

# CODE OF PROFESSIONAL CONDUCT

## INTRODUCTION

Council of the Institute has identified skills and integrity as the pre-eminent professional attributes of Chartered Accountants (South Africa). The same principles are applicable to associates and students of the Institute. Council is committed, in the interests of the accountancy profession as a whole, to enhancing these qualities in all members, associates and students by providing appropriate guidance. This Code deals with professional attitudes and behaviour.

Guidance on the other aspects of professionalism relating to knowledge and skills is given in other documents issued by the Institute, the Public Accountants' and Auditors' Board (the Board) and the Accounting Practices Board. The Board also issues a Code of Professional Conduct and rules and regulations dealing with the conduct of those members and associates who are registered in terms of the Public Accountants' and Auditors' Act (the Act). In addition, the Provincial Societies of Chartered Accountants issue local rules concerning the conduct of members in their provinces.

This Code is consistent in all material respects with the Code of Ethics issued by the International Federation of Accountants.

The Code is established on the basis that unless a limitation is specifically stated the objectives and fundamental principles are equally valid for all members, associates and students whether they be in public practice, industry, commerce, the public sector or education.

A profession is distinguished by certain characteristics including:

- (a) Mastery of a particular intellectual skill, acquired by training and education;
- (b) Acceptance of duties to society as a whole in addition to duties to the client or employer;
- (c) An outlook which is essentially objective;
- (d) Rendering personal services to a high standard of conduct and performance.

**DEFINITIONS**

- .06 For the purposes of this Code the following terms have the following meanings assigned to them. These definitions are for guidance only and are not intended to be complete or exhaustive.
- (a) Advertising - The communication to the public of information as to the services or skills provided by a member or associate with a view to procuring professional business.
  - (b) Associate - A person as defined as such in the Constitution.
  - (c) Client - A person or an undertaking with whom a member or associate has or can reasonably expect to have a continuing professional relationship. A client for whom a member or associate carries out a single professional task which has been completed, or who has terminated a previously existing professional relationship, will not be regarded as a client for the purposes of this Code.
  - (d) Client account - Any bank account which is used solely for the banking of clients' monies.
  - (e) Clients' monies - Any monies - including documents of title to money e.g. bills of exchange, promissory notes, and documents of title which can be converted into money e.g., bearer bonds - received by a member or associate in public practice to be held or paid out on the instruction of the person from whom or on whose behalf they are received.
  - (f) Existing accountant - A member or associate in public practice currently engaged by the client to render professional services to him.
  - (g) Investee - A subsidiary or an entity subject to the significant influence of an investor.
  - (h) Investor - A parent, general partner, or natural person or corporation that has the ability to exercise significant influence on an investee.
  - (i) Practice - A sole practitioner, a partnership, a company or a close corporation of members or associates which offers professional services to the public.
  - (j) Member - Unless the contrary intention appears, a Chartered Accountant member of the Institute.
  - (k) Member or associate in public practice - A member or associate providing professional services to the public, whether on a full time or an occasional basis.

## (l) Professional work, professional services and professional business

This is regarded as related to the following:

(i) **The attest function (audit services)**

- The examination, in accordance with generally accepted auditing standards, of financial statements with the objective of expressing an opinion as to their fairness and as to their compliance with the requirements of applicable statutes.
- The audit of other reports and representations of a financial nature.

(ii) **The financial reporting function (accounting services)**

- **External financial reports:** The preparation of financial statements in accordance with generally accepted accounting practice and applicable statutes and the interpretation of those financial statements.
- **Internal financial systems and reports:** The design and operation of internal accounting systems to provide management with information which will enable management to plan, monitor and control its business.

(iii) **The advising function (advisory and fiduciary services)**

- **Taxation services:** The interpretation and application of revenue laws and procedures and of tax planning.
- **Management consulting services:** The provision of consulting services to management of enterprises; these services include advisory services relating to planning, control, cost accounting, financial management and reporting, data processing and related systems.
- **Other services:** These services include investigations, valuations, secretarial services, trusteeships, the planning and administration of estates, judicial management and liquidation and insolvency work.

## (m) Proposed accountant - A member or associate in public practice whom the client proposes to engage in place of or in addition to the existing accountant.

- (n) Publicity - The communication to the public of information about a member or associate or his firm or bringing his name or the name of his firm to the notice of the public.
- (o) Receiving accountant - A member or associate in public practice to whom the existing accountant or client of the existing accountant has referred audit, accounting, taxation, consulting or similar appointments, or who is consulted in order to meet the needs of the client.
- (p) Reporting assignment - An engagement which requires the expression of an opinion by a member or associate in public practice.
- (q) Solicitation : Direct mailing and cold-calling - The direct or indirect approach to a potential client for the purpose of offering to perform professional work. Direct mailing and "cold calling" are forms of solicitation. Direct mailing includes sending a brochure to a non-client who did not request it. Cold calling includes the direct or indirect approach to a potential client in person or by telephone.
- (r) Student - A person as defined as such in the Constitution.

### **THE PUBLIC INTEREST**

- .07 A distinguishing mark of a profession is acceptance of its responsibility to the public. The accountancy profession's public consists of clients, governments, employers, employees, investors, the business and financial community, and others who rely on the objectivity and integrity of members, associates or students to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on the accountancy profession. The public interest is defined as the collective well-being of the community of people and institutions the member, associate or student serves.
- .08 A member's, associate's or student's responsibility is not exclusively to satisfy the needs of an individual client or employer. The standards of the accountancy profession are heavily determined by the public interest, for example:
  - (a) independent auditors help to maintain the integrity and efficiency of the financial statements presented to financial institutions in partial support for loans and to stockholders for obtaining capital;

- (b) financial executives serve in various financial management capacities in organisations and contribute to the efficient and effective use of the organisation's resources;
- (c) internal auditors provide assurance about a sound internal control system which enhances the reliability of the external financial information of the employer;
- (d) tax experts help to establish confidence and efficiency in, and the fair application of, the tax system;
- (e) management consultants have a responsibility toward the public interest in advocating sound management decision making.

Members, associates and students have an important role in society. .09  
 Investors, creditors, employers and other sectors of the business community, as well as the government and the public at large rely on members, associates and students for sound financial accounting and reporting, effective financial management and competent advice on a variety of business and taxation matters. The attitude and behaviour of members, associates and students in providing such services have an impact on the economic well-being of their community and country.

Members, associate and students can remain in this advantageous position .10  
 only by continuing to provide the public with these unique services at a level which demonstrates that the public confidence is firmly founded. It is in the best interest of the accountancy profession to make known to users of the services provided by members, associates and students that they are executed at the highest level of performance and in accordance with ethical requirements that strive to ensure such performance.

## OBJECTIVES

The Code recognises that the objectives of the accountancy profession are to .11  
 work to the highest standards of professionalism, to attain the highest levels of performance and generally to meet the public interest requirement set out above. These objectives require four basic needs to be met:

(a) *Credibility*

In the whole of society there is a need for credibility in information and information systems.

(b) *Professionalism*

There is a need for individuals who can be clearly identified by clients, employers and other interested parties as professional persons in the accountancy field.

(c) *Quality of Services*

There is a need for assurance that all services obtained from a member, associate or student are carried out to the highest standards of performance.

(d) *Confidence*

Users of the services of members, associates or students should be able to feel confident that there exists a framework of professional ethics which governs the provision of those services.

## FUNDAMENTAL PRINCIPLES

.12 In order to achieve the objectives of the accountancy profession, members, associates and students have to observe a number of prerequisites or fundamental principles.

.13 The fundamental principles are:

(a) *Integrity* (see Section 2)

Integrity is essentially an attitude of mind. Adherence to certain standards of conduct and moral behaviour consistently practised will ensure integrity.

A member or associate should be straightforward and honest in performing professional services.

(b) *Objectivity* (see Sections 2 and 3)

Objectivity is essentially the quality of being able to maintain an impartial attitude. It requires a member or associate to be fair and not to allow prejudice or bias or influence of others to override objectivity.

(c) *Professional Competence and Due Care* (see Section 4)

A member or associate, in agreeing to provide professional services, implies that there is a level of competence necessary to perform

professional services and that the knowledge, skill and experience of the member or associate will be applied with reasonable care and diligence. Members or associates should therefore refrain from performing any services which they are not competent to carry out unless advice and assistance is obtained to ensure that the services are performed satisfactorily.

A member or associate should perform professional services with due care, competence and diligence and has a continuing duty to maintain professional knowledge and skill at a level required to ensure that a client or employer receives the advantage of competent professional service based on up-to-date developments in practice, legislation and techniques.

(d) *Confidentiality* (see Section 5)

A member or associate should respect the confidentiality of information acquired during the course of performing professional services and should not use or disclose any such information without proper and specific authority or unless there is a legal or professional right or duty to disclose.

(e) *Professional Behaviour* (see Sections 6-10)

A member, associate or student should act in a manner consistent with the good reputation of the profession and refrain from any conduct which might bring discredit to the profession. A member, associate or student, should conduct himself with courtesy and consideration towards clients, third parties, other members, associates or students of the accountancy profession, staff, employers and the general public.

(f) *Technical Standards* (see Sections 11-19)

A member or associate should carry out professional services in accordance with the relevant technical and professional standards. Members and associates have a duty to carry out with care and skill, the instructions of the client or employer in so far as they are compatible with the requirements of integrity, objectivity and, in the case of members or associates in public practice, independence (see Section 11). In addition, they should conform with the technical and professional standards promulgated by the Institute, relevant authorities and relevant legislation.

## STATUS OF THE CODE

- .14 The objectives as well as the fundamental principles are of a general nature and are not intended to be used to solve a member's, associate's or student's ethical problems in a specific case. Therefore, the Code also provides detailed guidance as to the application in practice of the objectives and the fundamental principles with regard to a number of typical situations occurring in the accountancy profession.
- .15 If, having consulted this Code, doubt still exists in a member's, associate's or student's mind, he should fully discuss the matter with an appropriate and senior member or associate of the Institute. If considered necessary, advice should be sought from one of the Advisory Panels set up by the Profession.
- .16 Paragraphs .29, .36, .43 and .49 of the Institute's By-laws sets out acts and practices which shall be offences and which, if committed by a member, associate or student, render him liable to penalties. For example, in subparagraph (l) of paragraph .29 of the By-laws it is stated that "if a member conducts himself in a manner which, in the opinion of the Investigation Committee or the Disciplinary Committee, is discreditable, dishonourable, dishonest, irregular, or unworthy or which is derogatory to the Institute, or tends to bring the profession of accountancy into disrepute", such conduct will be considered an act or practice which shall be an offence. It should be noted that the decision of the Disciplinary Committee is final and there is no appeal against its decision. When forming its opinion the committee will be guided by this Code. It is emphasised that the Code sets out the way Council considers a member, associate or student, should behave in certain circumstances and also sets out those circumstances in which a member, associate or student, should very carefully consider his position before deciding on his course of action. Breach of the Code will indicate only that an offence may have been committed. If a complaint is lodged alleging that a member, associate or student, has breached the Code such member, associate or student, may well be called upon by the Investigation or Disciplinary Committees to show cause why he considers that the breach, if there was one, did not constitute an offence.
- .17 The Code set out below is divided into three parts: Part A applies to all members, associates or students unless otherwise specified, Part B applies only to those members and associates in public practice, part C applies those members in Commerce and Industry.



**PART A - APPLICABLE TO ALL MEMBERS, ASSOCIATES AND STUDENTS****SECTION 1 - JOINT AND VICARIOUS LIABILITY**

A member, associate or student may be held responsible for a breach of, or .01 failure to comply with, this Code on the part of all persons who are -

- (a) his employees; or
- (b) under his supervision; or
- (c) his partners; or
- (d) fellow shareholders in, or directors or employees of, a company controlled by the member, associate or student or the member, associate or student and his partners and offering professional services to the public. (For purposes of this Code a company will be deemed to be controlled by member, associate or students if members, associates or students between them hold directly or indirectly, more than half of the voting rights attached to the shares of the company or directly or indirectly and either alone or together with anyone else are entitled to exercise the *de facto* right to control the manner in which the business of the company is carried on (including, but without limitation, the right to appoint the majority of the persons entitled to exercise control over its management and affairs)); or
- (e) fellow members, associates or students in or employees of a close corporation controlled by the member, associate or student or the member, associate or student and his partners and offering to do professional work to the public. (For purposes of this Code a close corporation will be deemed to be controlled by members, associates or students if members, associates or students between them hold an interest in the corporation which would entitle them to a majority vote at a meeting of members, associates or students of the corporation, or would otherwise entitle them to exercise the *de facto* right to control the manner in which the business of the corporation is carried on.)

A member, associate or student may not, under the guise or through the .02 medium of a partnership, company, close corporation or any other entity, do anything or allow anything to be done which he would not be permitted to do as an individual.

- .03 A member, associate or student may not permit others to carry out on his behalf, either with or without remuneration, acts which, if carried out by himself, would constitute a contravention of this Code.

## SECTION 2 - INTEGRITY AND OBJECTIVITY

- .01 The principles of integrity and objectivity impose the obligation on all members, associates and students to be fair, honest and free of conflicts of interest, prejudice and bias.
- .02 Members, associates and students serve in many different capacities and there is an obligation on them to apply these principles, even at the sacrifice of personal advantage, whether they are in commerce, in industry, in academic situations, in the public sector or in public practice. Regardless of service or capacity, members, associates and students should protect the integrity of their professional services, maintain objectivity, and avoid any subordination of their judgement by others.
- .03 Relationships or interests, whether direct or indirect, which could adversely influence, impair or threaten his capacity to act with integrity and objectivity should be avoided. A member, associate or student should not accept or provide gifts or similar favours which could impair his integrity or objectivity.
- .04 Members, associates and students will be exposed to situations which involve the possibility of pressures being exerted on them. These pressures may impair their integrity and objectivity. It is impracticable to define and prescribe all such situations where these possible pressures exist, but reasonableness should prevail in identifying relationships that are likely to, or appear to impair a member's, associate's or student's integrity and objectivity.

## SECTION 3 - CONFLICTS OF INTEREST

- .01 A member, associate or student should be and appear to be free of any influence, interest or relationship, whether direct or indirect which might be regarded, whatever its actual effect, as being incompatible with integrity, objectivity and, in the case of a member or associate in public practice, independence.

A member, associate or student should be constantly alert to the possibility of a conflict of interest. .02

The member, associate or student should consider the facts and circumstances before deciding whether or not his integrity and objectivity would be impaired by accepting the engagement or continuing in the position. .03

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. It is not possible to attempt to itemise a comprehensive check list of potential cases where conflicts of interest might occur. .04

It should be noted that an honest difference of opinion between a member, associate or student and another party is not in itself an ethical issue. .05

It is recognised, however, that there can be particular factors which occur when the responsibilities of a member, associate or student may conflict with internal or external demands of one type or another. Hence: .06

- (a) There may be the danger of pressure from an overbearing supervisor, manager, director or partner; or when there are family or personal relationships which can give rise to the possibility of pressures being exerted upon them. Indeed, relationships or interests which could adversely influence, impair or threaten a member's, associate's or student's integrity should be discouraged.
- (b) A member, associate or student may be asked to act contrary to technical and/or professional standards.
- (c) A question of divided loyalty as between the member's, associate's or student's superior and the required professional standards of conduct could occur.
- (d) Conflict could arise when false, misrepresenting, or misleading statements or information is released or published which may be to the advantage of the employer or client and which may or may not benefit the member, associate or student as a result of such publication.

Where a member, associate or student has reason to believe that his or his employee's involvement in an assignment would possibly cause a conflict of interest, he should immediately disclose this fact. .07

- .08 Where it is clear that a material conflict of interest exists, a member, associate or student should decline to act.
- .09 Where a member, associate or student considers that it would be possible to act objectively, the engagement may be accepted provided:
- (a) the nature of the conflict is fully explained to each party for whom the member, associate or student will be acting; and
  - (b) the parties agree in writing that the member, associate or student may act.
- .10 In applying standards of ethical conduct, members, associates or students may encounter problems in identifying unethical behaviour or in resolving an ethical conflict. When faced with significant ethical issues, members, associates or students not in public practice should follow the established policies of the employing organisation to seek a resolution of such conflict. If those policies do not resolve the ethical conflict, the following should be considered:
- (a) Review the conflict problem with the immediate superior. If the problem is not resolved with the immediate superior and the member, associate or student determines to go to the next higher managerial level, the immediate superior should be notified of the decision. If it appears that the superior is involved in the problem, the member, associate or student should raise the issue with the next higher level of management. When the immediate superior is the Chief Executive Officer (or equivalent) the next higher reviewing level may be the Executive Committee, Board of Directors, Non-Executive Directors, Trustees, Partners' Management Committee or shareholders.
  - (b) Seek counselling and advice on a confidential basis with an independent advisor or appropriate and senior member or associate of the Institute to obtain an understanding of possible courses of action. If considered necessary, advice should be sought from the Advisory Panel of the Institute.
  - (c) If the ethical conflict still exists after fully exhausting all levels of internal review, the member, associate or student, as a last resort, may have no other recourse on significant matters, such as fraud, than to resign from the employing organisation, and to submit a

memorandum setting out the reasons for resigning to an appropriate representative of that organisation.

**SECTION 4 - PROFESSIONAL COMPETENCE**

A member, associate or student should not undertake or continue with any professional services which he is not competent to carry out unless competent advice and assistance is obtained so as to enable him to satisfactorily perform such services. If a member, associate or student does not have the competence to perform a specific part of the professional service, technical advice may be sought from experts such as other members, associates or students, lawyers, actuaries, engineers, geologists, valuers. .01

Whether a member, associate or student is in public practice, commerce, industry, academic life or the public sector, he has a responsibility to keep himself up-to-date in whatever field of activity he is engaged. .02

A member, associate or student should maintain his professional knowledge and skill. This requires a continuing awareness of developments in the accountancy profession including relevant national and international pronouncements on accounting, auditing and other relevant regulations and statutory requirements. .03

All members, associates or students should adopt a programme of continuing professional education. Guidance is issued by the Institute from time to time. .04

**SECTION 5 - CONFIDENTIALITY**

Members, associates or students have an obligation to respect the confidentiality of information about a client's or employer's affairs acquired. The duty of confidentiality continues even after the end of the relationship between the member, associate or student and the client or employer. .01

Confidentiality should always be observed by a member, associate or student unless specific authority has been given to disclose information or there is a legal or professional duty to disclose. .02

Members, associates or students have an obligation to ensure that staff under their control and persons from whom advice and assistance is obtained respect the principle of confidentiality. .03

- .04 Confidentiality is not only a matter of disclosure of information. It also requires that a member, associate or student acquiring information in the course of performing professional services shall neither use nor appear to use that information for personal advantage or for the advantage of a third party.
- .05 A member, associate or student has access to much confidential information about a client's or employer's affairs not otherwise disclosed to the public. Therefore the member, associate or student should be relied upon not to make unauthorised disclosures to other persons. This does not apply to disclosure of such information in order properly to discharge the member's, associate's or student's responsibility according to the profession's standards, or when required by law.
- .06 The following should be considered in determining the extent to which confidential information may be disclosed.
- (a) When disclosure is authorised.

When authorisation to disclose is given by the client or the employer the interests of all the parties including those third parties whose interests might be affected should be considered.

- (b) When disclosure is required by law.

Examples of when a member, associate or student is required by law to disclose confidential information are:

- (i) to produce documents or to give evidence in the course of legal proceedings; and
- (ii) to disclose to the appropriate authorities infringements of the law which come to light.

- (c) When there is a professional duty or right to disclose:

- (i) to comply with technical standards and ethics requirements - such disclosure is not contrary to this section;
- (ii) to protect the professional interests of a member, associate or student in legal proceedings;
- (iii) to comply with the quality review of the Institute;
- (iv) to respond to an inquiry or investigation by the Investigation or Disciplinary Committees.

Where a member, associate or student is required to disclose information .07  
about a client's or employer's affairs he should advise the client or employer  
that this is the case. Care should be taken to ensure that no more information  
than is strictly necessary be made available.

## **SECTION 6 - TAX PRACTICE**

A member, associate or student rendering professional tax services is entitled .01  
to put forward the best position in favour of a client, or an employer, provided  
the service is rendered with professional competence, does not in any way  
impair integrity and objectivity, and is in the opinion of the member, associate  
or student consistent with the law. Doubt may be resolved in favour of the  
client or the employer if there is reasonable support for the position.

A member, associate or student should not hold out to a client or an employer .02  
the assurance that the tax return prepared and the tax advice offered are  
beyond challenge. Instead, the member, associate or student should ensure  
that the client or the employer are aware of the limitations attaching to tax  
advice and services so that they do not misinterpret an expression of opinion  
as an assertion of fact.

A member, associate or student who undertakes or assists in the preparation .03  
of a tax return should advise the client or the employer that the responsibility  
for the content of the return rests primarily with the client or employer. The  
member, associate or student should take the necessary steps to ensure that  
the tax return is properly prepared on the basis of the information received.

Tax advice or opinions of material consequence given to a client or an .04  
employer should be recorded, either in the form of a letter or in a  
memorandum for the files.

A member, associate or student should not be associated with any return or .05  
communication in which there is reason to believe that it:

- (a) Contains a false or misleading statement;
- (b) Contains statements or information furnished recklessly or without  
any real knowledge of whether they are true or false; or
- (c) Omits or obscures information required to be submitted and such  
omission or obscurity would mislead the revenue authorities.

- .06 For the purpose of this section of the Code, "associated" has the following meaning:

A member, associate or student, or in the case of a practice, his practice is "associated" with a return or with a financial statement to be submitted with a return or with a submission on behalf of a client or employer when he has consented to the use of his or his practice's name in that return or statement or submission or when he has submitted to the taxation authorities, with or without a covering letter, a return or financial statement or submission which he or his practice has prepared or assisted in preparing. The fact that the return or financial statement or submission may be typed or otherwise reproduced on plain paper (as distinct from the member's, associate's or student's or his practice's own stationery) or that the name of the member, associate or student or his practice is not appended to them does not itself negate such association.

- .07 A member, associate or student may prepare tax returns involving the use of estimates if such use is generally acceptable or if it is impractical under the circumstances to obtain exact data. When estimates are used, they should be presented as such in a manner so as to avoid the implication of greater accuracy than exists. The member, associate or student should be satisfied that estimated amounts are reasonable under the circumstances.

- .08 In preparing a tax return, a member, associate or student ordinarily may rely on information furnished by the client or employer provided that the information appears reasonable. Although the examination or review of documents or other evidence in support of the information is not required, the member, associate or student should encourage, when appropriate, such supporting data to be provided.

- .09 In addition, the member, associate or student:

- (a) should make use of the client's returns for prior years whenever feasible.
- (b) is required to make reasonable inquiries when the information presented appears to be incorrect or incomplete.
- (c) is encouraged to make reference to the books and records of the business operations.

- .10 When a member, associate or student learns of a material error or omission in a tax return of a prior year (with which the member, associate or student may



or may not have been associated), or of the failure to file a required tax return, the member, associate or student has a responsibility to promptly advise the client or employer of the error or omission and recommend that disclosure be made to the revenue authorities. The member, associate or student is not obligated to inform the revenue authorities, nor may this be done without permission.

If the client or the employer does not correct the error the member, associate or student: .11

- (a) should inform the client or the employer that it is not possible to act for them in connection with that return or other related information submitted to the authorities; and
- (b) should consider whether continued association with the client or employer in any capacity is consistent with professional responsibilities; and
- (c) should refer to the section in the Code of Professional Conduct dealing with the resolution of ethical conflicts.

If the member, associate or student concludes that a professional relationship with the client or employer can be continued, all reasonable steps should be taken to ensure that the error is not repeated in subsequent tax returns. .12

## **SECTION 6A - INSOLVENCY PRACTICE**

### **Definitions**

For the purpose of this section, the terms set out below have the following meanings: .01

- (a) Appointments - appointments held by members as trustees, liquidators, judicial managers or receivers for creditors in estates, including all other appointments of a fiduciary or representative nature held in estates;
- (b) Estate - any person, company, close corporation, partnership, trust or other body or entity sequestrated, liquidated, or placed under judicial management, in receivership or under curatorship;
- (c) Master - the Master of any Division of the High Court of South Africa;
- (d) Services - all services and work rendered and performed by members in the exercise of their duties and functions in their capacities as trustees, liquidators, judicial managers, curators,

receivers for creditors or in any other fiduciary capacity in respect of any estate and the administration and winding-up of such estate generally.

### **Appointments**

- .02 Members and associates may not accept an appointment if they are disqualified from doing so in terms of the provisions of Section 55 of the Insolvency Act and Section 372 of the Companies Act or for any other valid reason.
- .03 Members and associates may not, by means of any misrepresentation or reward, whether direct or indirect, induce any person to vote for their appointment.
- .04 Furthermore, members and associates may not, in order to induce a creditor to vote for them in respect of an appointment -
  - (a) wrongfully omit the name of a creditor from any record required under the Insolvency Act or other applicable law; or
  - (b) directly or indirectly give any person any consideration; or
  - (c) agree to abstain from investigating any transactions involving the estate concerned; or
  - (d) split claims for the purpose of increasing the number of votes in their favour.

### **Performance of services**

- .05 Members and associates must render and perform their services in the best interest of the general body of creditors of estates.
- .06 Members and associates must thoroughly and diligently investigate and examine the affairs and transactions of each estate up to the date of sequestration or liquidation and whenever legally possible, and provided funding is available, set aside all impeachable transactions involving any estate.
- .07 Members and associates must, in the performance of their services and the administration of estates in respect of which joint appointments are held, immediately report to the Master conduct by any joint appointee which would detrimentally affect or prejudice the estates or the creditors of the states.

Members and associates may not obtain any benefit or share of commission .08  
from any person engaged to render services in connection with the estate.

Members and associates, their partners, fellow directors, employees or .09  
spouses may not acquire any asset of estates in respect of which they hold  
appointments unless such acquisition is approved by the High Court.

Save in respect of fellow partners and co-directors in a professional company .10  
of practising chartered Accountants, members may not share with any person  
(other than a person with whom they hold a co-appointment or between  
liquidators/trustees appointed in related groups of companies or related  
insolvent estates) any portion of fees earned by them in respect of services  
performed by them.

Members and associates may not enter into an agreement to grant any debtor .11  
or creditor any benefit or advantage not provided by law.

Members and associates may not, in the performance of their services: .12

- (a) without lawful excuse delay payment of monies due to other parties;
- (b) without the Master's prior written permission transfer any surplus funds after the finalisation of the winding-up of an estate into any other accounts, including their own accounts;
- (c) obtain, in an irregular manner, any confidential information that would assist them in obtaining an appointment;
- (d) claim to be an expert or to have specialised knowledge in respect of insolvency if in fact they are not such an expert or do not have such special knowledge;
- (e) without good reason, directly or indirectly, persuade any person to utilise the services of any particular accountant, attorney, financial institution, agent or auctioneer;
- (f) unless legally obliged to do so, divulge any confidential information regarding any estate in respect of which they hold appointments.

## **SECTION 7 - DISCRIMINATION**

A member, associate or student should not practise discrimination against any person based on race, colour, religion, sex, marital status, age or origin in engagement, promotion, dismissal, salary, transfer, training or other practices relating to employment.

## **SECTION 8 - CROSS BORDER ACTIVITIES**

Members, associates or students working in other countries where the profession is controlled by a reputable body or by law should adhere to local ethical requirements even though to do so may not be in accordance with this Code. Members, associates or students working in a country where the profession is not so controlled, should follow the guidance of the Institute unless recognised, well established and reputable local standards are being applied.

## **SECTION 9 - PUBLICITY, ADVERTISING AND SOLICITATION**

### **Publicity and advertising**

- .01 Members, associates or students in public practice ordinarily offer a wide range of professional services and products. For their practices to be conducted in a businesslike manner and to compete effectively with individuals and organisations offering similar services and products, it is necessary for the public to be informed of the services and products on offer.
- .02 Publicity and advertising by all members, associates or students of all services and products is therefore permitted.
- .03 A member, associate or student preparing or authorising the issue of material for the purpose of publicity, advertising, direct mailing or cold calling of his services and products should do so with a due sense of responsibility to the profession and to the public as a whole. In particular, such material should be aimed at informing the public in an objective manner and be in good taste both as to content and presentation. The medium used must be consistent with the dignity of the profession.
- .04 Advertisements should conform with the accepted norms of legality, decency, honesty and truthfulness.
- .05 A member, associate or student will be personally responsible for ensuring that the provisions of this section are complied with, and that what is published about him or his firm complies with this Code. A member, associate or student will also be personally responsible for ensuring that all

publicity, advertising, direct mailing and cold calling is subject to the limitations and requirements of this Code.

### **Good taste**

Judgement as to what may or may not constitute good taste can only be made .06 in the context of the particular facts on which that judgement is exercised.

It is possible, however, to give some broad guidance and general examples as .07 to what might, in appropriate circumstances, be regarded as not being in accordance with good taste. Thus material which tends to sensationalise or shock, or which is likely to give offence to religious beliefs, or is racist, is unacceptable. Other possible examples include the trivialisation of important issues, excessive reliance on a particular personality or personalities, the deriding of public figures, disparagement of educational attainment and material which makes odious comparisons or is strident in tone, hectoring or extravagant. Furthermore, such material should not compare with nor belittle services offered by others, whether members, associates or students or not, either by claiming superiority for the services of a particular member, associate or student or otherwise and should not contain testimonials or endorsements.

### **Advertisements**

Advertisements may refer to the basis on which professional fees for services .08 are calculated but to state hourly or other charging rates could be misleading and is considered to be inconsistent with the dignity of the profession.

### **Solicitation**

Direct mailing by all members, associates or students, pertaining to any .09 services and products, is permitted.

A member, associate or student may not continue to address direct mail .10 material, for the purpose of offering to perform professional work, to a recipient who has asked him to desist.

Cold calling by members, associates or students not in public practice in .11 respect of all services and products is permitted.

Cold calling by members, associates or students in public practice for .12 professional work is not permitted.

**SECTION 10 - RESPONSIBILITIES TO COLLEAGUES**

- .01 A member, associate or student should conduct himself in a manner which will promote co-operation and good relations between members, associates or students and within the profession.
- .02 The support of a profession by its members, associates or students and their co-operation with one another are essential elements of professional character. The public confidence and respect which a member, associate or student enjoys is largely the result of the cumulative accomplishments of all members, associates or students, past and present. It is, therefore, in the member's, associate's or student's own interest as well as that of the general public, to support the collective efforts of colleagues through professional societies and organisations and to deal with fellow practitioners in a manner that will not detract from their reputation and well-being.
- .03 While the Code prescribes certain specific actions in the area of relationships with colleagues, it should be understood that these prescriptions do not define the limits of desirable intraprofessional conduct. Such conduct should encompass the professional consideration and courtesies which each member, associate or student would like to have fellow members, associates or students extend to him.
- .04 A member, associate or student should assist his fellow members, associates or students in complying with this Code and should co-operate with the appropriate disciplinary authorities in applying the Code. To condone serious fault can be as bad as to commit it. It may be even worse, in fact, since some errors may result from ignorance rather than intent and, if let pass without action, will probably be repeated. In situations of this kind the welfare of the profession as a whole should be the guide to a member's, associate's or student's action.
- .05 Although the reluctance of a professional to give testimony that may be damaging to a colleague is understandable, the obligation of professional courtesy and fraternal consideration can never excuse lack of complete candour if the member, associate or student is testifying as an expert witness in a judicial proceeding or properly constituted enquiry.
- .06 A member, associate or student should not irresponsibly criticise another member, associate or student.

It is natural that a member, associate or student in public practice will seek to develop his practice. However, in doing so he should not seek to displace another member, associate or student in a client relationship by means which will lessen the effectiveness of technical performance, and in particular the integrity and objectivity of audit opinions or impinge upon the rights of third parties to reliable information. Further, a member, associate or student should not act in any way that reflects negatively on fellow members, associates or students. .07

A member, associate or student should extend the same professional considerations and courtesies to any non-member with whom he may have a professional relationship, as set out in paragraph .01. He should also follow the same procedures of conduct as he would with a member, associate or student where there is a change in appointment, as set out in Section 17. .08

While it is essential that the legitimate interests of clients are protected it is also important that the person who proposes to accept appointment as the accounting officer of a close corporation has the opportunity of ascertaining whether there are any reasons why he should not accept the appointment. A member or associate who resigns as accounting officer of a close corporation should state in his letter of resignation, which is sent to every member of the close corporation, the reasons for his resignation. In addition, a copy of this letter must be sent to the close corporation. .09

Where a member or associate has accepted the appointment as accounting officer of a close corporation, he should, in terms of the normal professional courtesies, inform the outgoing accounting officer of the change, in writing, whether he/she is a member or associate of the Institute or not. .10

## **PART B - APPLICABLE TO MEMBERS OR ASSOCIATES IN PUBLIC PRACTICE**

### **SECTION 11 - INDEPENDENCE**

Independence is an essential quality, concomitant with integrity and objectivity, in a member or associate in public practice undertaking a reporting assignment. .01

Independence is a quality which enables a member or associate in public practice to apply unbiased judgement and objective considerations to .02

established facts in arriving at an opinion or decision. To be recognised as independent, the member or associate in public practice must be free from any obligation to, or interest in the client, its management or its owners.

- .03 Members or associates in public practice, when undertaking a reporting assignment, should be independent in fact and appearance.
- .04 The following paragraphs indicate some of those situations which, because of the actual or apparent lack of independence, would give a reasonable observer grounds for doubting the independence of a member or associate in public practice.

### **Fiduciary or financial involvement with, or in the affairs of, clients**

- .05 Financial involvement with a client may affect independence and may lead a reasonable observer to conclude that it has been impaired. Such involvement can arise in a number of ways such as:
- (a) By direct or indirect financial interest in a client.
  - (b) By a fiduciary interest in a client.
  - (c) By loans to or from the client or any officer, director or principal shareholder of a client company.
  - (d) By holding a financial interest in a joint venture with a client or employee(s) of a client.
  - (e) By having a financial interest in a non-client that has an investor or investee relationship with the client.
- .06 The following, however, would not ordinarily be considered to impair a member's or associate's independence:
- (a) Holding of securities in a public company in which the securities are widely held, provided that holding is not material either in relation to the total number of securities issued by the company or in relation to the assets of the member or associate, or his professional staff, or his spouse or dependent children; and they are not directly involved in providing professional services to that company;
  - (b) Making deposits with, or accepting loans from clients which are registered as financial institutions on the same terms as are available to the general public;



- (c) Making investments in loan stock of public utility corporation clients or municipal clients;
- (d) Making indirect investments in clients through the holding of units in mutual funds, insurance policies or retirement funding investments;
- (e) Indebtedness arising out of normal trading transactions on the same terms as are available to the general public.

*Commentary*

Independence may be impaired when a member or associate in public practice has or is committed to acquire a direct or indirect financial interest in a company for which the member or associate in public practice provides professional services requiring independence. A direct financial interest includes an interest held by the spouse or dependent child of the member or associate in public practice. .07

When the member or associate in public practice holds or advises on investing in shares in an audit client on behalf of a third party, e.g. a trust, the appearance of independence is at risk. This is because responsibilities to the third party may conflict with responsibilities to the audit client. .08

Because of the need to be seen to be independent in any reporting assignment, in fact and in appearance, a member or associate in public practice should avoid the appointment as a trustee in any situation where the absence of a conflict of interest cannot be clearly demonstrated. A trustee should therefore not personally be involved in the audit of the trust. He should also not personally be involved in the audit of a company in which the trust has a material shareholding. Where the member or associate is requested to be a trustee, he should be a minority trustee. .09

Shares in a client which may be involuntarily acquired as when a member or associate in public practice inherits such shares or marries a shareholder or in a take-over situation. In these cases the shares should be disposed of at the earliest practicable date or the member or associate in public practice should decline any further reporting assignment on that company. .10

Neither a member or associate in public practice nor his spouse or dependent child should make a loan to a client or guarantee a client's borrowing or accept a loan from a client or have borrowing guaranteed by a client. This .11

latter proscription does not apply to loans to or from banks or other similar financial institutions when made under normal lending procedures, terms and requirements; to home mortgages or to current or deposit accounts with Banks, etc.

- 12 When a non-client investee is material to a client investor, any direct or material indirect financial interest of the member or associate in the non-client investee would be considered to impair the member's or associate's independence with respect to the client. Likewise, where a client investee is material to a non-client investor, any direct or material indirect financial interest of the member or associate in the non-client investor would be considered to impair the member's or associate's independence with respect to the client.
- 13 Other relationships, such as client-non-client joint ventures, may affect the appearance of independence. In general, in a joint venture situation, an immaterial financial interest of the member or associate in the non-client investor would not impair the independence of the member or associate with respect to the client investor provided that the member or associate could not significantly influence the non-client investor. If the member or associate does not and could not reasonably be expected to have knowledge of the financial interests or relationships involving the joint ventures, the member's or associate's independence would not be considered to be impaired.
- 14 Generally, the member or associate should be independent of a client and all its parents, subsidiaries and affiliates.

### Appointments in Companies

- 15 When a member or associate in public practice is or was, within the period under current review or immediately preceding an assignment:
- (a) a member or associate of the board, an officer or employee of a company,
  - (b) a partner of, or in the employment of, a member or associate of the board or an officer or employee of a company,
- he would be regarded as having an interest which could detract from independence when reporting on that company, unless such appointment is permitted in terms of relevant legislation.

*Commentary*

Members or associates in public practice in such situations should not be appointed as auditors of the companies concerned. It is also clearly desirable that they should not be personally appointed or involved in other assignments on which an opinion is required. It is suggested that the period immediately preceding the assignment should be no less than 2 years. .16

**Provision of other services to audit clients**

When a member or associate in public practice, in addition to carrying out an audit or other reporting function, provides other services to a client, care should be taken not to perform management functions or make management decisions, responsibility for which remains with the board of directors and management. .17

*Commentary*

It is appropriate in terms of skill and effort for members or associates in public practice to be able to offer other financial and management consultancy services to their clients, since they already have a close familiarity with the client's businesses. Many companies (particularly the smaller ones) would be adversely affected if they were denied the right to obtain other services from their auditors. In the course of performing their professional services members or associates in public practice frequently offer advice to their clients. This happens particularly in the case of smaller businesses, where the audit of the financial statements and advice, for example, on the provision to be made for taxes, are often so inextricably linked that they cannot be separated. Moreover, one key concept in auditing involves examination of the system of internal control which necessarily involves suggestions for improvement. For these reasons it is impracticable to define the limitations on the advice which a member or associate in public practice may give. .18

The services provided by the member or associate in public practice in the fields of management consultancy and taxation are advisory services. Such services should not usurp the management functions of client companies. The independence of a member or associate in public practice is not impaired by offering advisory services, provided there is no involvement in or responsibility assumed for management decisions. The provision of other professional services is not in principle a factor in determining whether the member or associate in public practice is independent. Nevertheless, the .19

member or associate in public practice should be careful not to go beyond the advisory function into the management sphere. A member or associate in public practice who has advised on the installation of a stock recording system should carry out a normal audit review on the working of the system as failure to take all normal audit steps in relation to that system will have an adverse impact on competence and independence.

- .20 The preparation of accounting records is a service which is frequently requested of a member or associate in public practice, particularly by smaller clients, whose businesses are not sufficiently large to employ an adequate internal accounting staff. It is unlikely that larger clients will need this service other than in exceptional circumstances. In all cases in which independence is required and in which a member or associate in public practice is concerned in the preparation of accounting records for a client the following requirements should be observed:
- (a) The member or associate in public practice should not have any relationship or combination of relationships with the client or any conflict of interest which would impair integrity or independence.
  - (b) The client should accept responsibility for the statements.
  - (c) The member or associate in public practice should not assume the role of employee or of management conducting the operations of an enterprise.
  - (d) Staff assigned to the preparation of accounting records ideally should not participate in the examination of such records. The fact that the member or associate in public practice has processed or maintained certain records does not eliminate the need to make sufficient audit tests.

### **Personal and family relationships**

- .21 Personal and family relationships can affect independence. There is a particular need to ensure that an independent approach to any assignment is not endangered as a consequence of any personal or family relationship.

#### *Commentary*

- .22 It is recognised that it would be impracticable to attempt to prescribe in detail in ethical requirements the permissible extent of a personal relationship between a member or associate in public practice and a client or those occupying responsible executive positions (e.g. director, chief executive,

financial officer or another employee in a similar position) with a client. The kinds of situations which can give rise to the possibility of pressures being exerted upon members or associates in public practice may arise, for example, when a member or associate in public practice has a mutual business interest with an officer or employee of a client or has a material interest in a joint venture with a client.

With respect to family relationships it is important to ensure that the degree .23 of relationship with a client should not be too close to ensure that an independent approach to professional services for that client will suffer.

Family relationships which always pose an unacceptable threat to .24 independence are those in which a sole practitioner or a partner in a practice, or an employee engaged on the assignment relating to the client, is the spouse, dependent child or relative living in a common household, of the client.

### **Fees**

When the receipt of recurring fees from a client or group of connected clients, .25 represents a large proportion of the total gross fees of a member or associate in public practice or the practice as a whole, the dependence on the client or group of clients should inevitably come under scrutiny and could raise doubts as to independence.

#### *Commentary*

It is not possible to state precisely what constitutes an unacceptable .26 proportion of total fees emanating from one client or group of connected clients. However, if such fees are the only or the substantial part of the gross income, the member or associate in public practice should carefully consider whether independence has been impaired. A similar situation may arise if fees due from a client for professional service remain unpaid for an extended period of time, especially if a substantial part is not paid before the issue of the report of the member or associate in public practice for the following year. Allowances will be made for new practices seeking to establish themselves or practices which are planning to cease operations. Exemptions will be made for a branch office which is reliant upon one client or group of connected clients. For example, this might be the case if the branch office is auditing the financial statements of a client of the practice as a whole and that client forms a major part of the business of the branch office. In such

circumstances professional services for that client or group should be the subject of review by a partner from another office.

### **Goods and Services**

- .27 Acceptance of goods and services from a client may be a threat to independence. Acceptance of undue hospitality poses a similar threat.

#### *Commentary*

- .28 Goods and services should not be accepted by member or associate in public practice, their spouses or dependent children except on business terms no more favourable than those generally available to others. Hospitality and gifts on a scale which is not commensurate with the normal courtesies of social life should not be accepted.

### **Former Partners**

- .29 A partner in a practice may leave the practice by resignation, termination, retirement, or sale of the practice. Such a partner may accept an appointment with a client of the practice, of which he or she is a former partner when an audit or other reporting function is being performed by that practice. In such circumstances, the independence of the practice would not be impaired where:
- (a) Payments of the amounts due to a former partner for his or her interest in the practice and for unfunded, vested retirement benefits are made in accordance with a schedule that is fixed as to both payment dates and amounts. In addition the amounts owed should be such that they do not cause a substantial doubt about the practice's ability to continue as a going concern.
  - (b) The former partner does not participate or appear to participate in the practice's business or professional activities, whether or not compensated. Indications of participation include the provision of office space and related amenities to the former partner by the practice.

### **Actual or Threatened Litigation**

- .30 Litigation involving the member or associate in public practice and a client may cause concern that the normal relationship with the client is affected to the extent that the member's or associate's independence and objectivity may be impaired.

*Commentary*

The commencement by a client or others of proceedings against the member .31  
or associate in public practice, or the commencement of litigation by the  
member or associate in public practice alleging e.g. fraud or deceit by the  
officers of a company, or sub-standard performance of the client's audit by  
the member or associate, may impair independence. Such commencement or  
a credible threat to commence or a declared intention to commence legal  
action against a member or associate in public practice relating to the affairs  
of the company, or vice versa, may cause the member or associate in public  
practice and the company to be placed in positions which may affect the  
objectivity of the member or associate in public practice. Thus, the ability to  
report fairly and impartially on the company's financial statements may be  
affected. At the same time, the existence of such action (or threat of action)  
may affect the willingness of the management of the company to disclose  
relevant information to the member or associate in public practice.

It is not possible to specify precisely the point at which it would become .32  
improper for the member or associate to continue to report. However, the  
member or associate in public practice should have regard to circumstances  
when litigation might be perceived by the public as likely to affect the  
accountant's independence.

**SECTION 12 - FEES FOR PROFESSIONAL SERVICES****Introduction**

Members or associates who undertake professional services for a client, .01  
assume the responsibility to perform such services with integrity and  
objectivity and in accordance with the appropriate technical standards. That  
responsibility is discharged by applying the professional skill and knowledge  
which members or associates in public practice have acquired through  
training and experience. For the professional services rendered, the member  
or associate is entitled to be fairly remunerated.

**Determination of fees**

In determining what constitutes fair remuneration a member or associate may .02  
take into account the value of the professional service to the client, the  
customary charge for similar services by other professions, banks and  
management and business consultants, and any other special circumstances  
which may exist. No single factor is necessarily the determining factor.

Agreeing on an acceptable fee is primarily a matter for negotiation between the member or associate and his client.

- .03 Fees should be a fair reflection of the value of the professional services performed for the client. In determining the fee, the following factors should be taken into account —
- (a) the skill and knowledge required for the type of professional service involved;
  - (b) the level of training and experience of the persons necessarily engaged in performing the professional services;
  - (c) the time necessarily occupied by each person engaged in performing the professional services;
  - (d) the degree of responsibility that performing those services entails; and
  - (e) the level and extent of investment in technology.
- .04 It is in the best interests of both the client and the member or associate that the member or associate should explain the precise range of professional services that the fee is intended to cover, the basis on which his fees are computed and any billing arrangements. This should be done, preferably in writing, before the commencement of the engagement, to help in avoiding misunderstandings with respect to fees.
- .05 A member or associate should furnish on request such details as are reasonable to enable the client to understand the basis upon which the fee account has been prepared.
- .06 It follows that —
- (a) time records should, where appropriate, be kept as a basis for determining fees;
  - (b) the rates used to calculate the fees should be fair and reasonable in the circumstances; and
  - (c) these rates should be based on the fundamental premise that the organisation and conduct of the member or associate and the services provided to clients are well planned, controlled and managed.



A member or associate should not make a representation that specific professional services in current or future periods will be performed for either a stated fee, estimated fee, or fee range if it is likely at the time of the representation that such fees will be substantially increased and the prospective client is not advised of that likelihood. .07

### **Commissions**

The payment or receipt of a commission by a member or associate may impair his objectivity and independence. A member or associate should not, for example: .08

- (a) pay a commission to obtain a client; or
- (b) accept a commission from third persons for referring products or services to a client, unless the client has prior knowledge of the arrangement.

The payment or receipt of fees in respect of work referred between members or associates in public practice is not regarded as a commission. .09

Payment and receipt of referral fees between members or associates in public practice when no services are performed by the referring accountant are regarded as commissions for the purpose of paragraph .08. .10

A member or associate in public practice may enter into an arrangement for the purchase of the whole or part of an accounting practice requiring payments to individuals formerly engaged in the practice or payments to their heirs or estates. Such payments are not regarded as commissions for the purpose of paragraph 0.8. .11

### **Contingent Fees**

A contingent fee is a fee which is negotiated for the performance of any professional services pursuant to an arrangement whereby a fee will not be charged unless a specified finding or result is obtained, or where the payment of the fee or the quantum thereof is otherwise dependent on the finding or result of the service. .12

Fees often cannot practically be charged other than on a contingency basis in circumstances such as advising on a management buy-out, the raising of .13

venture capital, acquisition search or sales mandates or where the capacity of the client to pay is dependent upon the success or failure of the venture.

- .14 A member or associate may not perform work related to the attest function, nor may he prepare an original or amended tax return, for a contingent fee for any client.
- .15 In all cases the charging of fees on a contingency basis may be done only after careful consideration that the member's or associate's objectivity and integrity would not be compromised.
- .16 Where the work is subject to a fee on a contingency basis, the capacity in which the member or associate has worked and the basis of his remuneration should, where appropriate, be made clear in any document prepared by the member or associate in contemplation that a third party may rely on it.

### **Lowballing**

- .17 It is not improper for a member or associate in public practice to charge a client a lower fee than has previously been charged for similar services, provided:
  - (a) the fee has been calculated in accordance with the factors referred to in paragraphs .01, .02, .03 and .06;
  - (b) care is taken to ensure that the client is not misled:
    - (i) as to the precise range of services that the quoted fee is intended to cover; and
    - (ii) as to the level of fees it is anticipated charging for subsequent work at present-date prices.
- .18 A member or associate who obtains or retains work by quoting levels of fees which are significantly lower than those charged by an existing member or associate or quoted by other tendering firms should be aware that their perceived independence may appear to be threatened. Such members or associates should take care to allocate the appropriate quantity and quality of staff, both in terms of competence and time, to the assignment.
- .19 Members or associates should take care whatever their rate of charging that they comply with all professional standards and guidelines and, in particular, quality control procedures.

In the event of a complaint being made to the Institute where fees were a feature in obtaining the work such members or associates should be prepared to demonstrate to the Investigation and Disciplinary Committees that: .20

- (a) their independence has not been affected;
- (b) the resources allocated to the assignment were at least those that would have been allocated to work of a similar nature; and
- (c) the client was not misled as to the level of fees for following and subsequent years.

### **SECTION 13 - SIGNING OF REPORTS OR CERTIFICATES**

A member or associate may not delegate to any person who is not his partner, his power to sign audit or other reports expressing opinions, or certificates. In specific cases where emergencies of sufficient gravity arise, however, this prohibition may be relaxed, provided the full circumstances giving rise to the need for delegation are reported both to the client of the member or associate concerned and to the Board.

### **SECTION 14 - STATIONERY AND LETTERHEADS**

Stationery of members and associates in public practice should be of an acceptable professional standard. .01

Apart from the name of the firm, its logo (if any) and the customary details regarding its address and telephone, telex and telefax numbers, a member's or associate's professional stationery may also contain the following information: .02

- (a) the names of all partners, specified as such;
- (b) the names of all professional assistants who are registered with the Board specified as such;
- (c) the names of other employees or consultants (whether of "partner status" or not) provided it is clear that such employees or consultants are not partners or registered with the Board;
- (d) the names of persons, firms or organisations including those not registered with the Board, with whom the member or associate is associated.

(Members and associates should bear in mind the constraints contained in Sections 14 and 27(1) of the Public Accountants' and Auditors' Act, 80 of 1991 and Section 83 of the Attorneys' Act, 53 of 1979.)

### **SECTION 15 - ACTIVITIES INCOMPATIBLE WITH THE PRACTICE OF PUBLIC ACCOUNTANCY**

- .01 A member or associate in public practice should not concurrently engage in any business, occupation or activity which impairs or might impair integrity, objectivity or independence, or the good reputation of the profession and therefore would be incompatible with the rendering of professional services.
- .02 The rendering of two or more types of professional services concurrently will not by itself impair integrity, objectivity or independence.
- .03 The simultaneous engagement in another business, occupation or activity unrelated to professional services which has the effect of not allowing the member or associate in public practice properly to conduct a practice in accordance with the fundamental ethical principles of the accountancy profession should be regarded as inconsistent with the practice of public accountancy.

### **SECTION 16 - CLIENTS' MONIES**

- .01 A member or associate in public practice should not hold clients' monies if there is reason to believe that they were obtained from, or are to be used for, illegal activities.
- .02 A member or associate in public practice entrusted with monies belonging to others, in the course of his professional work, should:
  - (a) keep such monies separately from personal or firm monies;
  - (b) use such monies only for the purpose for which they were intended; and
  - (c) at all times, be ready to account for those monies to any person entitled to such accounting.
- .03 A member or associate in public practice should maintain one or more bank accounts, appropriately designated, for clients' monies.

Clients' monies received by a member or associate in public practice should .04  
be deposited without delay to the credit of a client account, or - if in the form  
of documents of title to money and documents of title which can be converted  
into money - be safeguarded against unauthorised use.

Monies may only be drawn from the client account on the instructions of the .05  
client.

Fees due from a client may be drawn from clients' monies provided the .06  
client, after being notified of the amount of such fees, has agreed to such  
withdrawal.

Payments from a client account shall not exceed the balance standing to the .07  
credit of a client.

When it seems likely that the clients' monies will remain on client account for .08  
a significant period of time, the member or associate in public practice  
should, with the concurrence of the client, place such monies in an interest  
bearing account within a reasonable period of time.

All interest earned on clients' monies should be credited to the client account. .09

Members or associates in public practice should keep such books of account .10  
as will enable them, at any time, to establish clearly their dealings with  
clients' monies in general and the monies of each individual client in  
particular. A statement of account should be provided to the client at least  
once a year.

## **SECTION 17 - RELATIONS WITH OTHER MEMBERS AND ASSOCIATES IN PUBLIC PRACTICE**

### **Accepting new assignments**

The extension of the operations of a business undertaking frequently results .01  
in the formation of branches or subsidiary companies at locations where an  
existing accountant does not practice. In these circumstances, the client or  
the existing accountant in consultation with the client may request a receiving  
accountant practising at those locations to perform such professional services  
as necessary to complete the assignment.

- .02 Referral of business may also arise in the area of special services or special tasks. The scope of the services offered by members or associates in public practice continues to expand and the depth of knowledge which is needed to serve the public often calls for special skills. Since it is impracticable for any one member or associate in public practice to acquire special expertise or experience in all fields of professional services some members or associates in public practice may decide that it is neither appropriate nor desirable to develop within their firms the complete range of special skills which may be required.
- .03 Members or associates in public practice should undertake only such services which they can expect to complete with professional competence. It is essential therefore for the profession in general and in the interests of their clients that members or associates in public practice be encouraged to obtain advice when appropriate from those who are competent to provide it.
- .04 An existing accountant without a particular skill may, however, be reluctant to refer a client to another member or associate in public practice who may possess that skill, because of the fear of losing existing business to the other member or associate in public practice. As a result, clients may be deprived of the benefit of advice which they are entitled to receive.
- .05 The wishes of the client should be paramount in the choice of professional advisers, whether or not special skills are involved. Accordingly, a member or associate in public practice should not attempt to restrict in any way the client's freedom of choice in obtaining special advice, and when appropriate should encourage a client to do so.
- .06 The services or advice of a member or associate in public practice having special skills may be sought in one or other of the following ways:
- (a) by the client
    - (i) after prior discussion and consultation with the existing accountant;
    - (ii) on the specific request or recommendation of the existing accountant;
    - (iii) without reference to the existing accountant; or
  - (b) by the existing accountant with due observance of the duty of confidentiality.

When a member or associate in public practice is asked to provide services or advice, inquiries should be made as to whether the prospective client has an existing accountant. In cases where there is an existing accountant who will continue to provide professional services, the procedures set out in paragraphs .08 to .13 should be observed. If the appointment will result in another member or associate in public practice being superseded, the procedures set out in paragraphs .14 to .26 should be followed. .07

The receiving accountant should limit the services provided to the specific assignment received by referral from the existing accountant or the client unless otherwise requested by the client. The receiving accountant also has the duty to take reasonable steps to support the existing accountant's current relationship with the client and should not express any criticism of the professional services of the existing accountant without giving the latter an opportunity to provide all relevant information. .08

A receiving accountant who is asked by the client to undertake an assignment of a type which is clearly distinct from that being carried out by the existing accountant or from that initially received by referral from the existing accountant or from the client should regard this as a separate request to provide services or advice. Before accepting any appointment of this nature, the receiving accountant should advise the client of the professional obligation to communicate with the existing accountant and should immediately do so preferably in writing, advising of the approach made by the client and the general nature of the request. This action is indicated not only by considerations of professional courtesy but by good business judgement. .09

Circumstances sometimes arise when the client insists that the existing accountant should not be informed. In this case, the receiving accountant should decide whether the client's reasons are valid. In the absence of special circumstances a mere disinclination by the client for communication with the existing accountant would not be a satisfactory reason. .10

The receiving accountant should: .11

- (a) comply with the instructions received from the existing accountant or the client to the extent that they do not conflict with relevant legal or other requirements; and

- (b) ensure, in so far as it is practicable to do so, that the existing accountant is kept informed of the general nature of the professional services being performed.
- .12 When there are two or more other members or associates in public practice performing professional services for the client concerned, it may be appropriate to notify only the relevant member or associate in public practice depending on the specific services being performed.
- .13 When appropriate, the existing accountant, in addition to issuing instructions concerning referred business, should maintain contact with the receiving accountants and co-operate with them in all reasonable requests for assistance.

### **Superseding another member or associate in public practice**

- .14 Clients have an indisputable right to choose their professional advisers and to change to others should they so desire.
- .15 While it is essential that the legitimate interests of the clients are protected, it is also important that a member or associate in public practice who is asked to replace another member or associate in public practice has the opportunity to ascertain if there are any professional reasons why the appointment should not be accepted. This cannot effectively be done without direct communication with the existing accountant. In the absence of a request, the existing accountant should not volunteer information about the client's affairs.
- .16 Communication enables a member or associate in public practice to ascertain whether the circumstances in which a change in appointment is proposed are such that the appointment can properly be accepted and also whether there is a wish to undertake the engagement. In addition, such communication helps to preserve the harmonious relationships which should exist between all members or associates in public practice on whom clients rely for professional advice and assistance.
- .17 The extent to which an existing accountant can discuss the affairs of the client with the proposed member or associate in public practice will depend on:
- (a) whether the client's permission to do so has been obtained; and/or



(b) the legal or ethical requirements relating to such disclosure.

The proposed accountant should treat in the strictest confidence and give due weight to any information provided by the existing accountant. .18

The information provided by the existing accountant may indicate, for example, that the ostensible reasons given by the client for the change are not in accordance with the facts. It may disclose that the proposal to make a change in members or associates in public practice was made because the existing accountants stood their ground and properly carried out the duties as members or associates in public practice despite opposition or evasion on an occasion on which important differences of principles or practice have arisen with the client. .19

Communication between the parties therefore serves: .20

- (a) to protect a member or associate in public practice from accepting an appointment in circumstances where all the pertinent facts are not known;
- (b) to protect the minority proprietors of a business who may not be fully informed of the circumstances in which the change is proposed; and
- (c) to protect the interests of the existing accountant when the proposed change arises from, or is an attempt to interfere with, the conscientious exercise of the existing accountant's duty to act as an independent professional.

Before accepting an appointment involving continuing professional services previously carried out by another member or associate in public practice, the proposed accountant should: .21

- (a) Explain to the prospective client his duty to communicate with the existing accountant.
- (b) Ascertain if the prospective client has advised the existing accountant of the proposed change and has given permission, preferably in writing, to discuss the client's affairs fully and freely with the proposed accountant.
- (c) When satisfied with the reply received from the prospective client, request permission to communicate with the existing accountant. If such permission is refused or the permission referred to in (b) above

is not given, the proposed accountant should, in the absence of exceptional circumstances of which there is full knowledge, and unless there is satisfaction as to necessary facts by other means, decline the appointment.

- (d) On receipt of permission, ask the existing accountant, preferably in writing:
  - (i) to provide information on any professional reasons which should be known before deciding whether or not to accept the appointment and, if there are such matters,
  - (ii) to provide all the necessary details to be able to come to a decision,
  - (iii) to provide the information within a specified time otherwise he will assume that there are no matters of which should be brought to his attention.

.22 The existing accountant, on receipt of the communication referred to in paragraph .21(c) should forthwith:

- (a) Reply, preferably in writing, advising whether there are any professional reasons why the proposed accountant should not accept the appointment, and
- (b) If there are any such reasons or other matters which should be disclosed, ensure that the client has given permission to give details of this information to the proposed accountant. If permission is not granted the existing accountant should report that fact to the proposed member or associate in public practice.
- (c) On receipt of permission from the client, disclose all information needed by the proposed accountant to be able to decide whether or not to accept the appointment, and discuss freely with the proposed accountant all matters relevant to the appointment of which the latter should be aware.

.23 If the proposed accountant does not receive, within a reasonable time, a reply from the existing accountant and there is no reason to believe that there are any exceptional circumstances surrounding the proposed change, the proposed accountant should endeavour to communicate with the existing accountant by some other means. If unable to obtain a satisfactory outcome in this way, the proposed accountant should send a further letter, stating that

there is an assumption that there is no professional reason why the appointment should not be accepted and that there is an intention to do so.

The fact that there may be fees owing to the existing accountant is not a professional reason why another member or associate in public practice should not accept the appointment. .24

The existing accountant should promptly make available to the receiving accountant all books and papers of the client which are or may be held after the change in appointment has been effected and should advise the client accordingly, unless the existing accountant has a legal right to withhold them. .25

The matters of which the proposed member or associate in public practice should be aware would, where relevant, include that: .26

- (a) reasons for the change advanced by the client of which the existing accountant is aware are not in accordance with the facts, as understood by the latter;
- (b) the proposal to displace the existing accountant arises because the incumbent carried out his duties in the face of opposition or evasion/s in which important differences of principle or practice had arisen with the client;
- (c) the client, its directors, or employees may have been guilty of some unlawful act or default or that any aspect of their conduct which is relevant to the carrying out of an audit ought, in the opinion of the existing accountant, to be investigated further by the appropriate authority;
- (d) the existing accountant has unconfirmed suspicions that the client or its directors or employees have defrauded the Inland Revenue, Customs and Excise or others;
- (e) there remains a failure or refusal by the client to supply the existing accountant with information required by him for the performance of his duties;
- (f) the existing accountant has serious doubts regarding the integrity of the directors and/or senior managers of the client company;
- (g) the client, its directors, or employees have attempted to limit the scope of the existing accountant such that this would entail the issue of a disclaimer of opinion;

- (h) the existing accountant proposes to bring to the attention of members or associates or creditors circumstances surrounding the proposed change of auditor.
- .27 The existing accountant should not refuse to communicate, or delay his reply, on the grounds that:
- (a) a proposed member or associate in public practice has obtained nomination in contravention of this guidance; or
  - (b) the existing accountant has a genuine belief, whether justified or not, of having been unfairly treated by the client.

## **SECTION 18 - RECRUITING**

### **Educational institutions**

- .01 A member or associate may offer bursaries and prizes for students at educational institutions, and may allow the bursaries and prizes to be named after him or his firm.
- .02 A member or associate may endow a chair at a university and may allow his or his firm's sponsorship to be acknowledged publicly by the university.

### **Competitors' staff**

- .03 A member or associate should not, directly or indirectly, offer employment to an employee of another member or associate without first informing the latter. However, an employee of another member or associate who, in response to an advertisement or of his own initiative, applies to him for employment may be engaged subject to his informing the applicant's employer.

## **SECTION 19 - INCLUSION OF THE NAME OF A MEMBER OR ASSOCIATE IN PUBLIC PRACTICE IN A DOCUMENT ISSUED BY A CLIENT**

- .01 When a client proposes to publish a report by a member or associate in public practice (whether as part of another document or on its own) dealing with the client's existing business affairs or in connection with the establishment of a new business venture the member or associate in public practice should take steps to ensure that the context in which the report is published is not such as might result in the public being misled as to the nature and meaning of the

report. In these circumstances the member or associate in public practice should advise the client that permission should first be obtained before publication of the document.

Similar consideration should be given to other documents proposed to be issued by a client containing the name of a member or associate in public practice acting in an independent professional capacity. This does not preclude the inclusion of the name of a member or associate in public practice in the annual report of a client. .02

When members or associates in their private capacity are associated with, or hold office in an organisation, the organisation may use their name and professional designation on stationery and other documents. The member or associate in public practice should ensure that this information is not used in such a way as might lead the public to believe that there is a connection with the organisation in an independent professional capacity. .03

## **PART C - APPLICABLE TO MEMBERS AND ASSOCIATES IN COMMERCE AND INDUSTRY**

### **SECTION 20 - CONFLICT OF LOYALTIES**

Members or associates in commerce and industry 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 should be to support his organisation's legitimate and ethical objectives and the rules and procedures drawn up in support of them.) However, an employee cannot legitimately be required to: .01

- (a) break the law;
- (b) breach the rules and standards of their profession;
- (c) lie to or mislead (including misleading by keeping silent) those acting as auditors to the employer; or
- (d) put their name to or otherwise be associated with a statement which materially misrepresents the facts.

Differences in view about the correct judgement on accounting or ethical matters should normally be raised and resolved within the employee's organisation, initially with the employee's immediate superior and possibly .02

thereafter, where disagreement about a significant ethical issue remains, with higher levels of management or non-executive directors.

- .03 If members or associates in commerce and industry cannot resolve any material issue involving a conflict between their employers and their professional requirements they may, after exhausting all other relevant possibilities, have no other recourse but to consider a resignation. Employees should state their reasons for doing so to the employer but their duty of confidentiality normally precludes them from communicating the issue to others (unless legally or professionally required to do so).
- .04 For further guidance as to the considerations involved, see Part A - section 3.

## **SECTION 21 - SUPPORT FOR PROFESSIONAL COLLEAGUES**

A member or associate, particularly one having authority over others, should give due weight for the need for them to develop and hold their own judgement in accounting matters and should deal with differences of opinion in a professional way.

## **SECTION 22 - PROFESSIONAL COMPETENCE**

A member or associate employed in commerce and industry, the public sector or education may be asked to undertake significant tasks for which he has not had sufficient specific training or experience. When undertaking such work the member or associate should not mislead the employer as to the degree of expertise or experience he possesses, and where appropriate, expert advice and assistance should be sought.

## **SECTION 23 - PRESENTATION OF INFORMATION**

- .01 A member or associate in commerce and industry is expected to present financial information fully, honestly and professionally and so that it will be understood in its context.

Financial and non-financial information should be maintained in a manner .02 that describes clearly the true nature of business transactions, assets or liabilities and classifies and records entries in a timely and proper manner, and members or associates in commerce and industry should do everything that is within their powers to ensure that this is the case.