed to be compromised if a former member of the audit team or partner joins the audit client as a director or officer, or as an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion, unless:

(a) The individual is not entitled to any benefits or payments from the firm, unless made in accordance with fixed pre-determined arrangements, and any amount owed to the individual is not material to the firm; and

(b) The individual does not continue to participate or appear to participate in the firm's business or professional activities.

290.134 If a former member of the audit team or partner of the firm has joined the audit client in such a position, and no significant connection remains between the firm and the individual, the existence and significance of any familiarity, or intimidation threats will depend on factors such as:

- The position the individual has taken at the client;
- Any involvement the individual will have with the audit team;
- The length of time since the individual was a member of the audit team or partner of the firm; and
- The former position of the individual within the audit team or firm, for example, whether the individual was responsible for maintaining regular contact with the client's management or those charged with governance.

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

- Modifying the audit plan;
- Assigning individuals to the audit team who have sufficient experience in relation to the individual who has joined the client; or
- Having a partner other than the engagement partner or another registrant review the work of the former member of the audit team.

290.135 If a former partner of the firm has previously joined an entity in such a position and the entity subsequently becomes an audit client of the firm, the significance of any threat to independence shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

290.136 A self-interest threat is created when a member of the audit team participates in the audit engagement while knowing that he or she will, or may, join the client sometime in the future. Firm policies and procedures shall require members of an audit team to notify the firm when entering employment negotiations with the client. On receiving such notification, the significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the individual from the audit team; or
- A review by the audit partner of any significant judgments made by that individual while on the team.

Audit clients that are not Public Interest Entities

290.137 Familiarity or intimidation threats are created when a key audit partner joins the audit client that is a public interest entity as:

(a) A director or officer of the entity, or

(b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

Independence would be deemed to be compromised unless, subsequent to the partner ceasing to be a key audit partner, the public interest entity had issued audited financial statements covering a period of not less than twelve months and the partner was not a member of the audit team with respect to the audit of those financial statements.

290.138 An intimidation threat is created when the individual who was the firm's Senior or Managing Partner (Chief Executive or equivalent) joins an audit client that is a public interest entity as

(a) an employee in a position to exert significant influence over the preparation of the entity's accounting records or its financial statements; or
(b) a director or officer of the entity.

Independence would be deemed to be compromised unless twelve months have passed since the individual was the Senior or Managing Partner (Chief Executive or equivalent) of the firm.

290.139 Independence is deemed not to be compromised if, as a result of a business combination, a former key audit partner or the individual who was the firm's former Senior or Managing Partner is in a position a described in paragraphs 290.139 and 290.140, and:

(a) The position was not taken in contemplation of the business combination;
(b) Any benefits or payments due to the former partner from the firm have been settled in full, unless made in accordance with fixed pre-determined arrangements and any amount owed to the partner is not material to the firm;
(c) The former partner does not continue to participate or appear to participate in the firm's business or professional activities; and
(d) The position held by the former partner with the audit client is discussed with those charged with governance.

Temporary staff assignments

290.140 The lending of staff by a firm to an audit client may create a self-review threat. Such assistance may be given, but only for a short period of time and the firm's personnel shall not be involved in:

(a) Providing non-assurance services that would not be permitted under this section; or

(b) Assuming management responsibilities

In all circumstances, the audit client shall be responsible for directing and supervising the activities of the loaned staff.

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

- Conducting an additional review of the work performed by the loaned staff;
- Not giving the loaned staff audit responsibility for any function or activity that the staff performed during the temporary staff assignment; or
- Not including the loaned staff as a member of the audit team.

Recent service with an audit client

290.141 Self-interest, self-review or familiarity threats may be created if a member of the audit team has recently served as a director, officer, or employee of the audit client. This would be the case when, for example, a member of the audit team has to evaluate elements of the financial statements for which the member of the audit team had prepared the

accounting records while with the client.

290.142 If, during the period covered by the audit report, a member of the audit team had served as a director or officer of the audit client, or was an employee in a position to exert significant influence over the preparation of the client's accounting record or the financial statements on which the firm will express an opinion, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Consequently, such individuals shall not be assigned to the audit team.

290.143 Self-interest, self-review or familiarity threats may be created if, before the period covered by the audit report, a member of the audit team had served as a director or officer of the audit client, or was an employee in a position to exert significant influence over the preparation of the client's accounting records or financial statements on which the firm will express an opinion. For example, such threats would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current audit engagement. The existence and significance of any threats will depend on factors such as:

- The position the individual held with the client;
- The length of time since the individual left the client; and
- The role of the professional on the audit team.

The significance of any threat shall be evaluated and safeguards applied when necessary to reduce the threat to an acceptable level. An example of such a safeguard is conducting a review of the work performed by the individual as a member of the audit team.

Serving as a Director or Officer of an audit client

290.144 If a partner or employee of the firm serves as a director or officer of an

audit client, the self-review and self-interest threats created would be so significant that no safeguards could reduce the threats to an acceptable level. Accordingly, no partner or employee shall serve as a director or officer of an audit client.

290.145 The position of Company Secretary has different implications in different jurisdictions. Duties 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 association with the entity.

290.146 If a partner or employee of the firm or a network firm serves as Company Secretary for an audit client the self-review and advocacy threats created would generally be so significant that no safeguards could reduce the threat to an acceptable level. Despite paragraph 290.146, when this practice is specifically permitted under local law, professional rules or practice, and provided management makes all relevant decisions, the duties and activities shall be limited to those of a routine and administrative nature, such as preparing minutes and maintaining statutory returns. In those circumstances, the significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level.

290.147 Performing routine administrative services to support a company secretarial function or providing advice in relation to company secretarial administration matters does not generally create threats to independence, as long as client management makes all relevant decisions.

Long Association of Senior Personnel (Including Partner Rotation) with an Audit Client

General provisions

290.148 Familiarity and self-interest threats are created by using the same senior personnel on an audit engagement over a long period of time. The significance of the threats will depend on factors such as:

- How long the individual has been a member of the audit team;
- The role of the individual on the audit team;
- The structure of the firm;
- The nature of the audit engagement;
- Whether the client's management team has changed; and
- Whether the nature or complexity of the client's accounting and reporting issues has changed.

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

- Rotating the senior personnel off the audit team;
- Having a member who was not a member of the audit team review the work of the senior personnel; or
- Regular independent internal or external quality reviews of the engagement.

Audit clients that are Public Interest Entities

290.149 In respect of an audit of a public interest entity, an individual shall not be a key audit partner for more than seven years. After such time, the individual shall not be a member of the engagement team or be a key audit partner for the client for two years. During that period, the individual shall not participate in the audit of the entity, provide quality control for the 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 the engagement.

290.150 Despite paragraph 290.149, key audit partners whose continuity is especially important to audit quality may, in rare cases due to unforeseen circumstances outside the firm's control, may be permitted an additional year on the audit team as long as the threat to independence can be eliminated or reduced to an acceptable level by applying safeguards. For example, a key audit partner may remain on the audit team for up to one additional year in circumstances where, due to unforeseen events, a required rotation was not possible, as might be the case due to serious illness of the intended replacement engagement partner.

290.151 The long association of other partners with an audit client that is a public interest entity creates familiarity and self-interest threats. The significance of the threats will depend on factors such as:

- How long any such partner has been associated with the audit client;
- The role, if any, of the individual on the audit team; and
- The nature, frequency and extent of the individual's interactions with the client's management or those charged with governance.

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

- Rotating the partner off the audit team or otherwise ending the partner's association with the audit client; or
- Regular independent internal or external quality reviews of

the engagement.

290.152 When an audit client becomes a public interest entity, the length of time the individual has served the audit client as a key audit partner before the client becomes a public interest entity shall be taken into account in determining the timing of the rotation. If the individual has served the audit client as a key audit partner for five years or less when the client becomes a public interest entity, the number of years the individual may continue to serve the client in that capacity before rotating off the engagement is seven years less the number of years already served. If the individual has served the audit client as a key audit partner for six or more years when the client becomes a public interest entity, the partner may continue to serve in that capacity for a maximum of two additional years before rotating off the engagement.

290.153 When a firm has only a few people with the necessary knowledge and experience to serve as a key audit partner on the audit of a public interest entity, rotation of key audit partners may not be an available safeguard. If an independent regulator in the relevant jurisdiction has provided an exemption from partner rotation in such circumstances, an individual may remain a key audit partner for more than seven years, in accordance with such regulation, provided that the independent regulator has specified alternative safeguards which are applied, such as a regular independent external review.

Provision of non-assurance services to audit clients

290.154 Firms have traditionally provided to their audit clients a range of non-assurance services that are consistent with their skills and expertise. Providing non-assurance services may, however, create threats to the independence of the firm or members of the audit team. The threats created are most often self-review, self-interest and advocacy threats.

290.155 New developments in business, the evolution of financial markets and changes in information technology make it impossible to draw up an all-inclusive list of non-assurance services that might be provided to an audit client. When specific guidance on a particular non-assurance service is not included in this section, the conceptual framework shall be applied when evaluating the particular circumstances.

290.156 Before the firm accepts an engagement to provide a non-assurance service to an audit client, a determination shall be made as to whether providing such a service would create a threat to independence. In evaluating the significance of any threat created by a particular non-assurance service, consideration shall be given to any threat that the audit team has reason to believe is created by providing other related non-assurance services. If a threat is created that cannot be reduced to an acceptable level by the application of safeguards, the non-assurance service shall not be provided.

290.156A Providing certain non-assurance services to an audit client may create a threat to independence so significant that no safeguards could reduce the threat to an acceptable level. However, the inadvertent provision of such a service to a related entity, division or in respect of a discrete financial statement item of such a client will be deemed not to compromise independence if any threats have been reduced to an acceptable level by arrangements for that related entity, division or discrete financial statement item to be audited by another firm or when another firm re-performs the non-assurance service to the extent necessary to enable it to take responsibility for that service.

290.157 A firm may provide non-assurance services that would otherwise be restricted under this section to the following related entities of the audit

client:

(a) An entity, which is not an audit client, that has direct or indirect control over the audit client;

(b) An entity, which is not an audit client, with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity; or

(c) An entity, which is not an audit client, that is under common control with the audit client.

If it is reasonable to conclude that (a) the services do not create a self-review threat because the results of the services will not be subject to audit procedures and (b) any threats that are created by the provision of such services are eliminated or reduced to an acceptable level by the application of safeguards.

290.158 A non-assurance service provided to an audit client does not compromise the firm's independence when the client becomes a public interest entity if:

(a) The previous non-assurance service complies with the provisions of this section that relate to audit clients that are not public interest entities;

(b) Services that are not permitted under this section for audit clients that are public interest entities are terminated before or as soon as practicable after the client becomes a public interest entity; and

(c) The firm applies safeguards when necessary to eliminate or reduce to an acceptable level any threats to independence arising from the service.

Management responsibilities

290.159 Management of an entity performs many activities in managing the entity in the best interests of stakeholders of the entity. It is not possible to specify every activity that is a management responsibility. However, management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.

290.160 Whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered a management responsibility include:

- Setting policies and strategic direction;
- Directing and taking responsibility for the actions of the entity's employees;
- Authorizing transactions;
- Deciding which recommendations of the firm or other third parties to implement;
- Taking responsibility for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework; and
- Taking responsibility for designing, implementing and maintaining internal control.

290.161 Activities that are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. For example, executing an insignificant transaction that has been authorized by management or monitoring the dates for filing statutory returns and advising an audit client of those dates is deemed not to be a

management responsibility. Further, providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility.

290.162 If a firm were to assume a management responsibility for an audit client, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level. For example, deciding which recommendations of the firm to implement will create self-review and self-interest threats. Further, assuming a management responsibility creates a familiarity threat because the firm becomes too closely aligned with the views and interests of management. Therefore, the firm shall not assume a management responsibility for an audit client.

290.163 To avoid the risk of assuming a management responsibility when providing non-assurance services to an audit client, the firm shall be satisfied that a member of management is responsible for making the significant judgments and decisions that are the proper responsibility of management, evaluating the results of the service and accepting responsibility for the actions to be taken arising from the results of the service. This reduces the risk of the firm inadvertently making any significant judgments or decisions on behalf of management. The risk is further reduced when the firm gives the client the opportunity to make judgments and decisions based on an objective and transparent analysis and presentation of the issues.

Preparing accounting records and financial statements

General provisions

290.164 Management is responsible for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework. These responsibilities include:

- Originating or changing journal entries, or determining the account classifications of transactions; and
- Preparing or changing source documents or originating data, in electronic or other form, evidencing the occurrence of a transaction (for example, purchase orders, payroll time records, and customer orders).

290.165 Providing an audit client with accounting and bookkeeping services, such as preparing accounting records or financial statements, creates a self-review threat when the firm subsequently audits the financial statements.

290.166 The audit process, however, necessitates dialogue between the firm and management of the audit client, which may involve (a) the application of accounting standards or policies and financial statement disclosure requirements, (b) the appropriateness of financial and accounting control and the methods used in determining the stated amounts of assets and liabilities, or (c) proposing adjusting journal entries. These activities are considered to be a normal part of the audit process and do not, generally, create threats to independence.

290.167 Similarly, the client may request technical assistance from the firm on matters such as resolving account reconciliation problems or analyzing and accumulating information for regulatory reporting. In addition, the client may request technical advice on accounting issues such as the conversion of existing financial statements from one financial reporting framework to another (for example, to comply with group accounting policies or to transition to a different financial reporting framework such as International Financial Reporting Standards). Such services do not, generally, create threats to independence provided the firm does not

assume a management responsibility for the client.

Audit clients that are not Public Interest Entities

290.168 The firm may provide services related to the preparation of accounting records and financial statements to an audit client that is not a public interest entity where the services are of a routine or mechanical nature, so long as any self-review threat created is reduced to an acceptable level. Examples of such services include:

- Providing payroll services based on client-originated data;
- Recording transactions for which the client has determined or approved the appropriate account classification;
- Posting transactions coded by the client to the general ledger;
- Posting client-approved entries to the trial balance; and
- Preparing financial statements based on information in the trial balance.

290.168A In all cases, the significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Arranging for such services to be performed by an individual who is not a member of the audit team; or
- If such services are performed by a member of the audit team, using a partner or senior staff Registrant with appropriate expertise who is not a member of the audit team to review the work performed.

Audit clients that are Public Interest Entities

290.169 Except in emergency situations, a firm shall not provide to an audit client

that is a public interest entity accounting and bookkeeping services, including payroll services, or prepare financial statements on which the firm will express an opinion or financial information which forms the basis of the financial statements.

290.170 Despite paragraph 290.169, a firm may provide accounting and bookkeeping services, including payroll services and the preparation of financial statements or other financial information, of a routine or mechanical nature for divisions or related entities of an audit client that is a public interest entity if the personnel providing the services are not members of the audit team and:

(a) The divisions or related entities for which the service is provided are collectively immaterial to the financial statements on which the firm will express an opinion; or

(b) The services relate to matters that are collectively immaterial to the financial statements of the division or related entity.

Emergency situations

290.171 Accounting and bookkeeping services, which would otherwise not be permitted under this section, may be provided to audit clients in emergency or other unusual situations when it is impractical for the audit client to make other arrangements. This may be the case when (a) only the firm has the resources and necessary knowledge of the client's systems and procedures to assist the client in the timely preparation of its accounting records and financial statements, and (b) a restriction on the firm's ability to provide the services would result in significant difficulties for the client (for example, as might result from a failure to meet regulatory reporting requirements). In such situations, the following conditions shall

be met:

- Those who provide the services are not members of the audit team;
- The services are provided for only a short period of time and are not expected to recur; and
- The situation is discussed and documented with those charged with governance.

Valuation services

General provisions

290.172 A valuation comprises the making of assumptions with regard to future developments, the application of appropriate methodologies and techniques, and the combination of both to compute a certain value, or range of values, for an asset, a liability or for a business as a whole.

290.173 Performing valuation services for an audit client may create a self-review threat. The existence and significance of any threat will depend on factors such as:

- Whether the valuation will have a material effect on the financial statements;
- The extent of the client's involvement in determining and approving the valuation methodology and other significant matters of judgment.
- The availability of established methodologies and professional guidelines.
- For valuations involving standard or established methodologies, the degree of subjectivity inherent in the item.
- The reliability and extent of the underlying data.

- The degree of dependence on future events of a nature that could create significant volatility inherent in the amounts involved.
- The extent and clarity of the disclosures in the financial statements.

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

- Having a professional who was not involved in providing the valuation service review the audit or valuation work performed; or
- Making arrangements so that personnel providing such services do not participate in the audit engagement.

290.174 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.

290.175 If a firm is requested to perform a valuation to assist an audit client with its tax reporting obligations or for tax planning purposes and the results of the valuation will not have a direct effect on the financial statements, the provisions included in paragraph 290.188 apply.

Audit clients that are not Public Interest Entities

290.176 In the case of an audit client that is not a public interest entity, if the

valuation service has a material effect on the financial statements on which the firm will express an opinion and the valuation involves a significant degree of subjectivity, no safeguards could reduce the self-review threat to an acceptable level. Accordingly, a firm shall not provide such a valuation service to an audit client.

Audit clients that are Public Interest Entities

290.177 A firm shall not provide valuation services to an audit client that is a public interest entity if the valuations would have a material effect, separately or in the aggregate, on the financial statements on which the firm will express an opinion.

Taxation Services

290.178 Taxation services comprise a broad range of services, including:

- Tax return preparation;
- Tax calculations for the purpose of preparing the accounting entries;
- Tax planning and other tax advisory services; and
- Assistance in the resolution of tax disputes.

While taxation services provided by a firm to an audit client are addressed separately under each of these broad headings, in practice, these activities are often interrelated

290.179 Performing certain tax services creates self-review and advocacy threats. The existence and significance of any threats will depend on factors such as:

(a) the system by which the tax authorities assess and administer the tax in question and the role of the firm in that process;

(b) the complexity of the relevant tax regime and the degree of judgment necessary in applying it;

(c) the particular characteristics of the engagement; and

(d) the level of tax expertise of the client's employees.

Tax Return Preparation

290.180 Tax return preparation services involve assisting clients with their tax reporting obligations by drafting and completing information, including the amount of tax due (usually on standardized forms) required to be submitted to the applicable tax authorities. Such services also include advising on the tax return treatment of past transactions and responding on behalf of the audit client to the tax authorities' requests for additional information and analysis (including providing explanations of and technical support for the approach being taken). Tax return preparation services are generally based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice. Further, the tax returns are subject to whatever review or approval process the tax authority deems appropriate. Accordingly, providing such services does not generally create a threat to independence if management takes responsibility for the returns including any significant judgments made.

Tax calculations for the purpose of preparing accounting entries

Audit clients that are not Public Interest Entities

290.181 Preparing calculations of current and deferred tax liabilities (or assets) for an audit client for the purpose of preparing accounting entries that will be subsequently audited by the firm creates a self-review threat. The significance of the threat will depend on

(a) the complexity of the relevant tax law and regulation and the degree of judgment necessary in applying

them;

(b) the level of tax expertise of the client's personnel, and

(c) the materiality of the amounts to the financial statements.

Safeguards shall be applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service;
- If the service is performed by a member of the audit team, using a partner or senior staff member with appropriate expertise who is not a member of the audit team to review the tax calculations; or
- Obtaining advice on the service from an external tax professional.

Audit clients that are Public Interest Entities

290.182 Except in emergency situations, in the case of an audit client that is a public interest entity, a firm shall not prepare tax calculations of current and deferred tax liabilities (or assets) for the purpose of preparing accounting entries that are material to the financial statements on which the firm will express an opinion.

290.183 The preparation of calculations of current and deferred tax liabilities (or assets) for an audit client for the purpose of the preparation of accounting entries, which would otherwise not be permitted under this section, may be provided to audit clients in emergency or other unusual situations when it is impractical for the audit client to make other arrangements. This may be the case when (a) only the firm has the resources and necessary knowledge of the client's business to assist the client in the timely

preparation of its calculations of current and deferred tax liabilities (or assets), and (b) a restriction on the firm's ability to provide the services would result in significant difficulties for the client (for example, as might result from a failure to meet regulatory requirements). In such situations, the following conditions shall be met:

- Those who provide the services are not members of the audit team;
- The services are provided for only a short period of time and are not expected to recur; and
- The situation is discussed with those charged with governance.

Tax planning and other tax advisory services

290.184 Tax planning or other tax advisory services comprise a broad range of services, such as advising the client how to structure its affairs in a tax efficient manner or advising on the application of a new tax law or regulation.

290.185 A self-review threat may be created where the advice will affect matters to be reflected in the financial statements. The existence and significance of any threat will depend on factors such as:

- The degree of subjectivity involved in determining the appropriate treatment for the tax advice in the financial statements;
- The extent to which the outcome of the tax advice will have a material effect on the financial statements;
- Whether the effectiveness of the tax advice depends on the accounting treatment or presentation in the financial statements and there is doubt as to the appropriateness of

the accounting treatment or presentation under the relevant financial reporting framework;

- 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.

For example, providing tax planning and other tax advisory services where the advice is clearly supported by tax authority or other precedent, by established practice or has a basis in tax law that is likely to prevail does not generally create a threat to independence.

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

- Using professionals who are not members of the audit team to perform the service;
- Having a tax professional, who was not involved in providing the tax service, advise the audit team on the service and review the financial statement treatment;
- Obtaining advice on the service from an external tax professional; or
- Obtaining pre-clearance or advice from the tax authorities.

290.187 Where the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements and:

(a) The audit team has reasonable doubt as to the

appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and

(b) The outcome or consequences of the tax advice will have a material effect on the financial statements on which the firm will express an opinion.

The self-review threat would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm shall not provide such tax advice to an audit client.

290.188 In providing tax services to an audit client, a firm may be requested to perform a valuation to assist the client with its tax reporting obligations or for tax planning purposes. Where the result of the valuation will have a direct effect on the financial statements, the provisions included in paragraphs 290.172 to 290.177 relating to valuation services are applicable. Where the valuation is performed for tax purposes only and the result of the valuation will not have a direct effect on the financial statements (i.e. the financial statements are only affected through accounting entries related to tax), this would not generally create threats to independence if such effect on the financial statements is immaterial or if the valuation is subject to external review by a tax authority or similar regulatory authority. If the valuation is not subject to such an external review and the effect is material to the financial statements, 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.
- The reliability and extent of the underlying data.

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

- Using professionals who are not members of the audit team to perform the service;
- Having a professional review the audit work or the result of the tax service; or
- Obtaining pre-clearance or advice from the tax authorities.

Assistance in the resolution of tax disputes

290.189 An advocacy or self-review threat may be created when the firm represents an audit client in the resolution of a tax dispute once the tax authorities have notified the client that they have rejected the client's arguments on a particular issue and either the tax authority or the client is referring the matter for determination in a formal proceeding, for example before a tribunal or court. The existence and significance of any threat will depend on factors such as:

- Whether the firm has provided the advice which is the subject of the tax dispute;
- The extent to which the outcome of the dispute will have a material effect on the financial statements on which the firm will express an opinion;
- The extent to which the matter is supported by tax law or regulation, other precedent, or established practice;
- Whether the proceedings are conducted in public; and
- The role management plays in the resolution of the dispute.

The significance of any threat created shall be evaluated and safeguards

applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service;
- Having a tax professional, who was not involved in providing the tax service, advise the audit team on the services and review the financial statement treatment; or
- Obtaining advice on the service from an external tax professional.

290.190 Where the taxation services involve acting as an advocate for an audit client before a public tribunal or court in the resolution of a tax matter and the amounts involved are material to the financial statements on which the firm will express an opinion, the advocacy threat created would be so significant that no safeguards could eliminate or reduce the threat to an acceptable level. Therefore, the firm shall not perform this type of service for an audit client. What constitutes a "public tribunal or court" shall be determined according to how tax proceedings are heard in the particular jurisdiction.

290.191 The firm is not, however, precluded from having a continuing advisory role (for example, responding to specific requests for information, providing factual accounts or testimony about the work performed or assisting the client in analyzing the tax issues) for the audit client in relation to the matter that is being heard before a public tribunal or court.

Internal Audit Services

290.192 The scope and objectives of internal audit activities vary widely and depend on the size and structure of the entity and the requirements of management and those charged with governance. Internal audit activities

may include:

(a) Monitoring of internal control – reviewing controls, monitoring their operation and recommending improvements thereto;

(b) Examination of financial and operating information – reviewing the means used to identify, measure, classify and report financial and operating information, and specific inquiry into individual items including detailed testing of transactions, balances and procedures;

(c) Review of the economy, efficiency and effectiveness of operating activities including non-financial activities of an entity; and

(d) Review of compliance with laws, regulations and other external requirements, and with management policies and directives and other internal requirements.

290.193 Internal audit services involve assisting the audit client in the performance of its internal audit activities. The provision of internal audit services to an audit client creates a self-review threat to independence if the firm uses the internal audit work in the course of a subsequent external audit. Performing a significant part of the client's internal audit activities increases the possibility that firm personnel providing internal audit services will assume a management responsibility. If the firm's personnel assume a management responsibility when providing internal audit services to an audit client, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm's personnel shall not assume a management responsibility when providing internal audit services to an audit client.

290.194 Examples of internal audit services that involve assuming management responsibilities include:

(a) Setting internal audit policies or the strategic direction of internal audit services;
(b) Directing and taking responsibility for the actions of the entity's internal audit employees;
(c) Deciding which recommendations resulting from internal audit activities shall be implemented;
(d) Reporting the results of the internal audit activities to those charged with governance on behalf of management;
(e) Performing procedures that form part of the internal control, such as reviewing and approving changes to employee data access privileges;
(f) Taking responsibility for designing, implementing and maintaining internal control; and
(g) Performing outsourced internal audit services, comprising all or a substantial portion of the internal audit function, where the firm is responsible for determining the scope of the internal audit work and may have responsibility for one or more of the matters noted in (a)-(f).

290.195 To avoid assuming a management responsibility, the firm shall only provide internal audit services to an audit client if it is satisfied that:

(a) The client designates an appropriate and competent resource, preferably within senior management, to be responsible at all times for internal audit activities and

to acknowledge responsibility for designing, implementing, and maintaining internal control;

(b) The client's management or those charged with governance reviews, assesses and approves the scope, risk and frequency of the internal audit services;

(c) The client's management evaluates the adequacy of the internal audit services and the findings resulting from their performance;

(d) The client's management evaluates and determines which recommendations resulting from internal audit services to implement and manages the implementation process; and

(e) The client's management reports to those charged with governance the significant findings and recommendations resulting from the internal audit services.

290.196 When a firm uses the work of an internal audit function, International Standards on Auditing require the performance of procedures to evaluate the adequacy of that work. When a firm accepts an engagement to provide internal audit services to an audit client, and the results of those services will be used in conducting the external audit, a self-review threat is created because of the possibility that the audit team will use the results of the internal audit service without appropriately evaluating those results or exercising the same level of professional skepticism as would be exercised when the internal audit work is performed by individuals who are not members of the firm. The significance of the threat will depend on factors such as:

- The materiality of the related financial statement amounts;

- The risk of misstatement of the assertions related to those financial statement amounts; and
- The degree of reliance that will be placed on the internal audit service.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

Audit clients that are Public Interest Entities

290.197 In the case of an audit client that is a public interest entity, a firm shall not provide internal audit services that relate to:

(a) A significant part of the internal controls over financial reporting;

(b) Financial accounting systems that generate information that is, separately or in the aggregate, significant to the client's accounting records or financial statements on which the firm will express an opinion; or

(c) Amounts or disclosures that are, separately or in the aggregate, material to the financial statements on which the firm will express an opinion.

IT Systems Services

General provisions

290.198 Services related to information technology ("IT") systems include the design or implementation of hardware or software systems. The systems may aggregate source data, form part of the internal control over financial reporting or generate information that affects the accounting records or financial statements, or the systems may be unrelated to the audit client's accounting records, the internal control over financial reporting or financial

statements. Providing systems services may create a self-review threat depending on the nature of the services and the IT systems.

290.199 The following IT systems services are deemed not to create a threat to independence as long as the firm's personnel do not assume a management responsibility:

(a) Design or implementation of IT systems that are unrelated to internal control over financial reporting;

(b) Design or implementation of IT systems that do not generate information forming a significant part of the accounting record or financial statements;

(c) Implementation of "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 needs is not significant; and

(d) Evaluating and making recommendations with respect to a system designed, implemented or operated by another service provider or the client.

Audit clients that are not Public Interest Entities

290.200 Providing services to an audit client that is not a public interest entity involving the design or implementation of IT systems that (a) form a significant part of the internal control over financial reporting or (b) generate information that is significant to the client's accounting records or financial statements on which the firm will express an opinion creates a self-review threat.

290.201 The self-review threat is too significant to permit such services unless appropriate safeguards are put in place ensuring that:

(a) The client acknowledges its responsibility for establishing and monitoring a system of internal controls;

(b) The client 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;

(c) The client makes all management decisions with respect to the design and implementation process;

(d) The client evaluates the adequacy and results of the design and implementation of the system; and

(e) The client is responsible for operating the system (hardware or software) and for the data it uses or generates.

290.202 Depending on the degree of reliance that will be placed on the particular IT systems as part of the audit, a determination shall be made as to whether to provide such non-assurance services only with personnel who are not members of the audit team and who have different reporting lines within the firm. The significance of any remaining threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is having a Registrant review the audit or non-assurance work.

Audit clients that are Public Interest Entities

290.203 In the case of an audit client that is a public interest entity, a firm shall not provide services involving the design or implementation of IT systems that (a) form a significant part of the internal control over financial reporting or (b) generate information that is significant to the client's

accounting records or financial statements on which the firm will express an opinion.

Litigation Support Services

290.204 Litigation support services may include activities such 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. These services may create a self-review or advocacy threat.

290.205 If the firm provides a litigation support service to an audit client and the service involves estimating damages or other amounts that affect the financial statements on which the firm will express an opinion, the valuation service provisions included in paragraphs 290.172 to 290.177 shall be followed. In the case of other litigation support services, the significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

Legal Services

290.206 For the purpose of this section, legal services are defined as any services for which the person providing the services must either be admitted to practice law before the courts of the jurisdiction in which such services are to be provided or have the required legal training to practice law. Such legal services may include, depending on the jurisdiction, a wide and diversified range of areas including both corporate and commercial services to clients, such a contract support, litigation, mergers and acquisition legal advice and support and assistance to clients' internal legal departments. Providing legal services to an entity that is an audit client may create both self-review and advocacy threats.

290.207 Legal services that support an audit client in executing a transaction (e.g., contract support, legal advice, legal due diligence and restructuring) may create self-review threats. The existence and significance of any threat will depend on factors such as:

- The nature of the service;
- Whether the service is provided by a member of the audit team; and
- The materiality of any matter in relation to the client's financial statements.

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

- Using professionals who are not members of the audit team to perform the service; or
- Having a professional who was not involved in providing the legal services provide advice to the audit team on the service and review any financial statement treatment.

290.208 Acting in an advocacy role for an audit client in resolving a dispute or litigation when the amounts involved are material to the financial statements on which the firm will express an opinion would create advocacy and self-review threats so significant that no safeguards could reduce the threat to an acceptable level. Therefore, the firm shall not perform this type of service for an audit client.

290.209 When a firm is asked to act in an advocacy role for an audit client in resolving a dispute or litigation when the amounts involved are not material to the financial statements on which the firm will express an

opinion, the firm shall evaluate the significance of any advocacy and self-review threats created and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service; or
- Having a professional who was not involved in providing the legal services advise the audit team on the service and review any financial statement treatment.

290.210 The appointment of a partner or an employee of the firm as General Counsel for legal affairs of an audit client would create self-review and advocacy threats that are so significant that no safeguards could reduce the threats to an acceptable level. The position of General Counsel is generally a senior management position with broad responsibility for the legal affairs of a company, and consequently, no member of the firm shall accept such an appointment for an audit client.

Recruiting Services

General provisions

290.211 Providing recruiting services to an audit client may create self-interest, familiarity or intimidation threats. The existence and significance of any threat will depend on factors such as:

- The nature of the requested assistance; and
- The role of the person to be recruited.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. In all cases, the firm shall not assume management

responsibilities, including acting as a negotiator on the client's behalf, and the hiring decision shall be left to the client.

290.211A The firm may generally provide such services as reviewing the professional qualifications of a number of applicants and providing advice on their suitability for the post. In addition, the firm may interview candidates and advise on a candidate's competence for financial accounting, administrative or control positions.

Audit clients that are Public Interest Entities

290.212 A firm shall not provide the following recruiting services to an audit client that is a public interest entity with respect to a director or officer of the entity or senior management in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion:

- Searching for or seeking out candidates for such positions; and
- Undertaking reference checks of prospective candidates for such positions.

Corporate Finance Services

290.213 Providing corporate finance services uch as

(a) assisting an audit client in developing corporate strategies,

(b) identifying possible targets for the audit client to acquire,

(c) advising on disposal transactions,

(d) assisting finance raising transactions, and

(e) providing structuring advice, may create advocacy

and self-review threats.

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

- Using professionals who are not members of the audit team to provide the services; or
- Having a professional who was not involved in providing the corporate finance service advise the audit team on the service and review the accounting treatment and any financial statement treatment.

290.214 Providing a corporate finance service, for example advice on the structuring of a corporate finance transaction or on financing arrangements that will directly affect amounts that will be reported in the financial statements on which the firm will provide an opinion may create a self-review threat. The existence and significance of any threat will depend on factors such as:

- The degree of subjectivity involved in determining the appropriate treatment for the outcome or consequences of the corporate finance advice in the financial statements;
- The extent to which the outcome of the corporate finance advice will directly affect amounts recorded in the financial statements and the extent to which the amounts are material to the financial statements; and
- Whether the effectiveness of the corporate finance advice depends on a particular accounting treatment or presentation in the financial statements and there is doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting

framework.

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

- Using professionals who are not members of the audit team to perform the service; or
- Having a professional who was not involved in providing the corporate finance service to the client advise the audit team on the service and review the accounting treatment and any financial statement treatment.

290.215 Where the effectiveness of corporate finance advice depends on a particular accounting treatment or presentation in the financial statements and:

(a) The audit team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and

(b) The outcome or consequences of the corporate finance advice will have a material effect on the financial statements on which the firm will express an opinion.

The self-review threat would be so significant that no safeguards could reduce the threat to an acceptable level, in which case the corporate finance advice shall not be provided.

290.216 Providing corporate finance services involving promoting, dealing in, or underwriting an audit client's shares would create an advocacy of self-review threat that is so significant that no safeguards could reduce the

threat to an acceptable level. Accordingly, a firm shall not provide such services to an audit client.

Fees

Fees – Relative Size

290.217 When the total fees from an audit client represent a large proportion of the total fees of the firm expressing the audit opinion, the dependence on that client and concern about losing the client creates a self-interest or intimidation threat. The significance of the threat will depend on factors such as:

- The operating structure of the firm;
- Whether the firm is well established or new; and
- The significance of the client qualitatively and/or quantitatively to the firm

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

- Reducing the dependency on the client;
- External quality control reviews; or
- Consulting a third party, such as a professional regulatory body or a Registrant, on key audit judgments.

290.218 A self-interest or intimidation threat is also created when the fees generated from an audit client represent a large proportion of the revenue from an individual partner's clients or a large proportion of the revenue of an individual office of the firm. The significance of the threat will depend upon factors such as:

- The significance of the client qualitatively and/or quantitatively to the partner or office; and

- The extent to which the remuneration of the partner, or the partners in the office, is dependent upon the fees generated from the client.

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

- Reducing the dependency on the audit client;
- Having a Registrant review the work or otherwise advise as necessary; or
- Regular independent internal or external quality reviews of the engagement.

Audit clients that are Public Interest Entities

290.219 Where an audit client is a public interest entity and, for two consecutive years, the total fees from the client and its related entities (subject to the considerations in paragraph 290.27) represent more than 15% of the total fees received by the firm expressing the opinion on the financial statements of the client, the firm shall disclose in writing to those charged with governance of the audit client the fact that the total of such fees represents more than 15% of the total fees received by the firm, and report in writing which of the safeguards below it will apply to reduce the threat to an acceptable level, and apply the selected safeguard:

(a) Prior to the issuance of the audit opinion on the second year's financial statements, a Registrant, who is not a member of the firm expressing the opinion on the financial statements, performs an engagement quality control review of that engagement or a professional regulatory body performs a review of that

engagement that is equivalent to an engagement quality control review ("a pre-issuance review"); or

(b) After the audit opinion on the second year's financial statements has been issued, and before the issuance of the audit opinion on the third year's financial statements, a Registrant, who is not a member of the firm expressing the opinion on the financial statements, or a professional regulatory body performs a review of the second year's audit that is equivalent to an engagement quality control review ("a post-issuance review").

When the total fees significantly exceed 15% the firm shall determine whether the significance of the threat is such that a post-issuance review would not reduce the threat to an acceptable level and, therefore, a pre-issuance review is required. In such circumstances a pre-issuance review shall be performed and documented.

Thereafter, when the fees continue to exceed 15% each year, the disclosure to and discussion with those charged with governance shall occur and one of the above safeguards shall be applied. If the fees significantly exceed 15%, the firm shall determine whether the significance of the threat is such that a post-issuance review would not reduce the threat to an acceptable level and, therefore, a pre-issuance review is required. In such circumstances a pre-issuance review shall be performed and documented.

Fees –Overdue

290.220 A self-interest threat may be created if fees due from an audit client remain unpaid for a long time, especially if a significant part is not paid before the issue of the audit report for the following year. Generally, the

firm is expected to require payment of such fees before such audit report is issued. If fees remain unpaid after the report has been issued, the existence and significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is having an additional member who did not take part in the audit engagement, provide advice or review the work performed. The firm shall determine whether the overdue fees might be regarded as being equivalent to a loan to the client and whether, because of the significance of the overdue fees, it is appropriate for the firm to be re-appointed or continue the audit engagement.

Contingent Fees

290.221 Contingent fees are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm. For the purposes of this section, a fee is not regarded as being contingent if established by a court or other public authority.

290.222 A contingent fee charged directly or indirectly, for example through an intermediary, by a firm in respect of an audit engagement creates a self-interest threat that is so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm shall not enter into any such fee arrangement.

290.223 A contingent fee charged directly or indirectly, for example through an intermediary, by a firm in respect of a non-assurance service provided to an audit client may also create a self-interest threat. The threat created would be so significant that no safeguards could reduce the threat to an acceptable level if:

(a) The fee is charged by the firm expressing the opinion

on the financial statements and the fee is material or expected to be material to that firm;

(b) The fee is charged by a network firm that participants in a significant part of the audit and the fee is material or expected to be material to that firm; or

(c) The outcome of the non-assurance service, and therefore the amount of the fee, is dependent on a future or contemporary judgment related to the audit of a material amount in the financial statements.

Accordingly, such arrangements shall not be accepted.

290.224 For other contingent fee arrangements charged by a firm for a non-assurance service to an audit client, the existence and significance of any threats will depend on factors such 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 financial statements.

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

- Having a Registrant review the relevant audit work or otherwise advise as necessary; or
- Using professionals who are not members of the audit team to perform the non-assurance service.

Compensation and Evaluation Policies

290.225 A self-interest threat is created when a member of the audit team is evaluated on or compensated for selling non-assurance services to that audit client. The significance of the threat will depend on:

- The proportion of the individual's compensation or performance evaluation that is based on the sale of such services;
- The role of the individual on the audit team; and
- Whether promotion decisions are influenced by the sale of such services.

The significance of the threat shall be evaluated and, if the threat is not at an acceptable level, the firm shall either revise the compensation plan or evaluation process for that individual or apply safeguards to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing such members from the audit team; or
- Having a member review the work of the member of the audit team.

290.226 A key audit partner shall not be evaluated on or compensated based on that partner's success in selling non-assurance services to the partner's audit client. This is not intended to prohibit normal profit-sharing arrangements between partners of a firm.

Gifts and Hospitality

290.227 Accepting gifts or hospitality from an audit client may create self-interest

and familiarity threats. If a firm or a member of the audit team accepts gifts or hospitality, unless the value is trivial and inconsequential, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level. Consequently, a firm or a member of the audit team shall not accept such gifts or hospitality.

Actual and Threatened Litigation

290.228 When litigation takes place, or appears likely, between the firm or a member of the audit team and the audit client, self-interest and intimidation threats are created. The relationship between client management and the members of the audit team must be characterized by complete candor and full disclosure regarding all aspects of a client's business operations. When the firm and the client's management are placed in adversarial positions by actual or threatened litigation, affecting management's willingness to make complete disclosures, self-interest and intimidation threats are created. The significance of the threats created will depend on such factors as:

- The materiality of the litigation; and
- Whether the litigation relates to a prior audit engagement.

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

- If the litigation involves a member of the audit team, removing that individual from the audit team; or
- Having a professional review the work performed.

If such safeguards do not reduce the threats to an acceptable level, the only appropriate action is to withdraw from, or decline, the audit

engagement.

[Paragraphs 290.229 to 290.499 are intentionally left blank.]

Reports that Include a Restriction on Use and Distribution

Introduction

290.500 The independence requirements in Section 290 apply to all audit engagements. However, in certain circumstances involving audit engagements where the report includes a restriction on use and distribution, and provided the conditions described in 290.501 to 290.502 are met, the independence requirements in this section may be modified as provided in paragraphs 290.505 to 290.514. These paragraphs are only applicable to an audit engagement on special purpose financial statements (a) that is intended to provide a conclusion in positive or negative form that the financial statements are prepared in all material respects, in accordance with the applicable financial reporting framework, including, in the case of a fair presentation framework, that the financial statements give a true and fair view or are presented fairly, in all material respects, in accordance with the applicable financial reporting framework, and (b) where the audit report includes a restriction on use and distribution. The modifications are not permitted in the case of an audit of financial statements required by law or regulation.

290.501 The modifications to the requirements of Section 290 are permitted if the intended users of the report (a) are knowledgeable as to the purpose and limitations of the report, and (b) explicitly agree to the application of the modified independence requirements. Knowledge as to the purpose and limitations of the report may be obtained by the intended users through their participation, either directly or indirectly through their representative

who has the authority to act for the intended users, in establishing the nature and scope of the engagement. Such participation enhances the ability of the firm to communicate with intended users about independence matters, including the circumstances that are relevant to the evaluation of the threats to independence and the applicable safeguards necessary to eliminate the threats or reduce them to an acceptable level, and to obtain their agreement to the modified independence requirements that are to be applied.

290.502 The firm shall communicate (for example, in an engagement letter) with the intended users regarding the independence requirements that are to be applied with respect to the provision of the audit engagement. Where the intended users are a class of users (for example, lenders in a syndicated loan arrangement) who are not specifically identifiable by name at the time the engagement terms are established, such users shall subsequently be made aware of the independence requirements agreed to by the representative (for example, by the representative making the firm's engagement letter available to all users).

290.503 If the firm also issues an audit report that does not include a restriction on use and distribution for the same client, the provisions of paragraphs 290.500 to 290.514 do not change the requirement to apply the provisions of paragraphs 290.1 to 290.228 to that audit engagement.

290.504 The modification to the requirements of Section 290 that are permitted in the circumstances set out above are described in paragraphs 290.505 to 290.514. Compliance in all other respects with the provisions of Section 290 is required.

Public Interest Entities

290.505 When the conditions set out in paragraphs 290.500 to 290.502 are met, it is not necessary to apply the additional requirements in paragraphs 290.100 to 290.228 that apply to audit engagements for public interest entities.

Related Entities

290.506 When the conditions set out in paragraphs 290.500 to 290.502 are met, references to audit client do not include its related entities. However, when the audit team knows or has reason to believe that a relationship or circumstance involving a related entity of the client is relevant to the evaluation of the firm's independence of the client, the audit team shall include that related entity when identifying and evaluating threats to independence and applying appropriate safeguards.

Networks and Network Firms

290.507 When the conditions set out in paragraphs 290.500 to 290.502 are met, reference to the firm does not include network firms. However, when the firm knows or has reason to believe that threats are created by any interests and relationships of a network firm, they shall be included in the evaluation of threats to independence.

Financial Interests, Loans and Guarantees, Close Business Relationships and Family and Personal Relationships.

290.508 When the conditions set out in paragraphs 290.500 to 290.502 are met, the relevant provisions set out in paragraphs 290.102 to 290.143 apply only to the members of the engagement team, their immediate family members and close family members.

290.509 In addition, a determination shall be made as to whether threats to independence are created by interests and relationships, as described in paragraphs 290.102 to 290.143, between the audit client and the following members of the audit team:

(a) Those who provide consultation regarding technical or industry specific issues, transactions or events; and

(b) Those who provide quality control for the engagement, including those who perform the engagement quality control review.

An evaluation shall be made of the significance of any threats that the engagement team has reason to believe are created by interests and relationships between the audit client and others within the firm who can directly influence the outcome of the audit engagement, including those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the audit engagement partner in connection with the performance of the audit engagement (including those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent)).

290.510 An evaluation shall also be made of the significance of any threats that the engagement team has reason to believe are created by financial interests in the audit client held by individuals, as described in paragraphs 290.108 to 290.111 and paragraphs 290.113 to 290.115.

290.511 Where a threat to independence is not at an acceptable level, safeguards shall be applied to eliminate the threat or reduce it to an acceptable level.

290.512 In applying the provisions set out in paragraphs 290.106 to 290.115 to interests of the firm, if the firm has a material financial interest, whether direct to indirect, in the audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, the firm shall not have such a financial interest.

Employment with an Audit Client

290.513 An evaluation shall be made of the significance of any threats from any employment relationships as described in paragraphs 290.132 to 290.136. Where a threat exists that is not at an acceptable level, safeguards shall be applied to eliminate the threat or reduce it to an acceptable level. Examples of safeguards that might be appropriate include those set out in paragraph 290.134.

Provision of Non-assurance Services

290.514 If the firm conducts an engagement to issue a restricted use and distribution report for an audit client and provides a non-assurance service to the audit client, the provisions of paragraphs 290.154 to 290.228 shall be complied with, subject to paragraphs 290.504 to 290.507.

SECTION 291: INDEPENDENCE – OTHER ASSURANCE ENGAGEMENTS

Structure of Section

291.1 This section addresses independence requirements for assurance engagements that are not audit or review engagements. Independence requirements for audit and review engagements are addressed in Section 290. If the assurance client is also an audit or review client, the requirements in Section 290 also apply to the firm, network firms and members of the audit or review team. In certain circumstances involving assurance engagements where the assurance report includes a restriction on use and distribution and provided certain conditions are met, the independence requirements in this section may be modified as provided in 291.21 to 291.27.

291.2 Assurance engagements are designed to enhance intended users' degree of confidence about the outcome of the evaluation or measurement of a subject matter against criteria. The International Framework for Assurance Engagements (the Assurance Framework) describes the elements and objectives of an assurance engagement and identifies engagements to which International Standards on Assurance Engagements (ISAEs) apply. For a description of the elements and objectives of an assurance engagement, refer to the Assurance Framework.

291.3 Compliance with the fundamental principle of objectivity requires being independent of assurance clients. In the case of assurance engagements, it is in the public interest and, therefore, required by these Rules of Professional Conduct, that members of assurance teams and firms be independent of assurance clients and that any threats that the firm has reason to believe are created by a network firm's interests and relationships be evaluated. In addition, when the assurance team knows or has reason to believe that a relationship or circumstance involving a related entity of the assurance client is relevant to the evaluation of the

firm's independence from the client, the assurance team shall include that related entity when identifying and evaluating threats to independence and applying appropriate safeguards.

A Conceptual Framework Approach to Independence

291.4 The objective of this section is to assist firms and members of assurance teams in applying the conceptual framework approach described below to achieving and maintaining independence.

291.5 Independence comprises:

(a) *Independence of mind*

The state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional skepticism.

(b) *Independence in appearance*

The avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm's or a member of the assurance team's integrity, objectivity or professional skepticism has been compromised.

291.6 The conceptual framework approach shall be applied by Registrants to:

(a) Identify threats to independence;

(b) Evaluate the significance of the threats identified; and

(c) Apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level.

When the Registrant determines that appropriate safeguards are not available or cannot be applied to eliminate the threats or reduce them to an acceptable level, the Registrant shall eliminate the circumstance or relationship creating the threats or decline or terminate the assurance engagement.

A Registrant shall use professional judgment in applying this conceptual framework.

291.7 Many different circumstances, or combinations of circumstances, may be relevant in assessing threats to independence. It is impossible to define every situation that creates threats to independence and to specify the appropriate action. Therefore, these Rules establish a conceptual framework that requires firms and Registrants of assurance teams to identify, evaluate and address threats to independence. The conceptual framework approach assists Registrants in complying with the ethical requirements in these Rules. It accommodates many variations in circumstances that create threats to independence and can deter a Registrant from concluding that a situation is permitted if it is not specifically prohibited.

291.8 Paragraphs 291.100 and onwards describe how the conceptual framework approach to independence is to be applied. These paragraphs do not address all the circumstances and relationships that create or may create threats to independence.

291.9 In deciding whether to accept or continue an engagement, or whether a particular individual may be a member of the assurance team, a firm shall

identify and evaluate any threats to independence. If the threats are not at an acceptable level, and the decision is whether to accept an engagement or include a particular individual on the assurance team, the firm shall determine whether safeguards are available to eliminate the threats or reduce them to an acceptable level. If the decision is whether to continue an engagement, the firm shall determine whether any existing safeguards will continue to be effective to eliminate the threats or reduce them to an acceptable level or whether other safeguards will need to be applied or whether the engagement needs to be terminated. Whenever new information about a threat comes to the attention of the firm during the engagement, the firm shall evaluate the significance of the threat in accordance with the conceptual framework approach.

291.10 Throughout this section, reference is made to the significance of threats to independence. In evaluating the significance of a threat, qualitative as well as quantitative factors shall be taken into account.

291.11 This section does not, in most cases, prescribe the specific responsibility of individuals within the firm for actions related to independence because responsibility may differ depending on the size, structure and organization of a firm. The firm is required by International Standards on Quality Control to establish policies and procedures designed to provide it with reasonable assurance that independence is maintained when required by relevant ethical standards.

Assurance Engagements

291.12 As further explained in the Assurance Framework, in an assurance engagement the Registrant expresses a conclusion designed to enhance the degree of confidence of the intended users (other than the responsible party) about the outcome of the evaluation or measurement of a subject matter against criteria.

291.13 The outcome of the evaluation or measurement of a subject matter is the information that results from applying the criteria to the subject matter. The term "subject matter information" is used to mean the outcome of the evaluation or measurement of a subject matter. For example, the Framework states that an assertion about the effectiveness of internal control (subject matter information) results from applying a framework for evaluating the effectiveness of internal control, such as COSO[3] OR CoCo[4] (criteria), to internal control, a process (subject matter).

291.14 Assurance engagements may be assertion-based or direct reporting. In either case, they involve three separate parties: a Registrant, a responsible party and intended users.

291.15 In an assertion-based assurance engagement, the evaluation or measurement of the subject matter is performed by the responsible party, and the subject matter information is in the form of an assertion by the responsible party that is made available to the intended users.

291.16 In a direct reporting assurance engagement, the Registrant either directly performs the evaluation or measurement of the subject matter, or obtains a representation from the responsible party that has performed the evaluation or measurement that is not available to the intended users. The subject matter information is provided to the intended users in the assurance report.

[3] "Internal Control – Integrated Framework" The Committee of Sponsoring Organizations of the Treadway Commission.
[4] "Guidance on Assessing Control – The CoCo Principles" Criteria of Control Board, The Canadian Institute of Chartered Accountants.

Assertion-based Assurance Engagements

291.17 In an assertion-based assurance engagement, the members of the assurance team and the firm shall be independent of the assurance client (the party responsible for the subject matter information, and which may be responsible for the subject matter). Such independence requirements prohibit certain relationships between members of the assurance team and (a) directors or officers, and (b) individuals at the client in a position to exert significant influence over the subject matter information. Also, a determination shall be made as to whether threats to independence are created by relationships with individuals at the client in a position to exert significant influence over the subject matter of the engagement. An evaluation shall be made of the significance of any threats that the firm has reason to believe are created by network firm[5] interests and relationships.

291.18 In the majority of assertion-based assurance engagements, the responsible party is responsible for both the subject matter information and the subject matter. However, in some engagements, the responsible party may not be responsible for the subject matter. For example, when a Registrant is engaged to perform an assurance engagement regarding a report that an environmental consultant has prepared about a company's sustainability practices for distribution to intended users, the environmental consultant is the responsible party for the subject matter information but the company is responsible for the subject matter (the sustainability practices).

[5]See paragraphs 290.13 to 290.24 for guidance on what constitutes a network firm.

291.19 In assertion-based assurance engagements where the responsible party is responsible for the subject matter information but not the subject matter, the members of the assurance team and the firm shall be independent of the party responsible for the subject matter information (the assurance client). In addition, an evaluation shall be made of any threats the firm has reason to believe are created by interests and relationships between a member of the assurance team, the firm, a network firm and the party responsible for the subject matter.

Direct Reporting Assurance Engagements

291.20 In a direct reporting assurance engagement, the members of the assurance team and the firm shall be independent of the assurance client (the party responsible for the subject matter). An evaluation shall also be made of any threats the firm has reason to believe are created by network firm interests and relationships.

Reports that Include a Restriction on Use and Distribution

291.21 In certain circumstances where the assurance report includes a restriction on use and distribution, and provided the conditions in this paragraph and in 291.22 are met, the independence requirements in this section may be modified. The modifications to the requirements of Section 291 are permitted if the intended users of the report:

(a) are knowledgeable as to the purpose, subject matter information and limitations of the report

(b) explicitly agree to the application of the modified independence requirements. Knowledge as to the purpose, subject matter information, and limitations of the report may be obtained by the intended users through their participation, either directly or indirectly

through their representative who has the authority to act for the intended users, in establishing the nature and scope of the engagement. Such participation enhances the ability of the firm to communicate with intended users about independence matters, including the circumstances that are relevant to the evaluation of the threats to independence and the applicable safeguards necessary to eliminate the threats or reduce them to an acceptable level, and to obtain their agreement to the modified independence requirements that are to be applied.

291.22 The firm shall communicate (for example, in an engagement letter) with the intended users regarding the independence requirements that are to be applied with respect to the provision of the assurance engagement. Where the intended users are a class of users (for example. lenders in a syndicated loan arrangement) who are not specifically identifiable by name at the time the engagement terms are established, such users shall subsequently be made aware of the independence requirements agreed to by the representative (for example, by the representative making the firm's engagement letter available to all users).

291.23 If the firm also issues an assurance report that does not include a restriction on use and distribution for the same client, the provisions of paragraphs 291.25 to 291.27 do not change the requirement to apply the provisions of paragraphs 291.1 to 291.157 to that assurance engagement. If the firm also issues an audit report, whether or not it includes a restriction on use and distribution, for the same client, the provisions of Section 290 shall apply to that audit engagement.

291.24 The modifications to the requirements of Section 291 that are permitted in

the circumstances set out above are described in paragraphs 291.25 to 291.27. Compliance in all other respects with the provisions of Section 291 is required.

291.25 When the conditions set out in paragraphs 291.21 and 291.22 are met, the relevant provisions set out in paragraphs 291.104 to 291.132 apply to all members of the engagement team, and their immediate and close family members. In addition, a determination shall be made as to whether threats to independence are created by interests and relationships between the assurance client and the following other members of the assurance team:

(a) Those who provide consultation regarding technical or industry specific issues, transactions or events; and

(b) Those who provide quality control for the engagement, including those who perform the engagement quality control review.

An evaluation shall also be made, by reference to the provisions set out in paragraphs 291.104 to 291.132, of any threats that the engagement team has reason to believe are created by interests and relationships between the assurance client and others within the firm who can directly influence the outcome of the assurance engagement, including those who recommend the compensation, or who provide direct supervisory, management or other oversight, of the assurance engagement partner in connection with the performance of the assurance engagement.

291.26 Even though the conditions set out in paragraphs 291.21 and 291.22 are met, if the firm had a material financial interest, whether direct or indirect, in the assurance client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable

level. Accordingly, the firm shall not have such financial interest. In addition, the firm shall comply with the other applicable provisions of this section described in paragraphs 291.112 to 291.157.

291.27 An evaluation shall also be made of any threats that the firm has reason to believe are created by network firm interests and relationships.

Multiple Responsible Parties

291.28 In some assurance engagements, whether assertion-based or direct reporting, there might be several responsible parties. In determining whether it is necessary to apply the provisions in this section to each responsible party in such engagements, the firm may take into account whether an interest or relationship between the firm, or a member of the assurance team, and a particular responsible party would create a threat to independence that is not trivial and inconsequential in the context of the subject matter information. This will take into account factors such as:

- The materiality of the subject matter information (or of the subject matter) for which the particular responsible party is responsible; and
- The degree of public interest associated with the engagement.

If the firm determines that the threat to independence created by any such interest or relationship with a particular responsible party would be trivial and inconsequential, it may not be necessary to apply all of the provisions of this section to that responsible party.

Documentation

291.29 Documentation provides evidence of the Registrant's judgments in

forming conclusions regarding compliance with independence requirements. The absence of documentation is not a determinant of whether a firm considered a particular matter nor whether it is independent. The Registrant shall document conclusions regarding compliance with independence requirements, and the substance of any relevant discussions that support those conclusions. Accordingly:

(a) When safeguards are required to reduce a threat to an acceptable level, the Registrant shall document the nature of the threat and the safeguards in place or applied that reduce the threat to an acceptable level; and

(b) When a threat required significant analysis to determine whether safeguards were necessary and the Registrant concluded that they were not because the threat was already at an acceptable level, the Registrant shall document the nature of the threat and the rationale for the conclusion.

Engagement Period

291.30 Independence from the assurance client is required both during the engagement period and the period covered by the subject matter information. The engagement period starts when the assurance team begins to perform assurance services with respect to the particular engagement. The engagement period ends when the assurance report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has terminated or the issuance of the final assurance report.

291.31 When an entity becomes an assurance client during or after the period covered by the subject matter information on which the firm will express a

conclusion, the firm shall determine whether any threats to independence are created by:

(a) Financial or business relationships with the assurance client during or after the period covered by the subject matter information but before accepting the assurance engagement; or

(b) Previous services provided to the assurance client.

291.32 If a non-assurance service was provided to the assurance client during or after the period covered by the subject matter information but before the assurance team begins to perform assurance services and the service would not be permitted during the period of the assurance engagement, the firm shall evaluate any threat to independence created by the service. If any threat is not at an acceptable level, the assurance engagement shall only be accepted if safeguards are applied to eliminate any threats or reduce them to an acceptable level. Examples of such safeguards include:

- Not including personnel who provided the non-assurance service as members of the assurance team;
- Having a Registrant review the assurance and non-assurance work as appropriate; or
- 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.

However, if the non-assurance service has not been completed and it is not practical to complete or terminate the service before the commencement of professional services in connection with the assurance

engagement, the firm shall only accept the assurance engagement if it is satisfied:

(a) The non-assurance service will be completed within a short period of time; or

(b) The client has arrangements in place to transition the service to another provider within a short period of time.

During the service period, safeguards shall be applied when necessary. In addition, the matter shall be discussed with those charged with governance.

Other Considerations

291.33 There may be occasions when there is an inadvertent violation of this section. If such an inadvertent violation occurs, it generally will be deemed not to compromise independence provided the firm has appropriate quality control policies and procedures in place equivalent to those required by International Standards on Quality Control to maintain independence and, once discovered, the violation is corrected promptly and any necessary safeguards are applied to eliminate any threat or reduce it to an acceptable level. The firm shall determine whether to discuss the matter with those charged with governance.

Paragraphs 291.34 to 291.99 are intentionally left blank.

Application of the Conceptual Framework Approach to Independence

291.100 Paragraphs 291.104 to 291.157 describe specific circumstances and relationships that create or may create threats to independence. The

paragraphs describe the potential threats and the types of safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level and identify certain situations where no safeguards could reduce the threats to an acceptable level. The paragraphs do not describe all of the circumstances and relationships that create or may create a threat to independence. The firm and the members of the assurance team shall evaluate the implications of similar, but different, circumstances and relationships and determine whether safeguards, including the safeguards in paragraphs 200.11 to 200.14 can be applied when necessary to eliminate the threats to independence or reduce them to an acceptable level.

291.101 The paragraphs demonstrate how the conceptual framework approach applies to assurance engagements and are to be read in conjunction with paragraph 291.28 which explains that, in the majority of assurance engagements, there is one responsible party and that responsible party is the assurance client. However, in some assurance engagements there are two or more responsible parties. In such circumstances, an evaluation shall be made of any threats the firm has reason to believe are created by interests and relationships between a member of the assurance team, the firm, a network firm and the party responsible for the subject matter. For assurance reports that include a restriction on use and distribution, the paragraphs are to be read in the context of paragraphs 291.21 to 291.27.

291.102 Interpretation 2005-01 of the IFAC Code provides further guidance on applying the independence requirements contained in this section to assurance engagements.

291.103 Paragraphs 291.104 to 291.119 contain references to the materiality of a financial interest, loan, or guarantee, or the significance of a business relationship. For the purpose of determining whether such an interest is

material to an individual, the combined net worth of the individual and the individual's immediate family members may be taken into account.

Financial Interests

291.104 Holding a financial interest in an assurance client may create a self-interest threat. The existence and significance of any threat created depends on:

(a) the role of the person holding the financial interest,
(b) whether the financial interest is direct or indirect, and
(c) the materiality of the financial interest.

291.105 Financial interests may be held through an intermediary (e.g. 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 control over the investment vehicle or the ability to influence investment decisions exists, these Rules define that financial interest to be a direct financial interest. Conversely, when the beneficial owner of the financial interest has no control over the investment vehicle or ability to influence its investment decisions, these Rules define that financial interest to be an indirect financial interest.

290.106 If a member of the assurance team, a member of that individual's immediate family, or a firm has a direct financial interest or a material indirect financial interest in the assurance client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, none of the following shall have a direct financial interest or a material indirect financial interest in the client: a member of the assurance team; a member of that individual's immediate family member; or the firm.

291.107 When a member of the assurance team has a close family member who the assurance team member knows has a direct financial interest or a material indirect financial interest in the assurance client, a self-interest threat is created. The significance of the threat will depend on factors such as:

- The nature of the relationship between the member of the assurance team and the close family member; and
- The materiality of the financial interest to the close family member.

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

- The close family member disposing, as soon as practicable, of all the financial interest or disposing of a sufficient portion of an indirect financial interest so that the remaining interest is no longer material;
- Having a member review the work of the member of the assurance team; or
- Removing the individual from the assurance team.

291.108 If a member of the assurance team, a member of that individual's immediate family, or a firm has a direct or material indirect financial interest in an entity that has a controlling interest in the assurance client, and the client is material to the entity, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, none of the following shall have such a

financial interest: a member of the assurance team; a member of that individual's immediate family; and the firm.

291.109 The holding by a firm or a member of the assurance team, or a member of that individual's immediate family, of a direct financial interest or a material indirect financial interest in the assurance client as a trustee creates a self-interest threat. Such an interest shall not be held unless:

(a) Neither the trustee, nor an immediate family member of the trustee, nor the firm are beneficiaries of the trust;

(b) The interest in the assurance client held by the trust is not material to the trust;

(c) The trust is not able to exercise significant influence over the assurance client; and

(d) The trustee, an immediate family member of the trustee, or the firm cannot significantly influence any investment decision involving a financial interest in the assurance client.

291.110 Members of the assurance team shall determine whether a self-interest threat is created by any known financial interests in the assurance client held by other individuals including:

- Partners and professional employees of the firm, other than those referred to above, or their immediate family members; and
- Individuals with a close personal relationship with a member of the assurance team

Whether these interests create a self-interest threat will depend on factors such as:

- The firm's organizational, operating and reporting structure; and
- The nature of the relationship between the individual and the member of the assurance team.

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

- Removing the member of the assurance team with the personal relationship from the assurance team;
- Excluding the member of the assurance team from any significant decision-making concerning the assurance engagement; or
- Having a Registrant review the work of the member of the assurance team.

291.111 If a firm, a member of the assurance team, or an immediate family member of the individual, receives a direct financial interest or a material indirect financial interest in an assurance client, for example, by way of an inheritance, gift or as a result of a merger, and such interest would not be permitted to be held under this section, then:

(a) If the interest is received by the firm, the financial interest shall be disposed of immediately, or a sufficient amount of an indirect financial interest shall be disposed of so that the remaining interest is no longer material; or

(b) If the interest is received by a member of the

assurance team, or a member of that individual's immediate family, the individual who received the financial interest shall immediately dispose of the financial interest, or dispose of a sufficient amount of an indirect financial interest so that the remaining interest is no longer material.

291.111A When an inadvertent violation of this section as it relates to a financial interest in an assurance client occurs, it is deemed not to compromise independence if:

(a) The firm has established policies and procedures that require prompt notification to the firm of any breaches resulting from the purchase, inheritance or other acquisition of a financial interest in the assurance client.

(b) The actions taken in paragraph 291.11(a)-(b) are taken as applicable; and

(c) The firm applies other safeguards when necessary to reduce any remaining threat to an acceptable level. Examples of such safeguards include:

- Having a Registrant review the work of the member of the assurance team;
- Excluding the individual from any significant decision-making concerning the assurance engagement.

The firm shall determine whether to discuss the matter with those charged with governance.

Loans and Guarantees

291.112 A loan, or a guarantee of a loan, to a member of the assurance team, or a member of that individual's immediate family, or the firm from an assurance client that is a bank or a similar institution, may create a threat to independence. If the loan or guarantee is not made under normal lending procedures, terms and conditions, a self-interest threat would be created that would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, neither a member of the assurance team, a member of that individual's immediate family, nor a firm shall accept such a loan or guarantee.

291.113 If a loan to a firm from an assurance client that is a bank or similar institution is made under normal lending procedures, terms and conditions and it is material to the assurance client or firm receiving the loan, it may be possible to apply safeguards to reduce the self-interest threat to an acceptable level. An example of such a safeguard is having the work reviewed by a member from a network firm that is neither involved with the assurance engagement nor received the loan.

291.114 A loan, or a guarantee of a loan, from an assurance client that is a bank of a similar institution to a member of the assurance team, or a member of that individual's immediate family, does not create a threat to independence if the loan or guarantee is made under normal lending procedures, terms and conditions. Examples of such loans include home mortgages, bank overdrafts, car loans and credit card balances.

291.115 If the firm or a member of the assurance team, or a member of that individual's immediate family, accepts a loan from, or has a borrowing guaranteed by, an assurance client that is not a bank or similar institution, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level, unless the loan or

guarantee is immaterial to both the firm, or the member of the assurance team and the immediate family member, and the client.

291.116 Similarly, if the firm, or a member of the assurance team, or a member of that individual's immediate family, makes or guarantees a loan to an assurance client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level, unless the loan or guarantee is immaterial to both the firm, or the member of the assurance team and the immediate family member, and the client.

291.117 If a firm or a member of the assurance team, or a member of that individual's immediate family, has deposits or a brokerage account with an assurance client that is a bank, broker, or similar institution, a threat to independence is not created if the deposit or account is held under normal commercial terms.

Business Relationships

291.118 A close business relationship between a firm, or a member of the assurance team, or a member of that individual's immediate family, and the assurance client or its management arises from a commercial relationship or common financial interest and may create self-interest or intimidation threats. Examples of such relationships include:

- Having a financial interest in a joint venture with either the client or a controlling owner, director or officer or other individual who performs senior managerial activities 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.
- Distribution or marketing arrangements under which the firm

distributes or markets the client's products or services, or the client distributes or markets the firm's products or services.

Unless any financial interest is immaterial and the business relationship is insignificant to the firm and the client or its management, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, unless the financial interest is immaterial and the business relationship is insignificant, the business relationship shall not be entered into, or shall be reduced to an insignificant level or terminated.

In the case of a member of the assurance team, unless any such financial interest is immaterial and the relationship is insignificant to that member, the individual shall be removed from the assurance team.

If the business relationship is between an immediate family member of a member of the assurance team and the assurance client or its management, the significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

291.119 The purchase of goods and services from an assurance client by the firm, or a member of the assurance team, or a member of that individual's immediate family, does not generally create a threat to independence if the transaction is in the normal course of business and at arm's length. However, such transactions may be of such a nature or magnitude that they create a self-interest threat. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Eliminating or reducing the magnitude of the transaction; or

- Removing the individual from the assurance team.

Family and Personal Relationships

291.120 Family and personal relationships between a member of the assurance team and a director or officer or certain employees (depending on their role) of the assurance client, may create self-interest, familiarity or intimidation threats. The existence and significance of any threats will depend on a number of factors, including the individual's responsibilities on the assurance team, the role of the family member or other individual within the client, and the closeness of the relationship.

291.121 When an immediate family member of a member of the assurance team is:

(a) A director or officer of the assurance client; or

(b) An employee in a position to exert significant influence over the subject matter information of the assurance engagement,

or was in such a position during any period covered by the engagement or the subject matter information, the threats to independence can only be reduced to an acceptable level by removing the individual from the assurance team. The closeness of the relationship is such that no other safeguards could reduce the threat to an acceptable level. Accordingly, no individual who has such a relationship shall be a member of the assurance team.

291.122 Threats to independence are created when an immediate family member of a member of the assurance team is an employee in a position to exert significant influence over the subject matter of the engagement. The significance of the threats will depend on factors such as:

- The position held by the immediate family member; and
- The role of the professional on the assurance team.

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

- Removing the individual from the assurance team; or
- Structuring the responsibilities of the assurance team so that the professional does not deal with matters that are within the responsibility of the immediate family member.

291.123 Threats to independence are created when a close family member of a member of the assurance team is:

- A director or officer of the assurance client; or
- An employee in a position to exert significant influence over the subject matter information of the assurance engagement.

The significance of the threats will depend on factors such as:

- The nature of the relationship between the member of the assurance team and the close family member;
- The position held by the close family member; and
- The role of the professional on the assurance team.

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

- Removing the individual from the assurance team; or
- Structuring the responsibilities of the assurance team so that the professional does not deal with matters that are within the responsibility of the close family member.

291.124 Threats to independence are created when a member of the assurance team has a close relationship with a person who is not an immediate or close family member, but who is a director or officer or an employee in a position to exert significant influence over the subject matter information of the assurance engagement. A member of the assurance team who has such a relationship shall consult in accordance with firm policies and procedures. The significance of the threats will depend on factors such as:

- The nature of the relationship between the individual and the member of the assurance team;
- The position the individual holds with the client; and
- The role of the professional on the assurance team.

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

- Removing the professional from the assurance team; or
- Structuring the responsibilities of the assurance team so that the professional does not deal with matters that are within the responsibility of the individual with whom the professional has a close relationship.

291.125 Self-interest, familiarity or intimidation threats may be created by a personal or family relationship between (a) a partner or employee of the firm who is not a member of the assurance team and (b) a director or officer of the assurance client or an employee in a position to exert significant influence over the subject matter information of the assurance engagement. The existence and significance of any threat will depend on factors such as:

- The nature of the relationship between the partner or employee of the firm and the director or officer or employee of the client;
- The interaction of the partner or employee of the firm with the assurance team;
- The position of the partner or employee within the firm; and
- The role of the individual within the client.

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

- Structuring the partner's or employee's responsibilities to reduce any potential influence over the assurance engagement; or
- Having a member review the relevant assurance work performed.

291.125A When an inadvertent violation of this section as it relates to family and personal relationships occurs, it is deemed not to compromise independence if:

(a) The firm has established policies and procedures that require prompt notification to the firm of any breaches resulting from changes in the employment status of their immediate or close family members or other personal relationships that create threats to independence;

(b) The inadvertent violation relates to an immediate family member of a member of the assurance team becoming a director or officer of the assurance client or being in a position to exert significant influence over the subject matter information of the assurance engagement, and the relevant Registrant is removed from the assurance team; and

(c) The firm applies other safeguards when necessary to reduce any remaining threat to an acceptable level. Examples of such safeguards include:

- Having a Registrant review the work of the member of the assurance team; or
- Excluding the relevant Registrant from any significant decision-making concerning the engagement.

The firm shall determine whether to discuss the matter with those charged with governance.

Employment with Assurance Clients

291.126 Familiarity or intimidation threats may be created if a director or officer of the assurance client, or an employee who is in a position to exert significant influence over the subject matter information of the assurance engagement, has been a member of the assurance team or partner of the firm.

291.127 If a former member of the assurance team or partner of the firm has joined the assurance client in such a position, the existence and significance of any familiarity or intimidation threats will depend on factors such as:

- The position the individual has taken at the client;
- Any involvement the individual will have with the assurance team;
- The length of time since the individual was a member of the assurance team or partner of the firm; and
- The former position of the individual within the assurance team or firm, for example, whether the individual was responsible for maintaining regular contact with the client's management or those charged with governance.

In all cases the individual shall not continue to participate in the firm's business or professional activities.

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

- Making arrangements such that the individual is not entitled to any benefits or payments from the firm, unless made in accordance with fixed pre-determined arrangements;
- Making arrangements such that any amount owed to the individual is not material to the firm;
- Modifying the plan for the assurance engagement;
- Assigning individuals to the assurance team who have sufficient experience in relation to the individual who has joined the client; or

- Having a Registrant review the work of the former member of the assurance team.

291.128 If a former partner of the firm has previously joined an entity in such a position and the entity subsequently becomes an assurance client of the firm, the significance of any threats to independence shall be evaluated and safeguards applied when necessary, to eliminate the threat or reduce it to an acceptable level.

291.129 A self-interest threat Is created when a member of the assurance team participates in the assurance engagement whjle knowing that the member of the assurance team will, or may, join the client sometime in the future. Firm policies and procedures shall require members of an assurance team to notify the firm when entering employment negotiations with the client. On receiving such notification, the significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the individual from the assurance team; or
- A review of any significant judgments made by that individual while on the team.

Recent Service with an Assurance Client

291.130 Self-interest, self-review or familiarity threats may be created if a member of the assurance team has recently served as a director, officer, or employee of the assurance client. This would be the case when, for example, a member of the assurance team has to evaluate elements of the subject matter information the member of the assurance team had prepared while with the client.

291.131 If, during the period covered by the assurance report, a member of the assurance team had served as director or officer of the assurance client, or was an employee in a position to exert significant influence over the subject matter information of the assurance engagement, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Consequently, such individuals shall not be assigned to the assurance team.

291.132 Self-interest, self-review or familiarity threats may be created if, before the period covered by the assurance report, a member of the assurance team had served as a director or officer of the assurance client, or was an employee in a position to exert significant influence over the subject matter information of the assurance engagement. For example, such threats would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current assurance engagement. The existence and significance of any threats will depend on factors such as:

- The position the individual held with the client;
- The length of time since the individual left the client; and
- The role of the professional on the assurance team.

The significance of any threat shall be evaluated and safeguards applied when necessary to reduce the threat to an acceptable level. An example of such a safeguard is conducting a review of the work performed by the individual as part of the assurance team.

Serving as a Director or Officer of an Assurance Client

291.133 If a partner or employee of the firm serves as a director or officer of an assurance client, the self-review and self-interest threats would be so

significant that no safeguards could reduce the threats to an acceptable level. Accordingly, no partner or employee shall serve as a director or officer of an assurance client.

291.134 is intentionally left blank

291.135 If a partner or employee of the firm serves as Company Secretary for an assurance client, self-review and advocacy threats are created that would generally be so significant that no safeguards could reduce the threats to an acceptable level. This rule does not prohibit the performance of duties of a routine and administrative nature, such as preparing minutes and maintaining statutory returns. In those circumstances, the significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level.

291.136 Performing routine administrative services to support a company secretarial function or providing advice in relation to company secretarial administration matters does not generally create threats to independence, as long as client management makes all relevant decisions.

Long Association of Senior Personnel with Assurance Clients

291.137 Familiarity and self-interest threats are created by using the same senior personnel on an assurance engagement over a long period of time. The significance of the threats will depend on factors such as:

- How long the individual has been a member of the assurance team;
- The role of the individual on the assurance team;
- The structure of the firm;
- The nature of the assurance engagement;
- Whether the client's management team has changed; and

- Whether the nature or complexity of the subject matter information has changed.

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

- Rotating the senior personnel off the assurance team;
- Having a Registrant who was not a member of the assurance team review the work of the senior personnel; or
- Regular independent internal or external quality reviews of the engagement.

Provision of Non-assurance Services to an Assurance Client

291.138 Firms have traditionally provided to their assurance clients a range of non-assurance services that are consistent with their skills and expertise. Providing non-assurance services may, however, create threats to the independence of the firm or members of the assurance team. The threats created are most often self-review, self-interest and advocacy threats.

291.139 When specific guidance on a particular non-assurance service is not included in this section, the conceptual framework shall be applied when evaluating the particular circumstances.

291.140 Before the firm accepts an engagement to provide a non-assurance service to an assurance client, a determination shall be made as to whether providing such a service would create a threat to independence. In evaluating the significance of any threat created by a particular non-assurance service, consideration shall be given to any threat that the assurance team has reason to believe is created by providing other related non-assurance services. If a threat is created that cannot be reduced to an acceptable level by the application of safeguards the non-

assurance service shall not be provided.

Management Responsibilities

291.141 Management of an entity performs many activities in managing the entity in the best interests of stakeholders of the entity. It is not possible to specify every activity that is a management responsibility. However, management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.

291.142 Whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered a management responsibility include:

- Setting policies and strategic direction;
- Directing and taking responsibility for the actions of the entity's employees;
- Authorizing transactions
- Deciding which recommendations of the firm or other third parties to implement; and
- Taking responsibility for designing, implementing and maintaining internal control.

291.143 Activities that are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. For example, executing an insignificant transaction that has been authorized by management or monitoring the dates for filing statutory returns and advising an assurance client of those dates is deemed not to

be a management responsibility. Further, providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility.

291.144 Assuming a management responsibility for an assurance client may create threats to independence. If a firm were to assume a management responsibility as part of the assurance service, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level. Accordingly, in providing assurance services to an assurance client, a firm shall not assume a management responsibility as part of the assurance service. If the firm assumes a management responsibility as part of any other services provided to the assurance client, it shall ensure that the responsibility is not related to the subject matter and subject matter information of an assurance engagement provided by the firm.

291.145 To avoid the risk of assuming a management responsibility related to the subject matter or subject matter information of the assurance engagement, the firm shall be satisfied that a member of management is responsible for making the significant judgments and decisions that are the proper responsibility of management, evaluating the results of the service and accepting responsibility for the actions to be taken arising from the results of the service. This reduces the risk of the firm inadvertently making any significant judgments or decisions on behalf of management. This risk is further reduced when the firm gives the client the opportunity to make judgments and decisions based on an objective and transparent analysis and presentation of the issues.

Other Considerations

291.146 Threats to independence may be created when a firm provides a non-

assurance service related to the subject matter information of an assurance engagement. In such cases, an evaluation of the significance of the firm's involvement with the subject matter information of the engagement shall be made, and a determination shall be made of whether any self-review threats that are not at an acceptable level can be reduced to an acceptable level by the application of safeguards.

291.147 A self-review threat may be created if the firm is involved in the preparation of subject matter information which is subsequently the subject matter information of an assurance engagement. For example, a self-review threat would be created if the firm developed and prepared prospective financial information and subsequently provided assurance on this information. Consequently, the firm shall evaluate the significance of any self-review threat created by the provision of such services and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level.

291.148 When a firm performs a valuation that forms part of the subject matter information of an assurance engagement, the firm shall evaluate the significance of any self-review threat and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level.

Fees

Fees – Relative Size

291.149 When the total fees from an assurance client represent a large proportion of the total fees of the firm expressing the conclusion, the dependence on that client and concern about losing the client creates a self-interest or intimidation threat. The significance of the threat will depend on factors such as:

- The operating structure of the firm;
- Whether the firm is well established or new; and
- The significance of the client qualitatively and/or quantitatively to the firm.

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

- Reducing the dependency on the client;
- External quality control reviews; or
- Consulting a third party, such as a professional regulatory body or a member, on key assurance judgments.

291.150 A self-interest or intimidation threat is also created when the fee generated from an assurance client represent a large proportion of the revenue from an individual partner's clients. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is having an additional Registrant who was not a member of the assurance team review the work or otherwise advise as necessary.

Fees – Overdue

291.151 A self-interest threat may be created if fees due from an assurance client remain unpaid for a long time, especially if a significant part is not paid before the issue of the assurance report, if any, for the following period. Generally the firm is expected to require payment of such fees before any such report is issued. If fees remain unpaid after the report has been issued, the existence and significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is

having another member who did not take part in the assurance engagement, provide advice or review the work performed. The firm shall determine whether the overdue fees might be regarded as being equivalent to a loan to the client and whether, because of the significance of the overdue fees, it is appropriate for the firm to be re-appointed or continue the assurance engagement.

Contingent Fees

291.152 Contingent fees are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm. For the purposes of this section, fees are not regarded as being contingent if established by a court or other public authority.

291.153 A contingent fee charged directly or indirectly, for example through an intermediary, by a firm in respect of an assurance engagement creates a self-interest threat that is so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm shall not enter into any such fee arrangement.

291.154 A contingent fee charged directly or indirectly, for example through an intermediary, by a firm in respect of a non-assurance service provided to an assurance client may also create a self-interest threat. If the outcome of the non-assurance service, and therefore, the amount of the fee, is dependent on a future or contemporary judgment related to a matter that is material to the subject matter information of the assurance engagement, no safeguards could reduce the threat to an acceptable level. Accordingly, such arrangements shall not be accepted.

291.155 For other contingent fee arrangements charged by a firm for a non-assurance service to an assurance client, the existence and significance of any threats will depend on factors such 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 information.

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

- Having a Registrant review the relevant assurance work or otherwise advise as necessary; or
- Using professionals who are not members of the assurance team to perform the non-assurance service.

Gifts and Hospitality

291.156 Accepting gifts or hospitality from an assurance client may create self-interest and familiarity threats. If a firm or a member of the assurance team accepts gifts or hospitality, unless the value is trivial and inconsequential, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level. Consequently, a firm or a member of the assurance team shall not accept such gifts or hospitality.

Actual or Threatened Litigation

291.157 When litigation takes place, or appears likely, between the firm or a member of the assurance team and the assurance client, self-interest and intimidation threats are created. The relationship between client management and the members of the assurance team must be characterized by complete candor and full disclosure regarding all aspects

of a client's business operations. When the firm and the client's management are placed in adversarial positions by actual or threatened litigation, affecting management's willingness to make complete disclosures self-interest and intimidation threats are created. The significance of the threats created will depend on such factors as:

- The materiality of the litigation; and
- Whether the litigation relates to a prior assurance engagement.

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

- If the litigation involves a member of the assurance team, removing that individual from the assurance team; or
- Having a professional review the work performed.

If such safeguards do not reduce the threats to an acceptable level, the only appropriate action is to withdraw from, or decline, the assurance engagement.

APPLICATION OF SECTION 291 TO ASSURANCE ENGAGEMENTS THAT ARE NOT FINANCIAL STATEMENT AUDIT ENGAGEMENTS

Interpretation 2005-01 (Revised July 2009 to conform to changes resulting from the IESBA's project to improve the clarity of the Code)

This interpretation provides guidance on the application of the independence requirements contained in Section 291 to assurance engagements that are not financial statement audit engagements.

The interpretation focuses on the application issues that are particular to assurance engagements that are not financial statement and audit engagements. There are other matters noted in Section 291 that are relevant in the consideration of independence requirements for all assurance engagements. For example, paragraph 291.3 states that an evaluation shall be made of any threats the firm has reason to believe are created by a network firm's interests and relationships . It also states that when the assurance team has reason to believe that a related entity of such an assurance client is relevant to the evaluation of the firm's independence of the client, the assurance team shall include the related entity when evaluating threats to independence and when necessary applying safeguards. These matters are not specifically addressed in this interpretation.

As explained in the International Framework for Assurance Engagements issued by the International Auditing and Assurance Standards Board, in an assurance engagement, the professional accountant in public practice expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.

Assertion-based assurance engagements

In an assertion-based assurance engagement, the evaluation or measurement of the subject matter is performed by the responsible party, and the subject matter information is in the form of an assertion by the responsible party that is made available to the intended users.

In an assertion-based assurance engagement independence is required from the responsible party, which is responsible for the subject matter information and may be responsible for the subject matter.
In those assertion-based assurance engagements where the responsible party is responsible for the subject matter information but not the subject matter, independence is required from the responsible party. In addition, an evaluation shall be made of any threats the firm has reason to believe are created by interests and relationships between a member of the assurance team, the firm, a network firm and the party responsible for the subject matter.

Direct reporting assurance engagements

In a direct reporting assurance engagement, the Registrant either directly performs the evaluation or measurement of the subject matter, or obtains a representation from the responsible party that has performed the evaluation or measurement that is not available to the intended users. The subject matter information is provided to the intended users in the assurance report.

In a direct reporting assurance engagement independence is required from the responsible party, which is responsible for the subject matter.

Multiple responsible parties

In both assertion-based assurance engagements and direct reporting assurance engagements there may be several responsible parties. For example, a

Registrant may be asked to provide assurance on the monthly circulation statistics of a number of independently owned newspapers. The assignment could be an assertion-based assurance engagement where each newspaper measures its circulation and the statistics are presented in an assertion that is available to the intended users. Alternatively, the assignment could be a direct reporting assurance engagement, where there is no assertion and there may or may not be a written representation from the newspapers.

In such engagements, when determining whether it is necessary to apply the provisions in Section 291 to each responsible party, the Registrant may take into account whether an interest or relationship between the Registrant, or a member of the assurance team, and a particular responsible party would create a threat to independence that is not trivial and inconsequential in the context of the subject matter information. This will take into account:

- The materiality of the subject matter information (or the subject matter) for which the particular responsible party is responsible; and

- The degree of public interest that is associated with the engagement.

If the Registrant determines that the threat to independence created by any such relationships with a particular responsible party would be trivial and inconsequential it may not be necessary to apply all of the provisions of this section to that responsible party.

Example

The following example has been developed to demonstrate the application of Section 291. It is assumed that the client is not also a financial statement audit client of the Registrant, or a network firm.

A Registrant is engaged to provide assurance on the total proven bauxite reserves of 10 independent companies. Each company has conducted geographical and engineering surveys to determine their reserves (subject matter). There are established criteria to determine when a reserve may be considered to be proven which the professional accountant in public practice determines to be suitable criteria for the engagement.

The proven reserves for each company as at December 31 20X0 were as follows:

	Proven Bauxite Reserves thousands of tons
Company 1	5,200
Company 2	725
Company 3	3,260
Company 4	15,000
Company 5	6,700
Company 6	39,126
Company 7	345
Company 8	175
Company 9	24,135
Company 10	9,635
Total	**104,301**

The engagement could be structured in differing ways.

Assertion-based Engagements

A1 Each company measures its reserves and provides an assertion to

the Registrant and to intended users.

A2 An entity other than the companies measures the reserves and provides an assertion to the Registrant and to intended users.

Direct Reporting Engagements

D1 Each company measures the reserves and provides the firm with a written representation that measures its reserves against the established criteria for measuring proven reserves. The representation is not available to the intended users.

D2 The Registrant directly measures the reserves of some of the companies.

Application of Approach

A1 Each company measures its reserves and provides an assertion to the Registrant and to intended users.

There are several responsible parties in this engagement (companies 1 – 10). When determining whether it is necessary to apply the independence provisions to all of the companies, the firm may take into account whether an interest or relationship with a particular company would create a threat to independence that is not at an acceptable level. This will take into account factors such as

- The materiality of the company's proven reserves in relation to the total reserves to be reported on; and

- The degree of public interest associated with the engagement (paragraph 291.28).

For example Company 8 accounts for 0.17% of the total reserves, therefore a business relationship or interest with Company 8 would create less of a threat than a similar relationship with Company 6, which accounts for approximately 37.5% of the reserves.

Having determined those companies to which the independence requirements apply, the assurance team and the Registrant are required to be independent of those responsible parties that would be considered to be the assurance client (paragraph 291.28).

A2 An entity other than the companies measures the reserves and provides an assertion to the firm and to intended users.

The Registrant shall be independent of the entity that measures the reserves and provides an assertion to the firm and to intended users (paragraph 291.19). The entity is not responsible for the subject matter and so an evaluation shall be made of any threats the Registrant has reason to believe are created by interests/relationships with the party responsible for the subject matter (paragraph 291.19). There are several parties responsible for the subject matter in this engagement (Companies 1-10). As discussed in example A1 above, the Registrant may take into account whether an interest or relationship with a particular company would create a threat to independence that is not at an acceptable level.

D1 Each company provides the Registrant with a representation that measures its reserves against the established criteria for measuring proven reserves. The representation is not available to the intended users.

There are several responsible parties in this engagement (Companies 1-10). When determining whether it is necessary to apply the independence provisions to all of the companies, the Registrant may take into account whether an interest

or relationship with a particular company would create a threat to independence that is not at an acceptable level. This will take into account factors such as:

- The materiality of the company's proven reserves in relation to the total reserves to be reported on; and
- The degree of public interest associated with the engagement (paragraphs 291.28).

For example, Company 8 accounts for 0.17% of the reserves, therefore a business relationship or interest with Company 8 would create less of a threat than a similar relationship with Company 6 that accounts for approximately 37.5% of the reserves.

Having determined those companies to which the independence requirements apply, the assurance team and the Registrant shall be independent of those responsible parties that would be considered to be the assurance client (paragraph 291.28).

D2 The Registrant directly measures the reserves of some of the companies.

The application is the same as in example D1.

SUPPLEMENTARY REQUIREMENTS AND GUIDANCE

SECTION B1 - Professional duty of confidence in relation to defaults and Unlawful acts of clients and others

Introduction

1. A Registrant acquiring information in the course of professional work shall not disclose any such information to third parties without first obtaining permission from the client. Likewise, students and affiliates shall treat any information given by a professional accountant in the strictest confidence. To a professional accountant in business, the "client" for the purpose of this section is their employer. Registrants' attention is drawn to the discussion of the fundamental principles in *Section 110* to 150 of this Code, and the conceptual framework in *Section 100.*

2. There are, however, circumstances where a Registrant may disclose information to a third party without first obtaining permission. However, Registrants have an obligation to ensure that such action is supported by Jamaican law and so are advised to seek and obtain written legal advice whenever it is contemplated. Such unilateral disclosure of information may be permissible where, for example, there is a statutory right or duty to disclose, or where a registrant is served with a court order or some other form of witness summons, under which the Registrant is obliged to disclose information.

3. This section looks at situations where a Registrant may be required to disclose information about their clients without first obtaining permission to do so.

4. A Registrant may suspect or encounter a number of criminal offences during the course of his work. These may include:

(a) money laundering[1];

(b) drug trafficking or terrorism[2];

(c) theft, obtaining by deception, false accounting, and[3]

(d) fraud and forgery[4]

(e) certain offences under company law[5]

(f) perjury and offences under legislation for the prevention of corruption[6];

(g) in some circumstances, bankruptcy or insolvency offences[7], frauds on creditors, false trade descriptions, and offences arising out of relations between employers and employees;

(h) conspiracy, soliciting or inciting to commit crime and attempting to commit crime;

(i) tax evasion as particularised under relevant tax legislation[8];

(j) insider dealing[9].

[1]Proceeds of Crimes Act 2007
[2]Dangerous Drugs Act; Maritime Drug Trafficking (Suppression) Act 1998; Terrorism Prevention Act 2011
[3]Larceny Act 1942; Unlawful Possession of Property Act 1952, Proceeds of Crimes Act 2007 and Forgery Act 1942
[4]Forgery Act 1942
[5]Companies Act 2004
[6]Perjury Act 1942; Corruption Prevention Act 2001
[7]Insolvency Act 2014; Merchandise Marks Act 1888
[8]Income Tax Act 1955; General Consumption Tax Act 1991; Tax Collection Act 1867
[9]Securities Act 1993

5. A Registrant who suspects or acquires knowledge indicating that a client (incorporated or un-incorporated) or an officer or employee of a client may have been guilty of some default or unlawful act shall normally notify the client's management as soon as practicable and at an appropriate level. In doing so, the registrant should be careful to restrict his report to stating the facts that have been discerned, since the targets of those allegations could or are likely to bring claims in defamation once they become aware of him passing such information on. It will be a defense if the Registrant can demonstrate that the facts as stated are true. The Registrant should avoid expressing opinions as to whether there has been any criminal conduct or impropriety, since there may be many factors that will influence such a determination and the Registrant may not be in possession of all such factors nor have the technical competence to arrive at such a conclusion. In the case of unlawful acts that may amount to money laundering, a Registrant may be required, depending on the specific circumstances, to report the suspicion or knowledge internally or to the appropriate external authority under the Proceeds Of Crimes Act (see Section B2, Anti-money laundering for further details).

6. If a Registrant's concerns are not satisfactorily resolved, they shall consider reporting the facts to non-executive directors or to the client's audit committee where these exist.

7. Guidance is provided below on reporting suspected defaults or unlawful acts to third parties.

8. References within this section to "client" include former clients.

9. A Registrant acquiring information in the course of their professional work in respect of non-clients (for example, potential clients) shall not

disclose any such information to a third party without first obtaining permission from the individual or entity concerned.

10. A Registrant shall consider seeking legal advice before making any disclosure, particularly when contemplating disclosing information to a third party.

Relationship between professional accountants and their clients

11. A Registrant shall explain to clients that they may only act for those clients who agree to disclose in full all information relevant to an engagement.

12. A Registrant shall not agree to act for clients who will not consent to make full disclosure of relevant information.

13. If, during the course of an engagement, a Registrant is unable to obtain from the client the information that they consider necessary, the Registrant has a duty to indicate this fact in any report that they may make. In the case of an audit report, an auditor may have a statutory obligation to do so. In either case, a Registrant may consider that they can no longer act.

Verification of information by reference to the records of a third party who is also a client

14. Sometimes in the course of their work a Registrant may obtain information from a client (client A) bearing on information supplied to them by another client (client B). In such circumstances it would be a breach of confidence to reveal the information to the second client (client B) without the permission of the first client (client A). In all probability, any attempt to obtain that permission from client A would result in a breach of the duty of confidence owed to the second client (client B).

15. A Registrant shall instead endeavour to substantiate the information with evidence obtained from the books and records of the second client (client B). If this proves impossible, the Registrant shall seek the consent of the second client (client B) to obtain direct confirmation of the information concerned from the first client (client A).

16. If the second client (client B) refuses permission to contact the first client (client A), a Registrant shall, where undertaking an audit assignment, consider qualifying the report and/or resigning. Where relevant, a Registrant shall consider making an appropriate statement of any circumstances connected with the resignation which the Registrant believes should be brought to the notice of the members or creditors of the company, without revealing the name of the first client (client A). In the case of non-audit engagements where consent is refused the Registrant shall consider ceasing to act.

Disclosure of defaults or unlawful acts

17. Confidentiality is at a minimum, an implied term of a Registrant's contract with their client. For this reason a Registrant shall not, as a general rule, disclose to other persons, against their client's wishes, information about a client's affairs acquired during and as a result of their professional relationship. The obligation of confidentiality continues even though a professional relationship has ended.

18. It is in the public interest that this confidential relationship is maintained. Without the benefit of confidentiality a client might be reluctant to seek advice from a Registrant. Unintended defaults or unlawful acts may be averted as a result of the client acting on the Registrant's advice, because the client is able to discuss their plans in confidence.

19. A Registrant who becomes aware that a client has, or may have, committed a default or unlawful act is normally under no legal obligation to disclose what they know to any persons other than the directors of the client or some person having their authority. However, in certain circumstances, whilst there may be no obligation in law to make a disclosure, Registrants may consider it to be in the "public interest" that a disclosure is made a Registrant who considers making a disclosure in the "public interest" is advised to seek legal advice before making such a disclosure. Public Interest disclosures must comply with the provisions and procedural requirements of the Protected Disclosures Act 2011 and the Protected Disclosures Act 2011 Procedural Guidelines.

Obligatory disclosure

20. A Registrant who believes that a client has committed terrorist offences, or has reasonable cause to believe that a client has committed treason, may disclose that knowledge to the proper authorities. Registrants must be guided by the provisions and procedural requirements on disclosures relating to threats to national security, defence or international relations of Jamaica under the Protected Disclosures Act and the Protected Disclosures Act 2011 Procedural Guidelines. Also the Treason Felony Act 1969.

21. A Registrant is likely to commit an offence if the Registrant assists anyone who they know or suspect to be laundering money generated by a crime. If a Registrant forms a suspicion of money laundering in the course of their professional activities, they shall report it to a proper authority. A Registrant is likely to commit an offence if they fail to make a report. Registrants are referred to *Section B2 Anti-money laundering*, for further guidance.

22. A Registrant shall disclose information if compelled by the process of law for example under a court order.

23. In most circumstances, lawyers and their intermediate agents are not required to disclose oral or documentary communication passing between them and their clients in professional confidence without the express consent of the client. However, this legal privilege does not extend to the relationship between Registrants and their clients.

24. A firm that carries on financial services work, such as investment business, and acts in connection with a take-over, merger or acquisition, shall co-operate with the relevant regulator for such take-overs and mergers. The relevant regulator is the Financial Services

Commission which operates under the provisions of the Securities Act 1993 and the Securities (Take-Overs and Mergers) Regulations 1999.

Voluntary disclosure

25. In certain cases a Registrant is free to disclose information, whatever its nature. These circumstances fall into four categories of disclosure:

    (a) In limited circumstances, “in the public interest”;

    (b) to protect a Registrant’s interests;

    (c) authorized by statute;

    (d) to non-governmental bodies.

Disclosure in the public interest

26. A Registrant may disclose information in limited cases under specific statutory provisions which would otherwise be confidential if disclosure can be justified in the “public interest”. Whilst it is a concept recognized by the courts, there is no definition of “public interest” which places Registrants in a difficult position as to whether or not disclosure is justified. However, it is likely that these exceptions to the duty of confidentiality are permitted only where the disclosure is made to “one who has a proper interest to receive that information” The proper authorities may, for example, be the police, the government department responsible for trade and industry, or a recognized stock exchange, and will depend upon the particular circumstances. Registrants are referred to *Section B3*, on the Protected Disclosures Act 2011 and Procedural Guidelines, for further guidance.

27. When considering whether or not disclosure is justified, a Registrant shall take the following into account:

    (a) The relative size of the amounts involved and the extent of the likely financial damage;
    (b) Whether members of the public are likely to be affected;
    (c) The possibility or likelihood of repetition;
    (d) The reasons for the client's unwillingness to disclose the matters to the proper authority;
    (e) The gravity of the matter;
    (f) Relevant legislation, accounting standards and auditing standards; and
    (g) Any legal advice obtained.

28. Determination of where the balance of public interest lies will require very careful consideration and it will often be appropriate to take legal advice before making a decision. The reasons underlying any decision whether or not to disclose shall be fully documented.

Disclosure to protect a Registrant's interests

29. A Registrant may disclose to the proper authorities information concerning their clients where their own interests require disclosures of that information to:

    (a) enable the Registrant to defend himself/herself against a criminal charge or to clear himself/herself of suspicion;
    (b) resist proceedings for a penalty in respect of a taxation offence, for example, in a case where it is suggested that the Registrant assisted or

induced their client to make or deliver incorrect returns or accounts;

(c) resist a legal action brought against them by a client or some third person;

(d) enable the Registrant to defend himself/herself against disciplinary proceedings or criticism which is the subject of enquiry by PAB, or another regulatory body;

(e) enable the Registrant to sue for their fees.

Disclosure authorized by statute

30. There are cases of express statutory provision where disclosure of information to a proper authority overrides the duty of confidentiality. Registrants are advised to refer to the legislation relevant to the economic sector in which their client operates. Registrants are advised to consider each statute carefully to determine the protection offered to the person making a disclosure since this varies from statute to statute. Registrants are referred to *Section B3*, on the Protected Disclosures Act 2011 and Procedural Guidelines and *Section B2*, Anti-money laundering for further guidance.

Disclosure to non-governmental bodies

31. A Registrant may be approached by a recognized but non-governmental body seeking information concerning suspected acts of misconduct not amounting to a crime or civil wrong. Some of these bodies have statutory powers to require persons to supply information, in which case the Registrant shall comply. Where there is no such statutory power, the Registrant shall not supply information without consent from the relevant client.

Prosecution of a client or former client

32. Where a Registrant is approached by the police, the tax authorities or other public authority making enquiries which may lead to the prosecution of a client or former client for an offence (other than treason, certain terrorist offences or money laundering), the Registrant shall act with caution.

33. The Registrant shall ascertain whether or not the person requesting information has a statutory right to demand it and seek legal advice before giving any information. A Registrant shall consider the nature of the alleged offence and whether if they were to give the information they would be justified because of an overriding public interest in disclosure or would be acting contrary to professional ethics.

34. Unless ordered by the court or acting under a statutory authority a Registrant shall refuse to give the information until they have obtained their client's authority or received independent legal or other professional advice, that they must or may give the information whether or not they have obtained their client's consent. The Registrant shall state that in the meantime they are not in a position

to discuss their client's affairs. The Registrant shall, however, keep in close touch with their legal or other professional adviser(s) on the legal aspects of their position.

Appearance as a witness

35. A Registrant invited to appear in court as a witness against a client or former client, whether in civil or criminal proceedings, shall normally refuse until served with a subpoena or other form of witness summons. The Registrant shall carefully consider agreeing to appear as a witness and shall seek legal advice before making a decision.

36. A Registrant shall answer any questions that are put to him, even though they may thus disclose information obtained in a confidential capacity. A Registrant may ask the court for confirmation that they are obliged to answer particular questions.

37. A Registrant shall produce any documents in their ownership or possession if directed to do so by the courts. Advance warning will normally be given of the intention to call for such documents.

38. A Registrant is not required to answer any question or produce any documents that is likely to incriminate the Registrant in a criminal case and where there is doubt as to the Registrant's exposure the Registrant should seek legal advice.

Registrants' relations with the authorities on clients' behalf.

39. A Registrant has access to much information of a confidential nature. It is essential that they shall normally treat such information as available to them for the purpose only of carrying out the professional

duties for which they have been engaged. To divulge information about a client's affairs would normally be a breach of professional confidence, which might have the most serious legal and professional consequences.

Registrants' own relations with authorities

40. A Registrant commits a criminal offence if he/she:

    (a) incites a client to commit a criminal offence, whether or not the client accepts their advice; or

    (b) helps or encourages a client in the planning or execution of a criminal offence which is committed; or

    (c) agrees with a client or anyone else to pervert or obstruct the course of justice by concealing, destroying or fabricating evidence or by misleading the police by statements which they know to be untrue.

41. A Registrant who knows that a client has committed money laundering, treason or certain terrorist offences, but who fails to disclose what they know to the proper authorities, is likely to commit a criminal offence by failing to do so.

42. A Registrant who knows or believes that a client has committed an arrestable offence would commit a criminal offence if the Registrant were to act with the intention of obstructing arrest or prosecution on the client.

43. To be convicted of the offence of impeding the arrest or prosecution of a client a Registrant would have to do some positive act to assist a

client to escape arrest or prosecution for an arrestable offence. A Registrant's refusal to answer questions by the police about a client's affairs or to produce documents relating to a client's affairs without that client's consent, would not constitute an act to obstruct the arrest or prosecution of a client.

44. Where a Registrant knows or believes that a client has committed an arrestable offence, and the Registrant has information which may be of material assistance in the prosecution of the client for the offence, they would be committing a criminal offence if they were to accept, or agree to accept, any consideration in return for not disclosing that information. It is an offence under the Corruption Prevention Act 2001 or would constitute the offence of perverting the course of justice. In these circumstances, the acceptance of a reasonable fee for professional services rendered would not be an offence.

Company investigation

45. When a Registrant acts as auditor of a limited company it is the company which is the client, not the directors.

46. If it is necessary for an auditor to qualify an audit report, the qualifications shall clearly indicate the factual circumstances that give rise to the qualifications. The Eighth Schedule to the Companies Act 2006 sets out the matters to be included in the Auditor's Report. Registrants are referred to *Section B3*, Whistleblowing responsibilities placed on auditors, for further guidance.

47. An auditor cannot avoid bringing to the attention of shareholders circumstances which may indicate irregularities by resigning from office without making a report. On resignation, a Registrant shall include in the notice of resignation either a statement of any

circumstances connected with the resignation which the out-going auditor believes should be brought to the notice of the members or creditors of the company of a statement to the effect that there are no such circumstances to be brought to the attention of the members and creditors.

48. In many cases, the interests of the members and creditors will best be served if the auditor completes the audit and reports to shareholders on the accounts. The auditors may then indicate that they do not wish to be considered for re-appointment at the next annual general meeting of the company.

49. Where the auditors believe that they may need to refer to the commission of offences, either in the audit report or in the notice of resignation, they should be aware of the danger of an action for defamation. The auditors shall therefore seek legal advice as to the terms in which they should either report or make a statement in their notice of resignation.

Transmission of report to shareholders

50. In normal circumstances an auditor's duty is fulfilled when the audit report is sent to the secretary or directors of the company for onward transmission to the company's shareholders. However, if the auditor knows, or has good reason to believe that, for example, the audit report:

    (a) has not been sent to shareholders; or
    (b) has been sent to shareholders in an altered form; or
    (c) has been sent to shareholders unaltered, but in a misleading context;
    (d) it will be necessary for the auditor to consider what steps must be taken to rectify the situation.

51. The steps available to the auditor in these circumstances may include communicating directly with the shareholders. Often the mere threat of direct communication with the shareholders will result in the desired action.

52. If it is decided that direct communication with the shareholders should take place, the auditor should be aware of the danger of an action for defamation being brought against the auditor. Special care is required in the event of those exceptional cases where the difficulty of communication or the urgency of the situation necessitates a public announcement being made. Where this need arises, the auditor should take special care to guard against the possibility of defamation.

53. As soon as the possibility of making a communication to shareholders arises, the auditor shall seek legal advice on an auditor's duty to the shareholders in the particular circumstances of the case. Additionally, the auditor shall seek legal advice as to the method of any communication the auditor is required to make and the terms in which the communication should be made.

54. If the auditor is aware of third parties who may be affected by the situation the auditor shall also consider taking the steps outlined below, as appropriate.

Urgent cases

55. An auditor may sometimes become aware of information which suggests that unlawful acts or defaults have been committed by a director(s) or an employee(s) of the company. The facts may be of such a nature that, even though they may ultimately give rise to a

qualification of the auditor's report, it would be contrary to the interests of the company for their disclosure to await the transmission of the audit report.

56. On the occasions when this arises, it is likely to be because the conduct is both serious and/or liable to be repeated. In such a case it will be necessary for an auditor to report his findings at once to the directors to enable further investigation in the matter.

57. There may also be cases in which the involvement of the directors themselves will make it necessary for the auditor to consider taking further steps to ensure that the matter is brought promptly to the attention of shareholders. These steps may include resignation by a notice stating the circumstances or even direct communication with shareholders.

58. Occasions which call for such steps will be rare, and an auditor who is considering taking them shall seek legal advice about his obligation to the shareholders in the particular circumstances of the case, the method being considered for direct communication with the shareholders and the terms in which the communication should be made.

Past accounts and reports

59. Where an auditor discovers that past accounts on which they reported are defective, the auditor shall consider the position in relation to the shareholders, regulatory bodies, the tax authorities and third parties.

Shareholders

60. Reference shall be made to the relevant auditing standards applicable in the jurisdiction under which the professional accountant has carried out the audit, for example International Standards on Auditing 560 – Subsequent Events.

Other third parties

61. An auditor may be liable if having prepared a report which the auditor later discovers to be false in some material respect, he/she subsequently fails to take appropriate action to correct that report. In such circumstances the auditor shall ordinarily take legal advice as to the steps which are appropriate. These might include the following:

(a) Where the report was prepared for the company alone or for statutory purposes, the auditor's appropriate course will generally be to disclose the relevant facts to the directors and ascertain what steps they intend to take to bring it to the attention of third parties who are affected.

(b) If the directors fail to take such steps, the proper course for the auditor to adopt will depend on the gravity of the error and the nature of the reliance which has been or is likely to be placed upon it by the third party.

(c) The courses open to the auditors include resignation by a notice to the shareholders which contains a statement of the relevant facts and of the directors' failure to bring those facts to the attention of those affected. The auditor may also require the directors of the company to convene an extraordinary general meeting of the company to receive, and consider such explanation of the circumstances connected with the auditor's resignation as the auditor may wish to place before the meeting. Where the auditor has resigned and deposited a

statement of the relevant facts, it will often be unnecessary to take any further steps to bring the facts to the attention of the third parties.

(d) There may, however, be cases in which reliance has been placed or may be placed upon the auditor's report by a third party who is not likely to receive a copy of the auditor's notice of resignation and statement of reasons, either because the third party is not one of those entitled to receive copies of the accounts or because the company does not propose to send the notice and statement to such persons or does not intend to do so sufficiently quickly. In these cases it may be appropriate for the auditor to communicate directly with those third parties known to be affected, stating that they have resigned as auditor, that a statement of reasons for the auditor's resignation has been deposited with the company. Note that in relation to Insurance Companies registered under the Insurance Act the Financial Services Commission is to be notified of the resignation of the auditor.

62. An auditor may sometimes be instructed to prepare a report (other than a statutory report) for the purpose of being submitted to a third party. Such a report will usually amount in law to a representation made by the auditor to that third party. Where this is the case and the auditor subsequently discovers that it is false in a material respect, the auditor is entitled to communicate a correction directly to the third party, and shall normally do so.

Removal of the auditor

63. The distinction between the directors and the shareholders will sometimes have little or no relevance, either because the directors hold a controlling interest or because all the shareholders are directors. When in these circumstances the directors fail to comply with the auditor's advice they may wish to prevent the auditor from completing the audit and making a report containing qualifications. They could achieve this by calling a general meeting at which the sole business would be the removal of the auditor.

64. If this procedure is followed the auditor may wish to take one of three courses:

(a) make written representation to the company

(b) attend the general meeting and be heard as is permitted under the Companies Act, Insurance Act and any other relevant legislation

(c) resign before the general meeting, and include a statement of circumstance in the noise of resignation

65. Where there are persons who would be affected by a qualification to the report and who would not be entitled to receive representations or to attend the meeting, resignation with a statement of the circumstances will often be the more appropriate course.

Disclosure of information to office holders under insolvency legislation

66. Liquidators, and Trustees have a statutory right to call for books, records and any documents relating to the affairs of a bankrupt or insolvent person or entity or to examine any person with such information.

67. A Registrant may therefore be required to supply information to a Trustee or liquidator, and in these cases the Registrant shall normally do so unless the liquidator or trustee is acting beyond their respective powers, or for a purpose unrelated to their official functions or in breach of their duties. A Registrant dealing with a liquidator, administrative receiver or administrator in good faith is entitled to assume that they are acting within their powers.

68. In the case of winding up the Court can delegate to the liquidator certain powers which require the delivering, conveyance, surrender or transfer of money, property, books or papers to the liquidator.

69. Receivers, as opposed to administrative receivers or administrators, are unlikely to have a general statutory power to obtain information. Moreover, although the extent of their powers will depend on the terms of the deed or court order pursuant to which they were appointed, it is unlikely that their powers will extend to requiring information from a Registrant without the specific consent of the company or an order of the court.

70. In the case of a client's bankruptcy, the bankrupt is obliged to deliver to the Trustee all property, books, papers or other records that relate to the bankrupt's estate or affairs and of which the bankrupt has possession or control. A Registrant with a client subject to a bankruptcy order can, therefore, expect the client to direct the Registrant to transfer to the trustee such of the client's

books, papers and records as are in the Registrant's possession. A Registrant should also be aware that he/she may be liable to be summoned to produce to the court any documents in the Registrant's possession or control relating to the bankrupt or the bankrupt's dealings, affairs or property or to answer questions or provide information relating to such matters. Under the Insolvency Act 2014, the trustee has the right to call for and have access to and examine the property of the bankrupt or insolvent person including the books and records, and any other financial documents to the extent necessary to adequately assess their business and financial affairs.

Auditors of companies in liquidation

71. Although the appointment of an auditor of a company is made by the shareholders in general meeting (or in the case of a newly formed company by the directors) the auditor's appointment is by the company as a legal entity and the auditor's duty of confidence is to the company as distinct from the individual shareholders.

72. If the company goes into liquidation the company's rights remain vested in the company as an entity and it is therefore still the company to which the auditor has a duty of confidence. The liquidator will, however, normally be the proper agent of the company for the purpose of enforcing any rights which the company could have enforced, including the company's right to permit its auditors to provide information to others. This is provided for under the Companies Act, 2004.

73. The auditor of a company which is in liquidation may be approached by the police for assistance in enquiries which may lead to a director or other individual being prosecuted. The auditor is under no legal obligation to give to the police any information obtained in the course

of the professional relationship with the client. In normal circumstances, the auditor shall not assist the police by the disclosure of information, etc. unless the liquidator has given permission for this action (the liquidator being the person who could exercise the right of the company to release the auditor from the duty of confidence). If the liquidator does not give permission to the auditor, unless there are considerations of public interest (as noted in paragraph 27 to 29 of this section), the auditor shall explain to the police that the information is confidential and may not be disclosed without permission.

Defamation

74. If an auditor forms the view that unlawful acts or defaults have occurred and communicates the relevant facts to persons who have a legitimate interest in receiving them, the auditor will be entitled to rely on the defence of qualified privilege from liability for defamation even if the facts should prove to be wrong. However, if malice is proved against the auditor, the privilege will not apply. This statement gives only general guidance each case must be considered in the light of its own particular circumstances. An auditor who is in any doubt as to the available options and his exposure to legal liability shall take legal advice on the matter.

75. In particular, an auditor who is contemplating making a public announcement or communicating directly with shareholders about unlawful acts or defaults shall bear in mind that such an announcement, even if justified by the particular circumstances of the case, may cause serious damage to the company or to individuals, and such a step shall not normally be taken without taking legal advice.

Registrants' working papers

76. In most, but not all, circumstances, a Registrant's working papers are the Registrant's own property and any request for their production shall normally be refused. All documents relating to a client are confidential. They shall not be disclosed to third parties unless:

    (i) the client agrees to the disclosure before it is made; or

    (ii) disclosure is authorized by statute or court order; or

    (iii) disclosure is otherwise in accordance with these Rules.

    A Registrant is advised to refer to *Section B5*, Legal ownership of and rights of access to, books, files, working papers and other documents, in order to determine whether the papers in question are the property of the Registrant or the client.

77. However, if a tax authority requests the production of the working papers relating to a particular client whose affairs are under investigation, the Registrant shall bear in mind that he/she has a duty to act in the best possible interests of his/her client and at the same time obey the law.

78. Pursuant to the Revenue Administration Act a Commissioner may seek a court order to compel a Registrant to provide certain information, documents or records relating to a tax-payer to the Commissioner. Failure by the Registrant to comply with the order may result in contempt and/or criminal proceedings against the Registrant. Under the Banking Services Act 2014 the Supervisor can

request and review the working papers of an external auditor or former external auditor for the auditor to confirm any capital injection, transfer of assets or other transaction that the Supervisor considers to be of financial significance.

79. If in doubt as to his obligations arising from any request from the Tax or any other Authority or pursuant to an order of the Court the Registrant shall consider obtaining legal advice. ***Taxation offences and the proceeds of crime***

80. Of the wrongful acts of clients discovered by Registrants, taxation offences of various kinds are likely to be amongst the more frequent. The Revenue Administration Act and other tax legislation prescribe a number of offences for which monetary penalties are recoverable. The recovery of penalties against taxpayers does not rule out the possibility of criminal proceedings against them.

81. Any act of omission directed to or resulting in the evasion or attempted evasion of tax may be the subject of criminal charges under both tax law and anti-money laundering legislation. Tax evasion may relate to direct tax such as income tax, or indirect tax such as a tax on goods and services (G.C.T.). The proceeds of such offences, like any other crime, will be subject to the anti-money laundering legislation. Registrants who suspect or are aware of tax evasion activities by a client may themselves commit an offence if they do not report their suspicions to the appropriate anti-money laundering authority (in addition to any notification to the tax authorities). Registrants are advised to refer to *Section B2*, Anti-money laundering, for further guidance.

82. When a Registrant finds that a client has misinformed or misled them as to their affairs in order to obtain a tax advantage, the Registrant shall consider carefully not only the client's position but also their own

position vis-a-vis the tax authorities. A Registrant shall, in particular, consider the matters set out in paragraphs 90 to 96 below.

Past accounts

83. A Registrant may discover that accounts already prepared and/or reported on by him/her and/or computations and returns based thereon are no longer accurate. If these have already been submitted to the tax authorities, the professional accountant cannot allow the tax authorities to continue to rely on them. The Registrant shall advise the client to make full disclosure, or to authorize the Registrant to do so, without delay.

84. A Registrant shall dissociate himself/herself from any returns or accounts that may be affected by a client's concealment. If the client refuses to make or authorize disclosure, the Registrant shall inform the client that they can no longer act for them. The Registrant shall also inform the client that it will be necessary to inform the tax authorities in the terms set out in paragraph 86 below.

85. In these circumstances, a Registrant shall inform the tax authorities that, since the documents concerned were submitted, they have become aware of information which has led them to conclude that they would no longer be prepared to report on the documents in the same terms as previously and that they have ceased to act for the client. In so informing the tax authorities, a Registrant is under no duty to indicate in what way the accounts are defective and shall not normally do so unless the client has consented to such disclosure.

86. Where the Registrant knows that the false accounts had been submitted to the tax authorities and that they will be relying on these

accounts, and acting upon them to their detriment, the Registrant may be found to be liable in negligence for failing to disclose that the accounts were false. Legal advice should be sought in these circumstances.

Current accounts

87. Where the information obtained affects accounts or statements that the Registrant is currently preparing or auditing, the Registrant is in a position to deal with the matter himself/herself. If the client fails to provide such information as the Registrant may require, or objects to the manner in which the Registrant considers that the accounts should be presented, it is the Registrant's professional duty to qualify his/her reports on the accounts in such a way that the respects in which they are defective are made clear. The Registrant shall also consider whether he/she ought to continue to act for that client.

New clients

88. A Registrant preparing or auditing accounts for a new client may become aware that accounts previously submitted to the tax authorities are defective. If so, the Registrant shall advise the client to make full and prompt disclosure. A Registrant has no responsibility for past accounts except in so far that errors in them affect the accuracy of accounts that the Registrant is currently preparing or auditing. If the errors do have that effect, the Registrant shall inform the client that an appropriate adjustment must be made in the current accounts. If the client is unwilling to agree to such adjustment, the Registrant shall qualify their report on the accounts accordingly, and consider whether they should continue to act for that client.

Private returns

89. Where a Registrant has acted or is acting on personal tax matters and acquires information indicating that returns or accounts prepared and/or reported on by them and/or computations based thereon are no longer accurate, the Registrant shall follow the procedure set out in paragraphs 84 to 86 above.

Professional responsibility towards clients

90. Whatever line of conduct may be appropriate for a Registrant to protect his/her own position, they are still under a professional duty to ensure, so far as they can, that the client understands the seriousness of offences against the tax authorities. The Registrant shall also ensure that the client is aware of the probable consequences of a notification from the Registrant to the tax authorities that the Registrant is no longer acting for the client. In other words, the Registrant shall always impress on their client the desirability of authorising the Registrant to make full disclosure, subject to any legal advice obtained. Any accounts, returns, computations or reports submitted on behalf of a taxpayer are deemed to be submitted by them and/or with their consent unless they prove otherwise.

91. This emphasises the need for a Registrant to obtain appropriate instructions from clients and to ensure that clients have signed or otherwise approved accounts. Where they have not been instructed to deal with taxation work for a client, the Registrant has no authority to deal with the tax authorities.

Tax authority powers

92. A Registrant shall ensure that he/she familiarizes himself/herself with the statutory powers that the tax authorities have to compel disclosure in particular instances. By way of example, pursuant to the Revenue Administration Act, a Commissioner may seek a court order to compel a Registrant to provide the Commissioner certain information, documents or records relating to a tax-payer. In dealing with disclosures required under any such order, a Registrant shall ensure strict compliance with the order, and if in any doubt, shall, take legal advice as non-compliance may result in criminal proceedings against the Registrant.

93. Tax authorities sometimes ask for information to be provided on a voluntary basis, notwithstanding that they might be able to obtain disclosure under statute. Although clients are not obliged to provide the information voluntarily, a Registrant may in some cases think that it is advisable for them to do so. In other cases the Registrant may believe that it is advisable for the client to decline to provide the information and await the exercise of statutory powers.

Errors in the taxpayer's favour

94. The tax authorities may mistakenly make an excessive repayment of tax to a taxpayer, even though full disclosure of the facts has been made to the tax authorities. Where an excessive repayment is paid directly to a client, the Registrant shall urge the client to refund the excess sum to the tax authorities as soon as the Registrant becomes aware of the error. A client could be committing a civil and/or criminal offence if they have knowledge of the error and fail to correct it. Should a client refuse to refund the payment to the tax authorities, the Registrant shall consider whether, in all the circumstances, they

should continue to act for the client. Where a Registrant ceases to act, they shall notify the tax authorities that they no longer act for the client but are under no duty to give the tax authorities any further details.

95. Where the excessive repayment is made to the Registrant on the client's behalf, the Registrant shall notify the tax authorities. Failure to do so could involve both the Registrant and the client in a civil and/or criminal offence.

Knowledge of offences relating to G.C.T or its equivalent

96. If the client refuses to make or authorize disclosure, the Registrant shall inform them that they can no longer act for them. The Registrant shall also inform the client that it will be necessary to inform the tax authorities in similar terms to those set out in paragraph 86 above.

97. For their own protection, in the event that the matter comes to the notice of the tax authorities before the client has disclosed it, a Registrant shall ensure that their records of their advice to their client are such as to rebut any allegation that the Registrant himself/herself was knowingly involved in the commission of any offence.

98. There are statutory sanctions against advisors who counsel taxpayers to evade taxes. See for example section 99 (2) of the Income Tax Act which imposes fines and imprisonment on anyone who aids, abets, counsels or incites another to make false declarations or accounts in relation to Income Tax. There are similar sanctions imposed under other Acts and Registrants should be mindful of such in the execution of their duties and responsibilities.

SECTION B2 - Anti-money laundering

Introduction

1. Money laundering is a global phenomenon that affects all countries to varying degrees. It is the process by which criminals attempt to conceal the true origin and ownership of the proceeds of their criminal activity, often with the unwitting assistance of professionals such as accountants and lawyers. If undertaken successfully, it allows them to maintain control over the proceeds and, ultimately, to provide a legitimate cover for their sources of income. Money laundering also encompasses the process by which terrorists attempt to conceal the destination and ultimate purpose of funds (legitimate or otherwise) which are likely to be used for the purposes of terrorism.

2. The overarching principles set out in this section are intended to be consistent with the Recommendations issued by the Financial Action Task Force on Money Laundering (FATF), which today constitute the international benchmark for good practice in combating money laundering and the financing of terrorism. Most countries around the world now have legislation in place which is based on the Recommendations, although the way that different countries translate the Recommendations into local law often differs in material respects.

3. By the Proceeds of Crime (Designated Non-Financial Institution) (Accountants) Order 2013 with effect from 1st April 2014 an accountant who engages in any of the following activities on behalf of clients is designated a non-financial institution under the Proceeds of Crime Act:

   (a) purchasing or selling real estate

(b) managing clients' money, securities or other assets

(c) managing bank, savings or securities accounts;

(d) organizing contributions for the creation, operation or management of companies;

(e) creating, operating or managing a legal person or legal arrangement (such as a trust or settlement); and

(f) purchasing or selling a business entity.

4. Registrants shall ensure that they and their staff are fully aware of their obligations under Jamaican law, viz:

- The proceeds of Crime Act (POCA), 2007 (this Act has repealed and replaced the Money Laundering Act, 1998 and the Regulations thereunder) (Amended in 2013)
- The POCA (Money Laundering Prevention) Regulations, 2007 (Amended in 2013)
- The Terrorism Prevention Act, 2005
- The PAB Anti-Money Laundering Guidance for the Accountancy Profession
- The BOJ AML/CFT Guidance Notes, 2004/(R2005), (R2007)[1]

5. Registrants are reminded that the obligations in the legislation are stringent and that failure to follow legislative requirements will be a criminal offence leading to fines and/or imprisonment.

[1]Several adjustments have been effected to the Guidance Notes with the last round of revisions currently being effected to reflect the AML enhancements effected with the passage of the POCA. The draft Guidance Notes being finalized can be viewed at the BOJ's site www.boj.org.jm

6. Detailed Guidance as to the principles of law that govern these issues and the duties, responsibilities and liabilities of Registrants under the law is found in the PAB Anti-Money Laundering Guidance for the Accountancy Profession. Given the serious consequences of prosecution for money laundering offences, RPAs are advised to take legal advice whenever they are uncertain as to their conduct. The legal position and its application to any given set of facts may not be straightforward.

Internal controls and policies

7. Registrants should ensure that relevant staff in their firms receive regular training to ensure that client identification procedures are carried out in respect of new clients and that they are competent to identify money laundering or terrorist financing activity where they come across it.

Client identification

8. Before any work is undertaken, RPAs should verify the identity of the potential client by reliable and independent means. RPAs should retain on their own files copies of such evidence, as set out in paragraph 18. This will involve the following:

    (a) where the client is an individual: by obtaining independent evidence of the client's identity, such as a passport and proof of address;(b) where the client is a company or other legal entity: by obtaining proof of incorporation; by establishing the primary business address and, where applicable, registered address; by establishing the structure, management and

ownership of the company; and by establishing the identities of those persons instructing the RPA on behalf of the company and verifying that those persons are authorized to do so.

(b) in either case: by establishing the identity and address of any other individuals exercising ultimate control over the client and/or who will be the ultimate beneficiaries of the work or transactions to be carried out; and

(c) by establishing precisely what work or transaction is desired to be carried out and to what purpose.

9. If Registrants are unable to satisfy themselves as to the potential client's identity, no work should be undertaken.

10. Where Registrants are instructed by another person on behalf of their principal, Registrants should satisfy themselves of both the identity of the person instructing the Registrants and their principal as if both were clients. Registrants should retain these copies on their files in line with the requirement below.

11. Where Registrants are instructed by another Regulated Professional on behalf of another client, Registrants should satisfy themselves that the identity of the common client has been sufficiently established by asking to see copies of the evidence obtained by the Regulated Professional. Registrants should retain these copies on their files in line with the requirements in paragraph 16 below. "Regulated Professional" means for the purposes of this section a professional who is subject to equivalent anti-money laundering legislation.

12. Once a Registrant has established on reasonable evidence that they are instructed by another Regulated Professional, it is generally not necessary for RPAs to obtain and evidence further proof of the identity and structure of the instructing Regulated Professional.

13. Registrants are required to verify the identity of existing clients as if they were new clients prior to any work being undertaken by a RPA.

14. If at any time during the course of a client relationship Registrants begin to have doubts about the client's identity, further evidence should be obtained. If Registrants are unable to satisfy themselves, the client relationship should be terminated.

15. During the course of a client relationship, Registrants should regularly review the history of the relationship to satisfy themselves that the work or transactions being carried out is/are consistent with the client's usual activities. Anything which appears to be out of the ordinary for that particular client, such as an unusual pattern of transactions or an unusually large transaction, shall be closely examined and a written record made of the RPA's conclusions and disclosures made as required by the law to the Competent Authority.

Record keeping

16. Registrants should retain all client identification records for at least seven years after the end of the client relationship. Records of all transactions and other work carried out, in a full audit trail form, should be retained for at least seven years after the conclusion of the transaction.

Reporting suspicious transactions

17. Registrants are subject to a legal requirement to report knowledge or suspicions of money laundering or terrorist financing to an appropriate national authority which for the time being is the Financial Investigations Division. Further Guidance may be found in the PAB Anti-Money Laundering Guidance for the Accountancy Profession as Registrants are expected to know the exact nature of their reporting obligations.

18. Tipping off is an offence under the Proceeds of Crime Act of Jamaica. If a suspicion has arisen during the course of client identification procedures, or in relation to a transaction requiring a disclosure to the Financial Investigations Division Registrants should take extra care that carrying out those procedures will not tip off the client. In particular, advising the client of the report and ceasing to act for a client without giving any plausible explanation might tip off the client that a report has been made. However, any attempts to persuade a client not to proceed with an intended crime will not constitute tipping off.

SECTION B3 - Whistleblowing responsibilities placed on auditors

Introduction

1. In certain circumstances, an auditor may be required to report to the appropriate regulator if a client has not complied with any law or regulation or if any other matters occur which give rise to a reporting obligation. The Protected Disclosures Act 2011 and Procedural Guidelines establish a regime under which disclosures or improper conduct can be made. Improper conduct means any:
   (a) Criminal offence;
   (b) Failure to carry out a legal obligation
   (c) Conduct that is likely to result in a miscarriage of justice;
   (d) Conduct that is likely to threaten the health and safety of a person;
   (e) Conduct that is likely to threaten or damage the environment;
   (f) Conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds;
   (g) Act of reprisal against or victimization of an employee;
   (h) Conduct that tends to show unfair discrimination on the basis of gender, race, place of origin, social class, colour, religion or political opinion; or
   (i) Willful concealment of any act described in paragraphs (a) to (h).

2. Disclosures can be made to an employer or a designated officer appointed by the employer; either the Minister with portfolio responsibility for that subject matter or the Prime Minister or both; a prescribed person; the designated authority; an attorney-at-law with the object of obtaining, or during the process of obtaining legal advice.

3. An auditor shall ensure that he/she is aware of the requirements identified in the relevant local legislation and regulatory framework that assist the auditor in identifying matters that must be reported.

4. Failure to report may constitute an offence and could render an auditor liable to fines or even imprisonment.

5. Registrants are referred to the International Standards on Auditing or the equivalent standards of the country in which the Registrant practices for further detail as to the types of non-compliance that must be reported and the appropriate authorities to whom reports must be made.

Whistleblowing duty: non-compliance with law or regulation

6. Where an auditor becomes aware of a suspected or actual non-compliance with law or regulation, which gives rise to a statutory right or duty to report, he/she shall report this to the proper authority immediately.

7. Save where paragraph 6 applies, where an auditor becomes aware of a suspected or actual non-compliance with law or regulation and he/she concludes that it is a matter that must be disclosed in the public interest, the auditor shall notify the directors, trustees, etc. in writing of their view. If the entity does not voluntarily make a

disclosure of the default, or is unable to provide evidence that the matter has been reported, the auditor shall report it himself/herself to the proper authority.

8. Where there is a real risk that disclosure to the directors or trustees might prejudice any investigation or court proceedings or is proscribed by law (for example, where it might constitute the offence of “tipping off”) and the auditor becomes aware of a suspected or actual non-compliance with law or regulation, the auditor shall make his/her report to the proper authority without delay and without first informing the directors, trustees, etc. Occasions when disclosure may give rise to prejudice include where the disclosure is of a matter which casts doubt on the integrity of the directors, trustees, etc., or their competence to conduct the business of the regulated entity and which gives rise to a statutory duty to report.

Circumstances indicating non-compliance with law or regulation

9. An auditor shall have a general understanding of the laws and regulations that are central to an entity’s ability to carry out its business and that any relevant licences or permits that are to be obtained by the entity in the course of its business are obtained and are current. By way of example

(a) An entity whose main activity is financial services work, such as investment business, should hold appropriate authorization to undertake this activity and its principal officers or such other officers as the law may require should be approved as fit and proper by the Financial Services Commission

(b) When undertaking an audit of a pension scheme an auditor shall ensure that he understands concepts such as minimum funding requirement, contributions schedule etc and the auditor shall be familiar with the rules since the auditor will be required to report any breach of the rules that is material to the regulator or other authority.

Professional duty of confidence

10. Disclosure by an auditor shall not constitute a breach of any obligation of confidence imposed by the fundamental principle of confidentiality provided that:

(a) disclosure is made in the public interest in accordance with the relevant laws;
(b) disclosure is made to a proper authority; and
(c) disclosure is made in good faith ; or
(d) disclosure is made under compulsion of law.

11. Auditors are reminded that the duties of confidence owed to clients are also questions of law and that the law may vary from country to country. An auditor shall take legal advice before making a decision on whether a disclosure of a suspected or actual non-compliance with law or regulation shall be made to a proper authority in the public interest.

Method of reporting

12. An auditor making a disclosure of a suspected or actual non-compliance with law or regulation directly to a proper authority shall ensure that their report includes:

(a) the name of the entity;
(b) the statutory authority under which the report is made;
(c) the auditing standard under which the report has been prepared;
(d) the context in which the report is made;
(e) the matters giving rise to the report;
(f) a request that the recipient acknowledge that the report has been received; and
(g) their name and the date on which the report was written.

Whistleblowing duty: other matters of material significance

13. A Registrant shall familiarize himself/herself with and comply with the law. An auditor not only has a professional duty but may also have a statutory duty to report directly to a regulator where, in the course of their work, the auditor becomes aware of a matter that is, or is likely to be, of material significance in determining either.

(a) whether a person is a fit and proper person to carry on the regulated work; or
(b) whether disciplinary action should be taken, or powers of intervention exercised, in order to protect clients against significant risk of loss.

14. The following circumstances may require an auditor to make a report for example, under the Public Bodies Management and Accountability Act, 2001 under the General Duties of Auditors:

(a) When there has been an adverse change in the circumstances of the business;

(b) Where an event has resulted in a material loss or loss of control over the assets or records which would impact on the entity's ability to adhere to the rules and regulations for the conduct of the regulated business; and

(c) Where the financial position of the entity is such that clients' interests might be better safeguarded if the matter were reported to the regulator.

15. Auditors of certain entities may be required to report directly to regulators where they discover non-compliance with law or regulation.

Non-audit assignments

16. Whilst the whistleblowing responsibilities outlined above apply to auditors, Registrants shall bear in mind the foregoing guidance for non-audit situations.

17. Where a Registrant becomes aware of a suspected or actual non-compliance with law or regulation, the Registrant shall consider its impact on the reporting entity. A Registrant has a professional duty to ensure that all accounts/returns with which their names are associated are not in any way incorrect or misleading.

18. Where a Registrant becomes aware of irregularity and the client does not take steps to correct it and notify the proper authority, the Registrant shall not only consider resigning from the engagement, but whether they must make voluntary disclosure to a third party in accordance with the law. Before making any disclosure, a Registrant shall consider taking legal advice and is referred to

Section B1, Professional duty of confidence in relation to defaults and unlawful acts of clients and others, for further guidance.

SECTION B4 - Descriptions of Registered Public Accountants and Firms and the names of Practicing Firms

General

1. The terms “firm” and “practice” include partnerships, corporations (including limited liability partnerships) and sole practitioners.

Descriptions of Registered Public Accountants’ Firms

2. A Registrant is entitled to use the professional designation which he holds.

3. Registrants may use on their professional stationery words showing designations of the accountancy body to which they belong.

4. Registrants who hold a civil or service honour (such as OD, CD, OJ) or a civil office (such as JP, etc.) are entitled to use the appropriate designatory letters on their professional stationery if they so wish.

5. Before including designatory letters Registrants should consider carefully how far (if at all) a statement of such honours or offices is relevant to the professional services they offer.

6. Any reference to honours or appointments would be entirely inappropriate in signing any audit report or other expression of professional opinion.

7. A firm in which all the partners are members of the Institute of Chartered Accountants of Jamaica may use the designation “Members of the Institute of Chartered Accountants of Jamaica”.

8. A firm may include a list of the specialisms it provides on its professional stationery.

9. A firm may also use a description indicating a specialism in a particular area of work, e.g. “taxation specialists”. However, this is only permissible if

    (i) the firm is competent to provide the particular service named, and

    (ii) the content and presentation of the descriptions do not bring the accountancy professions into disrepute or bring discredit to the firm or the profession.

Sole Practitioners

10. Sole practitioners may use the plural form of Registered Public Accountants and either:

    (a) they apply the suffix “& Co.” after their name; or
    (b) otherwise trade under a business name which is not the same as their personal name.

Persons named on professional stationery

11. It should be clear from reading a firm’s professional stationery whether any person named on it is a principal in that firm and has the authority to bind the firm (i.e. a partner, sole practitioner or director).

12. Firms may include the name of any person who is not a principal of the practice on the professional stationery of the practice. Where such a person is named on the stationery a description about this

person, e.g. “Manager”, “Tax Consultant”, etc. must also be included by their name.

13. The names and descriptions of principals must be clearly separated from those of non-principals so that they cannot be mistaken for each other.

14. Any person named on professional stationery must be competent and have the necessary eligibility and qualifications to provide any specialism shown. They should be described only by the titles, descriptions and designatory letters to which they are properly entitled.

15. Any description used on a firm’s professional stationery should not bring into disrepute or bring discredit to the practice or the accountancy profession.

The names of practising firms

16. A practice name should be consistent with the dignity of the profession in the sense that it should not project an image inconsistent with that of a professional bound by high ethical and technical standards.

17. A practice name should not be misleading.

18. A practice name would be objectionable if in all the circumstances there was a real risk that it could be confused with the name of another firm, even if the member(s) of the practice could lay justifiable claim to the name.

19. A practice name may indicate the range or type of services offered by the firm.

20. It has been the custom of the profession for members to practise under a firm's name based on the names of past or present members of the firm itself or of a firm with which it has merged or amalgamated. A practice name so derived will usually be in conformity with this guidance.

Discussion

21. It would be misleading for a firm with a limited number of offices to describe itself as "international" even if one of them was overseas.

22. A firm may trade under different names from different offices providing that this does not mislead.

23. A firm may be a member of a trading association and may indicate this on the firm's note paper or elsewhere in proximity to the practice name. However, the practice name of such a firm should be clearly distinguishable from the name of the associated firm or group. Thus, it would be misleading for a member of a trading group to bear the same name as the group. There would be no objection to a firm practicing under its own name and including a statement on its professional stationery to the effect that it is "a member of (a named) accountancy group".

24. It would be misleading for sole practitioners to add the suffix "and partners" to their firm's name.

25. Similarly, it would be misleading for firms to add the suffix "and Associates" to their business name unless they have two or more formal associations/consultancies in existence which can be demonstrated to exist.

Legal Requirements

26. A practice name must comply with partnership, limited liability partnership and company law as appropriate and with the Business Names Act. Practicing firms may describe themselves in any manner provided that the principles set out in paragraphs 16 to 20 of these Rules are observed.

Use of firms' name and premises

27. Registrants and firms should not give permission to third parties to use their name, the firm's name, premises, professional stationery, etc. There is a real danger that the public could mistake the third party for the Registrant or firm if such permission were to be given.

SECTION B5 - Legal ownership of, and rights of access to, books, files, working papers and other documents

Introduction

1. This section sets out the requirements governing the ownership of records, documents and papers. In the course of practice, a Registrant will either create or come into possession of records, documents and papers which may belong to the Registrant or may belong to the Registrant's clients. In certain circumstances a Registrant may be able to retain records, documents and papers belonging to clients pending payment of outstanding fees. Note that such rights to a lien may be subject to important qualifications which enable clients and third parties to have access to any records, documents and papers in the Registrant's possession.

2. The term "documents and papers" does not just mean documents stored on paper. The term extends to information stored on microfilm, and also to information stored electronically.

3. The underlying principles of ownership and liens over records, documents and papers are governed by law and the contract that the Registrant enters into with their client. A Registrant shall comply with the requirements of the local law that applies to their dealings with their client.

4. Guidance as to the principles of law that govern these issues is found elsewhere. Registrants are advised to take legal advice wherever an issue as to ownership or possession of records, documents and papers may arise. The legal position and its

application to any given set of facts may not be straightforward. The position may be summarized as follows:

(a) Documents belonging to clients must be given to clients, or their agents, on request, except for those cases where the Registrant is able to exercise a right of lien.

(b) For documents belonging to the Registrant, the decision whether to allow the client (or their agents) to inspect them rests with the Registrant. The client has no right to demand access.

(c) Where a client asks the Registrant to disclose documents to a third party and those documents belong to the client, the Registrant shall disclose the documents unless the Registrant is exercising their rights of lien. Where documents belong to the Registrant, they are not obliged to comply with the request.

5. Registrants are reminded that they may act for their clients in different capacities and this may affect their rights to ownership and possession of records, documents and papers. Thus, by way of illustration, a Registrant may find himself/herself acting for clients either as principal or as an agent, depending on the nature of the work covered by the engagement.

Relationship with the local law

6. A Registrant shall obey the law. It is the responsibility of Registrants to familiarize themselves with the law that applies to them and ensure that they work within the law.

The contract

7. It is permissible for a Registrant (to the extent they are permitted by law) to record and regulate any rights to ownership over any or any identified classes of records, documents and papers created by the Registrant in the contract between the Registrant and their client.

8. It is permissible for a Registrant (to the extent they are permitted by law) to record and regulate any right to assert a lien or other security and the rights attaching to the same for their unpaid fees over records, documents and papers owned by the Registrant in the contract between the Registrant and their client.

Preservation of documents

9. Where a Registrant retains possession over documents that belong to a client whether to undertake work or to assert any lien or security over them, it is the duty of the Registrant to make effective and appropriate arrangements to ensure that such records, documents and papers are at all times preserved safely, orderly and securely.

10. Where a Registrant ceases to be entitled to retain possession over a client's records, documents and papers and their return has been demanded by a client, he/she shall deliver up all such records, documents and papers to his/her client or to his/her client's lawyer or Registrant promptly and safely. Nothing herein shall prevent a Registrant from retaining (to the extent permitted or required by law) a copy of a client's file.

Liens

11. Nothing in this section shall prevent a Registrant from asserting (to the extent permitted by law) a lien or other security for unpaid fees

to retain possession of property owned by a Registrant's client until the client pays what he/she owes the Registrant.

12. The exercise of a right of lien does not absolve the Registrant from the requirement to supply the transfer of information required by Section 210, Professional appointment, *paragraphs 210.34 to 210.36.*

13. Registrants are recommended to obtain legal advice before seeking to exercise a lien in any but the most straightforward of cases. A Registrant shall advise a client disputing a right of lien of the Registrant to consult their own Attorneys-at-law.

Duty of confidentiality

14. The duty of confidentiality owed by a Registrant to his/her client is not affected by whether the Registrant owns the record, document or paper or not.

15. The duty of confidentiality owed by a Registrant to his/her client is not affected by whether the Registrant asserts a lien or other security over the client's record, document or paper or not.

16. Registrants are reminded that voluntary access to information or documents may be given only where one of the following applies:

    (a) the client has given his/her consent before disclosure; or
    (b) the Registrant's duty of confidentiality is overridden by the powers of a third party to require access; or(c) the Registrant considers himself/herself to be obliged to volunteer information in the circumstances set out in the fundamental principle of confidentiality and *Section B1,*

Professional duty of confidence in relation to defaults and unlawful acts of clients and others.

Access to client papers

17. Subject to any lawful assertion of a lien or other security, a Registrant shall permit his/her client access to such records, documents and papers as belong to his/her client.

18. Where a request for access to records, documents or papers is made by a person other than the client or on behalf of a client (for example, by a director seeking access to the papers of a company), it is permissible for a Registrant, given his/her duty to maintain client confidentiality, to withhold or defer access to a client's records, documents and papers until the Registrant is satisfied that he/she has seen appropriate and adequate authorization to make such disclosure.

19. A Registrant shall obtain written authority from his/her client before the Registrant permits access by any third party to a client's books, records or papers whether such records, documents or papers are owned by the client or the Registrant. Registrants are recommended that such written authority include an indemnity from any claims arising out of the disclosure and that the letter identify the proposed transaction in connection with which access has been requested, and record the fact that the working papers were not prepared or obtained with that transaction in mind. It is appropriate to reflect in the letter the parties' agreement that:

    (a) the papers and any information provided by the Registrant will not be used for any purpose other than the proposed transaction;

(b) access to the papers and information will be restricted to the purchasers, the investigating Registrants and the purchasers' other professional advisers;

(c) any reliance that the purchasers or their investigating accountants may wish to place on the papers is entirely at their risk;

(d) the Registrant disclosing the papers accepts no duty or liability resulting from any decisions made or action taken consequent upon access to the working papers or the provision of information, explanations or representations by the Registrant; and that

(e) the purchasers will indemnify and hold harmless the Registrant disclosing the papers against any claims from third parties arising out of permitting access or providing information, explanations or representations.

20. A Registrant shall not disclose information about a client's affairs to a third party unless the client consents to disclosure or unless required by law or by a provision of the rules.

:

(a) where the Registrant is compelled by a witness summons in litigation;

(b) where a request is made of a Registrant as secondary auditor in a group for access to papers by its primary auditor: see International Auditing Standard, Using the work of another auditor, ISA 600;

(c) to prevent a crime;

(d) where the Registrant is required by a liquidator, administrator or administrative receivers to make delivery to them of any documents belonging to the company;

(e) where required by PAB, as a statutory regulator in respect of auditors, insolvency practitioners, those who undertake investment business or exempt regulated activities and in relation to its disciplinary functions;

SECTION B6 - Retention periods for books, files, working papers and other documents

Introduction

1. In determining the period for which audit, tax and other working papers and general client information shall be retained, consideration needs to be given to the following:

   (a) legal requirements that specify the period of retention;
   (b) the period of time during which actions may be brought in the courts for which the working papers may need to be available as evidence;
   (c) the period of time for which information in the working papers may be required for use in compiling tax returns;
   (d) the possibility that a company may seek a quotation on a recognized stock exchange;
   (e) whether the papers in question form part of the books and records of a company.

2. Registrants are reminded that the period over which documents are retained may be influenced by questions of law. Those issues include but are not limited to, for the client, duties on the client to retain and make available records (for example, to the tax authorities) and, for the Registrant, considerations like preserving their records for at least the limitation period so that they are available to meet any allegation of breach of contract or professional negligence. Registrants are advised to obtain their own legal advice.

Trusteeships

3. A Registrant who acts as trustee has a continuing responsibility to the beneficiaries. All records shall be retained at least until all transactions have been independently audited and a discharge received from all interested persons.

General considerations

4. The retention of working papers involves expenditure on storage space and staff costs. It is permissible for a Registrant, subject to statutory requirements to retain and preserve accounting records, to adopt a policy of retaining working papers relating to current clients for a longer period than for those clients for whom the Registrant no longer acts.

Minimum periods for retention

5. A Registrant shall use his/her own judgment in determining the period for which working papers should be retained. The minimum periods for which a Registrant shall retain working papers are as follows:

Audit working papers	7 years
Files on clients' or former clients chargeable assets and gifts	8 years (then return them to the client or former client or obtain authority from the client or former client for their destruction)
Files of Registrant as trustee (other than trustee in bankruptcy)	For the period of trusteeship and 7 years thereafter
Investment business advice	For the life of the policy and 3 years thereafter

6. Tax files and other papers that are legally the property of the client or former client shall be returned to the client (or former client) after 7 years or his/her specific authority obtained for their destruction.

7. Where it is possible that a defect in advice rendered to clients or former clients may not become apparent for a longer period than those set out above, the Registrant may consider it prudent to retain working papers for at least this period of time. For example, the Registrant shall consider retaining advice given on the creation of a trust for the period until the trust comes to an end.

SECTION B7 - The obligations of consultants

1. A consultant Registrant shall refrain from any action tending to change the relationship between other practitioners and their clients.

2. Any consultant Registrant retained by another practitioner on a consultancy basis on behalf of a client shall not accept any work from the client which, at the time of consultation, was being carried out by the instructing practitioner unless:

    (a) the instructing practitioner consents (such consent should not unreasonably be withheld); or
    (b) a period of at least one year has elapsed since completion of the consultancy assignment; or
    (c) exceptionally, where the interests of clients would otherwise be prejudiced.

3. To the extent that there is any discrepancy between this section and the requirements of local legislation or regulation, a Registrant shall follow whichever imposes upon them the more stringent requirement.

SECTION B8 - Professional liability of accountants and auditors

Introduction

1. This section is concerned only with the liability for professional negligence which a Registrant may incur because of an act or default by him/her or by one of his/her employees or associates which results in loss to a client or third party to whom a duty of care is owed. It does not deal with liability arising from other causes (for example, criminal acts, breaches of trust, or breaches of contract other than the negligent performance of its terms, and certain heads of liability arising by statute independently of contract).

2. In recent years there have been a number of cases where substantial sums have been claimed as damages for negligence against accountants and auditors. In a number of cases it appears that the claims may have arisen as a result of some misunderstanding as to the degree of responsibility which the accountant was expected to assume in giving advice or expressing an opinion. It is therefore important to distinguish between:

   (a) disputes arising from misunderstandings regarding the duties assumed; and
   (b) negligence in carrying out agreed terms.

3. This section sets out the global rules governing Registrants and how they contract with clients or deal with third parties. The underlying principles are governed by law and the contract that a Registrant enters into with their client. A Registrant shall comply with the requirements of the local law that applies to their dealings with their client.

4. Guidance as to the principles of law that govern these issues is found elsewhere. Registrants are advised to take legal advice wherever an issue may arise. The legal position and its application to any given set of facts may not be straightforward.

Engagement letters

5. A Registrant shall record in writing and send to their client a letter of engagement which sets out the terms under which they are agreeing to be engaged by their client before any work is undertaken or, if this is not possible, as soon as practicable after the engagement commences. The Registrant shall ensure that at the time he/she agrees to perform certain work for the client a letter of engagement is prepared which clearly defines the scope of his/her responsibilities and the terms of his/her contract with his/her client. The letter of engagement shall set out in detail the actual services to be performed, the fees to be charged, or the basis upon which fees are calculated, and the terms of the engagement should be accepted by the client so as to minimize the risk of disputes regarding the duties assumed. Accordingly, the Registrant shall ensure they retain a copy of the engagement letter which has been signed by the client. Where new work is to be undertaken or any terms have changed, the Registrant shall send a new letter of engagement. It may also be helpful for the avoidance of misunderstandings to indicate any significant matters which are not included in the scope of responsibilities undertaken, although it will rarely be possible to provide a comprehensive list of matters excluded. Again, the Registrant shall retain a copy of the new engagement letter which has been signed by the client.

Excluding or restricting liability to a client

6. It is permissible for a Registrant to include in the letter of engagement terms limiting or restricting a Registrant's liability for negligence or breach of contract to a client. Registrants are reminded that an agreement with a client designed to exclude or restrict a Registrant's liability will not always be effective in law

Advice on limited information

7. Registrants may be called upon to give opinions and advice, including financial advice, in connection with many matters, for example investigations or management consultancy assignments, the preparation or audit of the accounts of sole traders, partnerships and charities, and in the field of taxation. While it is permissible for a Registrant to give such advice either within or outside the scope of a letter of engagement, Registrants are recommended to make clear to the beneficiary of that advice the extent of the responsibility they agree to undertake and whom that advice is intended for and restricted to, making particular reference to the information supplied to them as a basis for their work and to those areas (if any) to be excluded from their examination. In particular, if clients require "snap" answers to complicated problems, it is recommended that Registrants record such advice in writing (or alternatively to state orally and forthwith confirm in writing) that the problems are complicated, that they have been given a very limited time in which to study them, that further time is required in order to consider them in depth and that the opinion or advice tendered might well be revised if further time were available to them. It is also recommended that Registrants state that the

client is responsible for the accuracy of the information supplied to the Registrant, and except in the case of a genuine emergency the client be warned against acting on the “snap” advice tendered before further investigation has been carried out.

Avoiding liability to third parties

8. It is permissible for a Registrant to take appropriate steps to reduce their exposure to the claims of third parties. By way of illustration, such steps might include:

(a) identifying the purpose for which the advice is given or document prepared;

(b) identifying and limiting the audience of the advice or document, for example including the notice “CONFIDENTIAL. This report (statement) has been prepared for the private use of X (the client) only and on condition that it must not be disclosed to any other person without the written consent of Y (the accountant).”;

(c) including a disclaimer, for example: “Whilst every care has been taken in the preparation of this document, it may contain errors for which we cannot be responsible” or “This report is prepared for the use of X (the client) only. No responsibility is assumed to any other person.”;

(d) where a document is prepared in the first instance for discussion with or approval by the client or others, and is liable to be altered before it appears in its final form, over-stamping the document on each page: “Unrevised draft”;

(e) where accounts are prepared on behalf of a client, identifying that the source of the information set out in the accounts is the client and not the accountant and that the

client has checked the document. It is a sensible precaution in such a case for the accountant expressly to draw the attention of the client to the need to check the document before submitting it.

9. A Registrant shall, however, be aware that a disclaimer may be inappropriate or ineffective. Disclaimers will be inappropriate in circumstances where their use will tend to impair the status of practicing accountants by indicating a lack of confidence in their professional work.

Inclusion of the accountant's name on a document issued by a client

10. Registrants are recommended to endeavour to ensure that no statement or document issued by their client (other than unabridged accounts which have been reported on by them as auditors) will bear their name unless their prior consent has been obtained. It is often desirable for a suitable paragraph to be included in the engagement letter. If a Registrant learns that a client proposes to cite his/her name, he/she shall inform the client that his/her permission must first be obtained and in appropriate cases he/she shall withhold his/her permission.

Specialist advice

11. Registrants are reminded that, from time to time, circumstances may warrant (whether because of the complexity of an assignment or otherwise) that a Registrant advise his/her client that he/she considers it desirable to take specialist advice. In certain circumstances it may be appropriate for a Registrant either to

consult another Registrant or to instruct or to suggest to his/her client to instruct a member of another profession to advise.

SECTION B9 - The incapacity or death of a practitioner

General

1. Practicing certificates are granted to Registrants on the condition that they have made arrangements for continuity in the management of their practice, in the event of their death or incapacity.

2. Principals in the same practice (partnership or corporation) may arrange continuity through their fellow partners, or directors, providing these persons are suitably qualified to carry out work which they will be called on to undertake in the role of continuity nominees.

3. When entering into an agreement with another firm for the provision of continuity, a Registrant shall try to find a compatible practice where procedures, fee structure and the work in general are of a similar kind. Practical considerations, such as geographic location, staff availability and skills, client characteristics, etc., shall be taken into consideration.

4. Continuity nominees shall be suitably qualified at the time they agree to be nominated as such and at all times thereafter. In the event that a nominee fails to retain his/her qualification he/she will no longer be a valid continuity nominee and the practitioner will have to find a replacement.

5. A Registrant shall ensure that their executors and family will be aware, in the event of the Registrant's death or incapacity, of the arrangements made for the management of the practice.

Content of continuity agreement

6. A continuity agreement shall be evidenced in writing.

7. A continuity agreement shall include clauses within it which set out:

(a) the precise nature of the legal relationship between the principal and the continuity nominee;
(b) the circumstances which will cause the management arrangement under the continuity agreement to commence operating;
(c) a statement of the maximum duration of the management of the practice under the continuity agreement;
(d) provisions for the review of the arrangements should circumstances warrant an extension of time;
(e) the continuity nominee's obligations;
(f) the continuity nominee's powers relating to such matters as the administration of the practice, engagement and dismissal of staff and operating bank accounts;
(g) the basis on which the continuity nominee will be remunerated;
(h) the letter to be sent to clients in the event of the principal's death or incapacity.

8. A Registrant may include additional clauses in their continuity agreement which deal with matters other than those included in paragraph 7 above.

9. A Registrant may include clauses in their continuity agreement which deal with the sale of the practice. (Parties to such transactions shall normally be independently advised.)

10. Registrants are strongly advised to seek legal advice when drawing up a continuity agreement.

11. Copies of model continuity agreements are available from the ICAJ.

Descriptions

12. The name of the continuity nominee who is managing the practice under the continuity agreement shall be disclosed on the letter head of the incapacitated/deceased practitioner as soon as possible, e.g.

David J Smith
Registered Public Accountant
Manager: Henry R Jones, M.A.

Or

Manager: Davies and Jones
Registered Public Accountants

Records

13. Registrants are recommended to maintain adequate records in relation to practice matters, and to inform the continuity nominee of the firm's practices and procedures. Such information will assist

the continuity nominee to undertake his/her duties when called upon to act.

Incapacity of a practitioner

14. A principal, in spite of his/her incapacity continues to be the owner of the practice and also will be responsible for the actions of the continuity nominee appointed to manage the practice during the period of his/her incapacity.

15. Where a Registrant is incapacitated, it is important that professional indemnity insurers and other insurers are informed of the new circumstances; this includes notifying insurers of the appointment of a continuity nominee to manage the practice in accordance with the continuity agreement.

16. Where the incapacity of the principal is likely to be prolonged, clients shall be informed of the arrangements in place for the continuance of service to them.

Death of a practitioner

17. It is recommended that all practitioners make a will and appoint executors who will be able to administer their estate. It may be advantageous if one of the executors is professionally qualified. Executors can act at once to protect a practice. By way of illustration, if a Registrant dies intestate, his administrators will have no authority to act until they have obtained a grant of administration. The resulting delay in obtaining a grant of administration may result in the late Registrant's affairs, and those of his/her clients, not being properly controlled and managed.

18. Whether the Registrant dies intestate, or having made a will, certain matters shall be addressed without delay:

(a) the fact that personal representatives of the deceased have taken over conduct of the practice means that it cannot strictly be described as a firm of Registered Public Accountants; nevertheless, for a temporary period the old name and description of the practice may normally be retained for the purpose of realization, provided the fact that the practice is under management is indicated.

(b) Insurers shall be advised of the changed circumstances, especially those concerned with indemnity insurance.

(c) As in the case of incapacity, the continuity agreement shall note the scope of the continuity nominee's authority for administration of the practice including control of staff, operation of bank accounts, etc.

Statutory audits

19. An incapacitated Registrant will retain his/her appointment as a statutory auditor and can be removed only in accordance with the appropriate statutory procedures.

20. Some kinds of incapacity are more permanent than others and considerations of practical common sense will indicate the course to be followed.

21. Where the incapacity of the practitioner is likely to be of considerable duration or affect normal audit procedures, the directors or other persons responsible for the appointment of the auditor shall be fully informed of the circumstances and the arrangements made for the continuation of the practice.

22. If the directors wish to appoint the continuity nominee as auditor, the continuity nominee may quite properly accept, emphasizing that they do so on a temporary basis. Sometimes, however, the continuity nominee may subsequently find himself/herself in an embarrassing situation if the client then wishes to invite the continuity nominee to accept the appointment permanently. The continuity nominee may accept the appointment, but in that event the PAB would expect the continuity nominee to be ready to negotiate with the incapacitated Registrant, or his/her agent, as to the financial terms on which the continuity nominee does so, otherwise the value of the practice would be diminished.

23. Where a practitioner dies during the course of an audit, it may leave the firm not under the control of a RPA. The firm would therefore be ineligible to retain its auditing certificate. In such circumstances, the client will need to appoint new auditors, but in the meantime the firm's continuity provider shall step in and fill the vacancy to complete the audit and sign the audit report. The deceased practitioner's firm would not be permitted to sign any audit reports or take on any new audit clients.

Ethical considerations

24. In the event that a Registrant is called upon to act under a continuity agreement they shall not seek any personal gain from the arrangement apart from reasonable remuneration for the work they undertake.

25. A continuity nominee shall not accept clients from the practice they are assisting without the express agreement of the principal or the principal's representatives. This prohibition shall be applied from the date on which the continuity nominee commences to act under

the continuity agreement to two years after the arrangement is terminated. The exception to this is where the continuity nominee purchases the practice. The continuity nominee may be subjected to disciplinary action if he/she fails to comply with this rule.

26. The continuity nominee shall, whenever possible, interview clients and staff of the incapacitated Registrant at the principal's office.

27. The continuity nominee may wish to acquire the practice from the incapacitated Registrant or from his/her personal representatives and this is in no way unethical, and may be a very satisfactory solution. The continuity nominee shall negotiate with the personal representatives of a deceased Registrant (who shall normally be independently advised), or in the case of incapacity with the Registrant or his/her representatives. As noted at *paragraph 9*, the continuity agreement may include clauses which deal with arrangements for the sale of the practice.

SECTION B10 - Estates of deceased persons

1. The administration of the estates of deceased persons is a matter of law and of the terms of the wills or relevant intestacy rules. Registrants are reminded that they must comply with the requirements of the applicable law that governs the deceased person's estates and the administration of his/her affairs. Registrants are recommended to seek legal advice when acting as the personal representatives of clients.

2. It is perfectly acceptable for a Registrant to be named as a personal representative (executor) in the will of a client. Registrants are, however, reminded that acting as such for directors or shareholders of a company and also acting for the company itself may appear to compromise their independence and it may be appropriate to make disclosure in the accounts and establish review procedures to safeguard their independence.

3. As with all appointments, a Registrant shall carry out their work with a proper regard for the technical and professional standards expected of them. To this end, a Registrant shall not undertake any work which they are not competent to perform, whether because of the lack of experience or the necessary technical or other skills to ensure that the work is properly completed.

DEFINITIONS

In these Rules of Professional Conduct the following expressions have the following meanings assigned to them.

Acceptable level:	A level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the Registrant at that time, that compliance with the fundamental principles is not compromised.
Advertising:	The communication to the public of information as to the services or skills provided by Registrants with a view to procuring professional business.
Assurance client:	The responsible party that is the person (or persons) who: (a) in a direct reporting engagement, is responsible for the subject matter; or (b) in an assertion-based engagement, is responsible for the subject matter information and may be responsible for the subject matter.
Assurance engagement:	An engagement in which a Registrant expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria. (Further guidance on assurance engagements has been issued by the International Auditing and Assurance Standards Board (IAASB). The IAASB

also describes the elements and objectives of an assurance engagement and identifies engagements to which International Standards on Auditing (ISAs), International Standards on Review Engagements (ISREs) and International Standards on Assurance Engagements (ISAEs) apply.).

Assurance team:

(a) All members of the engagement team for the assurance engagement

(b) All others within a firm who can directly influence the outcome of the assurance engagement, including:

(i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner in connection with the performance of the audit engagement including those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent);

(ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and

(iii) Those who provide quality control for the engagement, including those who

perform the engagement quality control review for the engagement; and

(c) All those within a network firm who can directly influence the outcome of the audit engagement.

Close family: A parent, child or sibling who is not an immediate family member.

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

Control review: A process designed to provide an objective evaluation, on or before the report is issued, of the significant judgments the engagement team made and the conclusions it reached in formulating the report.

Controlling Owner: A shareholder or other person who has a financial interest in a client organization who has the capacity to dictate the major policy and/or strategic direction of the organization

Dependent: An individual who depends wholly or substantially for financial support on a registrant or other relevant person as the context dictates

Direct financial interest A financial interest:

(a) Owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others); or

(b) Beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control, or the ability to influence investment decisions.

Director or officer: Those charged with the governance of an entity, or acting in an equivalent capacity, regardless of their title, which may vary from jurisdiction to jurisdiction.

Engagement partner: The partner or other person in the firm who is responsible for the engagement and its performance, and for the report that is issued on behalf of the firm, and who, where required, has the appropriate authority and responsibilities for the application of these Rules of Professional Conduct and other professional, legal and regulatory obligations in relation to the conduct of the firm in respect of a particular engagement.

Engagement team: All partners and staff performing the engagement, and any individuals engaged by the firm or a network firm who perform assurance procedures on the engagement. This excludes external experts engaged by the firm or a network firm. The term “engagement team” also excludes individuals within the client’s internal audit function who provide direct assistance on an audit engagement when the external auditor

	complies with the requirements of ISA 610 (Revised 2013), *Using the Work of Internal Auditors*.
Existing accountant:	A Registrant currently holding an audit appointment or carrying out accounting, taxation, consulting or similar professional services for a client.
External expert:	An individual (who is not a partner or a member of the professional staff, including temporary staff, of the firm or a network firm) or organization possessing skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the Registrant in obtaining sufficient appropriate evidence.
Firm:	A partnership of registrants
Financial interest:	An interest in an equity or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.
Financial statements:	A structured representation of historical financial information, including related notes, intended to communicate an entity's economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The term can relate to a complete set of financial statements, but it

	can also refer to a single financial statement, for example, a balance sheet, or a statement of revenues and expenses, and related explanatory notes.
Financial statements on which the firm will express an opinion:	In the case of a single entity, the financial statements of that entity. In the case of consolidated financial statements, also referred to as group financial statements, the consolidated financial statements.
Firm:	(a) A sole practitioner, partnership or corporation of Registrants (b) An entity that controls such parties, through ownership, management or other means; and (c) An entity controlled by such parties, through ownership, management or other means.
Historical financial information:	Information expressed in financial terms in relation to a particular entity, derived primarily from that entity's accounting system, about economic events occurring in past time periods or about economic conditions or circumstances at points in time in the past.
Immediate family:	A spouse (or equivalent) or dependent.
Independence:	Independence is: (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an

individual to act with integrity, and exercise objectivity and professional skepticism.

(b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm's, or a member of the audit or assurance team's, integrity, objectivity or professional skepticism has been compromised.

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

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

Listed entity: An entity whose shares, stock or debt are quoted or listed on a recognized stock exchange, or are marketed under the regulations of a recognized stock exchange or other equivalent body.

Member of the Audit team:	A partner of a firm, employees or third party sub-contractors who are assigned to perform duties pursuant to the performance of an audit or assurance engagement.
Network:	A grouping of accounting partnerships or entities that: (a) Co-operates to develop and monitor standards of work, standardize policies common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources or any of the foregoing.
Network firm:	A firm or entity that belongs to a network.
Office :	A distinct sub-group, whether organized on geographical or practice lines.
Professional accountant:	An individual who is a member of an IFAC member body.
Professional accountant In business:	A Registrant employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or professional bodies, or a Registrant contracted by such entities.
Professional accountant In public practice:	A professional accountant, irrespective of functional classification (for example, audit, tax or consulting) in a firm that provides professional services. This term is also used to refer to a firm of Registrants.

Professional services: Services requiring accountancy or related skills performed by a Registrant including accounting, auditing, taxation, management consulting and financial management services.

Public interest entity:

(a) A listed entity; and

(b) An entity:

(i) Defined by regulation or legislation as a public interest entity; or

(ii) For which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of listed entities. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

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

(a) An entity that has direct or indirect control over the client if the client is material to such entity;

(b) An entity with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity;

(c) An entity over which the client has direct or indirect control;

(d) An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest that gives it significant influence

over such entity and the interest is material to the client and its related entity in (c); and

(e) An entity which is under common control with the client (a “sister entity”) if the sister entity and the client are both material to the entity that controls both the client and sister entity.

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

Review engagement: An assurance engagement, conducted in accordance with International Standards on Review Engagements or equivalent, in which a Registrant expresses a conclusion on whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the Registrant’s attention that causes the Registrant to believe that the financial statements are not prepared, in all material respects, in accordance with an applicable financial reporting framework.

Review team:

(a) All members of the engagement team for the review engagement; and

(b) All others within a firm who can directly influence the outcome of the review engagement, including:

    (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner in connection with the performance of the review engagement including those at

all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent);

(ii) Those who provide consultation regarding technical or industry specific issues, transactions or events for the engagement; and

(iii) Those who provide quality control for the engagement, including those who perform the engagement quality control review for the engagement; and

(c) All those within a network firm who can directly influence the outcome of the review engagement.

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

Those charged with governance: The persons with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process.

EFFECTIVE DATE

These Rules are effective on 1 March 2017; early adoption is permitted. The Rules are subject to the following transitional provisions:

Public Interest Entities

1. Section 290 of these Rules contains additional independence provisions when the audit or review client is a public interest entity. The additional provisions that are applicable because of the new definition of a public interest entity or the guidance in paragraph 290.26 will also be applicable effective on 1 March 2017. For partner rotation requirements, the transitional provisions contained in paragraphs 2 and 3 below apply.

Partner Rotation

2. For a partner who is subject to the rotation provisions in paragraph 290.151 because the partner meets the definition of the new term "key audit partner", and the partner is neither the engagement partner nor the individual responsible for the engagement quality control review, the rotation provisions are effective for the audits or reviews of financial statements for years beginning on or after 1 January 2019.

3. For an engagement partner or an individual responsible for the engagement quality control review who immediately prior to assuming either of these roles served in another key audit partner role for the client, and who, at the beginning of the first fiscal year beginning on or after 1 March 2017, had served as the engagement partner or individual responsible for the engagement quality control review for six or fewer years, the rotation provisions are effective for

the audits or reviews of financial statements for years beginning on or after 1 January 2019.

Non-assurance services

4. Paragraphs 290.156-290.219 address the provision of non-assurance services to an audit or review client. If, at the effective date of these Rules, services are being provided to an audit review client and the services were permissible under the IFAC Code of Ethics but are either prohibited or subject to restrictions under these Rules, the firm may continue providing such services only if they were contracted for and commenced prior to 1 March 2017, and are completed before 31st December 2018.

5. Paragraph 290.222 provides that, in respect of an audit or review client that is a public interest entity, when the total fees from that client and its related entities (subject to the considerations in paragraph 290.27) for two consecutive years represent more than 15% of the total fees of the firm expressing the opinion on the financial statements, a pre- or post-issuance review (as described in paragraph 290.222) of the second year's audit shall be performed. This requirement is effective for audits or reviews of financial statements covering years that begin on or after 1 January 2019. For example, in the case of an audit client with a calendar year end, if the total fees from the client exceeded the 15% threshold for 2017 and 2018, the pre- or post-issuance review would be applied with respect to the audit of the 2018 financial statements.

Compensation and Evaluation Policies

6. Paragraph 290.229 provides that a key audit partner shall not be evaluated or compensated based on that partner's success in selling

non-assurance services to the partner's audit client. This requirement is effective on 1 July 2017. A key audit partner may, however, receive compensation after 1 July 2017 based on an evaluation made prior to 1 July 2017 of that partner's success in selling non-assurance services to the audit client.

APPENDIX 1: Applicability of the Rules of Professional Conduct

Registrants' Responsibility for the Conduct of Others

1. A Registrant must not permit others to carry out on the Registrant's behalf acts which if carried out by the Registrant, would place the Registrant in breach of the Rules of Professional Conduct or the *Public Accountancy Act.*

2. Registrants may be held responsible for compliance with the Rules of Professional Conduct of all persons associated with the Registrant in the practice of accountancy, who are either under the Registrant's supervision or are the Registrant's partners or fellow directors in a corporate practice.

3. Registrants may on occasion use the services of experts who are not Registrants. The Registrant must take steps to ensure that such experts are aware of the requirements of the Rules of Professional Conduct. Such steps include:

    (a) asking the expert to read the Rules of Professional Conduct and any other relevant ethical requirements;
    (b) requiring written confirmation of the expert's understanding of the ethical requirements;
    (c) highlighting to the expert any specific ethical requirements or risks unique to the engagement; and
    (d) providing consultation when potential conflicts arise.

Services Outside Jamaica

4. A Registrant may be temporarily visiting another country to perform professional work. When a Registrant performs professional work in

a country other than Jamaica the Registrant must consider the relevant ethical requirements of:

(a) the Rules of Professional Conduct
(b) the International Federation of Accountants' (IFAC) Code of Ethics; and
(c) the ethical requirements of the country in which the work is being performed.

5. The registrant must comply with the strictest of the above requirements.

Removal of the Auditor

6. The distinction between the directors and the shareholders will sometimes have little or no relevance, either because the directors hold a controlling interest or because all the shareholders are directors. When in these circumstances the directors fail to comply with the auditor's advice they are likely to wish to prevent the auditor from completing his audit and making a report containing qualifications. They could achieve this by calling a general meeting at which the sole business would be the removal of the auditor, no accounts being placed before the meeting. If this procedure is followed, the auditor may wish to exercise his right under the Jamaican Companies Act to attend the meeting and be heard. If he has been acting for the company in relation to taxation matters, and he receives any enquiries from the Revenue he should confine his reply to a statement that he has been removed from office a general meeting called specially for that purpose and that the enquiries should accordingly be addressed to the company.

APPENDIX 2: Resolving Conflicts of Loyalties – Registrants in Employment with an Audit Firm

1. From time to time Registrants will encounter situations which give rise to ethical conflicts. Such conflicts may arise in a wide variety of ways, ranging from the relatively trivial dilemma to the extreme case of fraud and similar illegal activities.

2. This Appendix provides specific guidance to Registrants in employment when they encounter a conflict of loyalties between the instructions or interests of their employer and their professional and ethical obligations.

3. Registrants in employment owe a duty of loyalty to their employer as well as to their profession and there may be times when the two are in conflict. An employee's normal priority must be to support the organization's legitimate and ethical objectives and the rules and procedures drawn up in support of those objectives. However, a registrant in employment with an audit firm cannot legitimately be required to:

   (a) break the law;
   (b) breach the Rules of Professional Conduct, or any pronouncements issued by the Board;
   (c) lie to or mislead (including misleading by keeping silent) those acting as auditors to the employer;
   (d) be party to the falsification of records; or
   (e) put the registrant's name to or otherwise be associated with a statement which materially misrepresents the facts.

4. While Registrants in employment should observe the terms of their employment, these cannot require them to be implicated in any dishonest transaction. If they are instructed or encouraged to engage in any activity that is unlawful they are entitled and required to decline in order to retain their Integrity.

5. When Registrants become aware that their employers have committed an unlawful act that could compromise them, every effort should be made to persuade the employer not to perpetuate the unlawful activity and to rectify the matter.

6. When faced with a significant ethical conflict between the instructions or interests of their employer and their professional and ethical obligations, Registrants should take all reasonable steps to resolve the conflict.

7. The “reasonable steps” which a Registrant in employment with an audit firm is expected to take to resolve an ethical conflict include the following:

   (a) Follow the established policies (if any) of the registrant’s employing organization to seek a resolution of the conflict;
   (b) Review the conflict problem with the registrant’s immediate superior. If the problem is not resolved with the immediate superior, the registrant should consider going to a higher managerial level, in which case the immediate superior should normally be notified of the decision. If it appears that the superior is involved in the conflict problem, the Registrant should raise the issue with a higher level of management.

(c) Consider documenting the conflict in a memorandum. Matters to be documented could include the Registrant's understanding of the facts, the Registrant's professional and ethical obligations, the implications for the employing organization and the Registrant, and the persons with whom the Registrant discussed the issue.

(d) If the ethical conflict remains unresolved after the Registrant has raised the issue with management at the highest level in the audit firm and the matter is sufficiently significant, then the Registrant should consider raising the issue with senior management registrants of the audit firm.

(e) Seek counseling and advice on a confidential basis with an independent adviser or the Public Accountancy Board to obtain an understanding of possible courses of action.

(f) If the ethical conflict still exists after fully exhausting all levels of internal review, the Registrant may have no other recourse on significant matters (for example, fraud) than to consider resignation. The employing firm may also be influenced in taking the right decision if it is made clear by the Registrant that it will not be possible to continue as an employee if matters are not righted. If a Registrant resigns because of an ethical conflict, the Registrant should consider documenting the reasons for resignation in a memorandum to an appropriate level of authority within the employing audit firm.

8. Registrants must respect the confidentiality of information acquired during their employment and may therefore be precluded from communicating the issue causing a conflict to third parties. However, in certain circumstances (for example, wrongful dismissal as a result of an ethical conflict) Registrants may have a legal or professional right or obligation to communicate the issue.

9. Registrants in senior positions should endeavor to ensure that policies are established within their employing audit firms to seek resolution of ethical conflicts.