

**The Cullen Commission of Inquiry into Money Laundering in British Columbia**

**Overview Report on the Accounting Sector in British Columbia**

## A. Scope of Overview Report

1. This overview report sets out information and attaches documents related to the accounting sector and the regulation of the accounting profession in British Columbia. It also details the obligations of chartered professional accountants and accounting firms under the federal anti-money laundering regime. Its purpose is to provide background and contextual information to support *viva voce* evidence to be called during Commission hearings.

## B. Background

2. Accountants perform a wide variety of finance-related tasks, such as preparing and maintaining financial records, preparing tax returns and advising on taxation matters, and performing an audit or review of a company's financial statements. Accountants work within a variety of organizations, ranging from large firms offering multinational business services to small owner-managed enterprises.

3. According to the last Canadian census, approximately 89,000 individuals in British Columbia worked as accountants<sup>1</sup> across all industries in 2016,<sup>2</sup> including both professional and unregulated accountants. Of those 89,000 individuals, approximately 58,000 were unregulated accountants who were not subject to any statutory oversight.

4. Accountants include both:

- a. professional accountants, who are designated as Chartered Professional Accountants ("CPAs"), and whose practice is regulated in British Columbia by the Chartered Professional Accountants of British Columbia ("CPABC") under the *Chartered Professional Accountants Act* ("CPA Act")<sup>3</sup> and who are subject to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*;<sup>4</sup> and
- b. other persons who practice as accountants in British Columbia, but who are not CPAs. Those persons are not regulated or subject to statutory oversight, are not considered to be

<sup>1</sup> Accountant definition (Sector Definition by the National Occupational Classification (NOC) Code) Primary: 1111 Financial auditors and accountants, 1311 Accounting technicians and bookkeepers. And Secondary: 0111 Financial managers, -113 Purchasing managers, 0122 Banking, credit and other investment managers, 1112 Financial and investment analysts, 1113 Securities agents, investment dealers and brokers, and 1114 Other financial officers.

<sup>2</sup> Statistics Canada, *Census 2016*.

<sup>3</sup> S.B.C. 2015, c. 1. The *CPA Act* is attached as Appendix "A".

<sup>4</sup> S.C. 2000, c. 17 [*PCMLTFA*].

professional accountants, and do not fall within the definition of “accountant” under the *PCMLTFA* (which only covers CPAs).

5. The practice of accounting measures the results of an organization’s economic activities to convey that information to a variety of end users, including creditors, management, regulators and investors. The Financial Action Task Force (“FATF”) defines accounting services to include:

- a) audit and assurance services (including reporting accountant work in initial public offerings);
- b) book-keeping and the preparation of annual and periodic accounts;
- c) tax compliance work;
- d) tax advice;
- e) trust and company services;
- f) internal audit (as a professional service), and advice on internal control and risk management;
- g) regulatory and compliance services, including outsourced regulatory examinations and remediation services;
- h) company liquidation/insolvency/receiver-managers/bankruptcy related services;
- i) advice on the structuring of transactions;
- j) due diligence in relation to mergers and acquisitions;
- k) succession advice;
- l) advice on investments and custody of client money; and
- m) forensic accounting.<sup>5</sup>

6. The actual services delivered by accountants may vary between jurisdictions and the examples provided above may not be applicable in every jurisdiction. In British Columbia, all accountants are able

<sup>5</sup> FATF *Guidance for a Risk-Based Approach for the Accounting Profession* (June 2019) at para 20. Attached as Appendix “B”.

to provide these services to the public, regardless of whether or not they are designated as CPAs, with the exception of portions of subitem (a), the performance of which is reserved exclusively for CPAs.<sup>6</sup> CPABC exercises regulatory oversight over the performance of all accounting services when they are provided by CPAs.

7. The term “accountant” is not protected in the same way as the title of “lawyer” or “doctor”; nor do professional accountants have a monopoly over the practice of accounting, apart from specified services set out in the *CPA Act*.<sup>7</sup> The *CPA Act* does not affect the right of a person who is not a member of CPABC to practice as an accountant or auditor in British Columbia.<sup>8</sup>

8. Unregulated accountants are not regulated in British Columbia by CPABC or any other statutory regulatory body, regardless of what services they provide. Many unregulated accountants carry out activities that fall under the FATF’s description of “accounting services”; however, unregulated accountants do not fall within the federal anti-money laundering regime.

### **C. Professional Accountants in British Columbia**

#### *Overview*

9. In Canada, CPAs are accountants who have undertaken specialized education and required practical experience in order to practice as professional accountants or regulated accountants.

10. Canada’s CPA profession is regulated by provincial and territorial CPA bodies whose authority and responsibilities are defined by provincial and territorial legislation. These provincial and territorial bodies develop, monitor and enforce their applicable bylaws, codes of ethics, and rules of professional conduct. Provincial CPA bodies collaborate with the Chartered Professional Accountants of Canada (“CPA Canada”) to set ethical requirements, a harmonized quality assurance program, and investigative and disciplinary processes that are recommended for adoption in each province subject to local legislation.

11. On March 25, 2015, the *CPA Act* received Royal Assent. The coming into force in June 2015 of the *CPA Act* unified all professional accountants in British Columbia under a common regulatory framework. The *CPA Act* amalgamated and continued, as CPABC, a number of predecessor professional

<sup>6</sup> See *CPA Act*, s. 47(1).

<sup>7</sup> *Ibid.*

<sup>8</sup> *CPA Act*, s. 46.



bodies: The Certified General Accountants Association of British Columbia, The Certified Management Accountants Society of British Columbia, and The Institute of Chartered Accountants of British Columbia. As such, CPABC's membership includes individuals who were members of these legacy bodies before June 2015, who subsequently became CPA members of CPABC under the *CPA Act*.<sup>9</sup>

12. Each provincial and territorial accounting regulatory body is a member organization of CPA Canada. CPA Canada is the national organization established to support the unified Canadian accounting profession. It works cooperatively with provincial and territorial CPA bodies charged with regulating the profession. CPA Canada also conducts research on business issues, supports the setting of accounting and other standards, and issues guidance connected to accounting, auditing, assurance and financial literacy. In addition, CPA Canada develops the certification, education, and examination programs that are used by all provincial and territorial CPA bodies.

13. CPA Canada is a member of the International Federation of Accountants ("IFAC") and contributes to accounting, audit, assurance and ethical standards established by the International Auditing and Assurance Standards Board ("IAASB") and the International Ethics Standards Board for Accountants ("IESBA"). IFAC member bodies are required to comply with the Statements of Membership Obligations ("SMOs"). SMO 4 requires the CPA profession to maintain codes of ethics (i.e., in the provincial and territorial jurisdictions) that are at least as stringent as the IESBA Code unless there are legal, regulatory or public interest reasons to differ in Canada.

14. CPABC is the statutory professional regulatory body for professional accountants in British Columbia. CPABC's regulatory processes are governed by the *CPA Act*, the *CPABC Bylaws*<sup>10</sup> (the "*CPABC Bylaws*"), the *CPABC Bylaw Regulations*<sup>11</sup> (the "*CPABC Bylaw Regulations*"), and the *CPABC Code of Professional Conduct* (the "*CPABC Code*"). All CPABC members and registered firms, regardless of their jurisdiction of residence, must comply with the *CPA Act*, the *CPABC Bylaws*, the *CPABC Bylaw Regulations*, the *CPABC Code*, and any CPABC regulatory processes.<sup>12</sup>

15. Under the *CPA Act*, use of the titles "Chartered Professional Accountant" and "Professional Accountant", the initials "CPA" signifying the designation "Chartered Professional Accountant" and the initials "PA" signifying the designation "Professional Accountant", is reserved exclusively for CPABC

<sup>9</sup> See *CPA Act*, ss. 2 and 78.

<sup>10</sup> Attached as Appendix "C".

<sup>11</sup> Attached as Appendix "D".

<sup>12</sup> *CPABC Code*, Rs. 101.1; 104-105. Attached as Appendix "E".

members in good standing and for registered firms.<sup>13</sup> A person who is not a member of CPABC must not use either title or imply, suggest or hold out that they are a professional accountant.<sup>14</sup>

16. Section 3 of the *CPA Act* sets out the mandate of CPABC:

- (a) to promote and maintain the knowledge, skill and proficiency of members and students in the practice of accounting;
- (b) to establish qualifications and requirements for admission as a member and continuation of membership, and for enrolment and continuation of enrolment of students;
- (c) to regulate all matters, including competency, fitness and professional conduct, relating to the practice of accounting by members, students, professional accounting corporations and registered firms;
- (d) to establish and enforce professional standards;
- (e) to represent the interests of members and students.

17. Only members of CPABC in good standing, professional accounting corporations, and registered firms may hold themselves out as professional accountants, or, subject to limited exceptions, engage in the practice of professional accounting as described in section 47 of the *CPA Act*.<sup>15</sup>

18. CPAs provide a variety of functions, including planning the allocation of budgets, conducting risk analyses, maintaining financial records, and completing internal and external audits. All of these functions are considered to involve the practice of accounting under section 3(a) of the *CPA Act*. CPABC exercises regulatory oversight over its members' performance of all of these functions.

19. The *CPA Act* also reserves a subset of accounting practice exclusively for CPAs. That subset is described as the "practice of professional accounting", and comprises of one or more of the following services:

- a) performing an audit engagement and issuing an auditor's report in accordance with the standards of professional practice published by CPA Canada;

<sup>13</sup> *CPA Act*, s. 44.

<sup>14</sup> *CPA Act*, s. 45.

<sup>15</sup> *CPA Act*, s. 47.

- b) performing any other assurance engagement and issuing an assurance report in accordance with the standards of professional practice published by CPA Canada; and
- c) issuing any form of certification, declaration, or opinion with respect to information related to a financial statement or any part thereof on the application of financial reporting standards of CPA Canada, or specified auditing procedures in accordance with the standards of professional practice published by CPA Canada.<sup>16</sup>

20. The types of services provided by CPAs at accounting firms might include audit and assurance, corporate finance, forensics accounting, and tax services. In general, CPAs in public practice do not operate trust accounts or lend money to their clients.<sup>17</sup>

21. The *CPABC Bylaws* establish four categories of licensure<sup>18</sup> for CPABC members: audit, review, compilation, and other regulated services.<sup>19</sup> A member holding an audit licence is authorized to provide any public accounting services and any other regulated services. A review licence authorizes a member to provide public accounting services and any other regulated services, except the performance of an audit engagement or issuance of an auditor's report. Members holding a compilation licence may perform public accounting services and other regulated services, but may not perform an audit, review, or other assurance engagement, or issue an auditor's report, a review engagement report or another assurance report, or perform a specific procedures engagement or issuance of a specified procedures engagement report. CPABC members holding other regulated service licences are authorized to provide only other regulated services.

22. Members engaged in public accounting services or who provide other regulated services to the public are subject to additional regulation and oversight by CPABC and may, as discussed below, be subject to requirements under anti-money laundering legislation.

23. Under the *CPABC Bylaws*, "public accounting services" means any services included in the following:

- a. performing an audit, review or other assurance engagement governed by standards of professional practice published by CPA Canada or corresponding standards established in

<sup>16</sup> *CPA Act*, s. 47(1).

<sup>17</sup> Although trust accounts are not commonly operated by CPAs, the *CPABC Code* contemplates this possibility and sets out rules for the handling of property of others. See *CPABC Code*, R. 212.

<sup>18</sup> *CPABC Bylaws*, R. 703(1).

<sup>19</sup> *CPABC Bylaws*, R. 100 for the definition of "other regulated services".

a jurisdiction outside Canada, or issuing an auditor's report, a review engagement report or another assurance report in accordance with such standards;

- b. issuing any other certification, declaration, opinion or report with respect to the application of financial reporting and accounting standards published by CPA Canada or other Canadian standards published by CPA Canada, or corresponding standards established in a jurisdiction outside Canada; or
- c. performing a compilation engagement.<sup>20</sup>

24. Under the *CPABC Bylaws*, “other regulated services” means any services not constituting public accounting services included in the following:

- a. providing accounting services involving summarization, analysis, advice, counsel or interpretation, other than an accounting service that is part of but incidental to the provider's primary occupation, which is not accounting;
- b. providing a forensic accounting financial investigation or financial litigation support service;
- c. providing advice, counsel or interpretation with respect to taxation matters;
- d. preparing a tax return or other statutory information filing; and
- e. any other services described in the regulations.<sup>21</sup>

25. To become a professional accountant in British Columbia, an individual must complete the CPA Professional Education Program (“CPA PEP”) and complete certain practical experience requirements. The CPA PEP is a two-year graduate-level program. To be admitted to the CPA PEP, applicants must have an undergraduate degree covering certain subject areas, which may also be covered through CPA preparatory courses.<sup>22</sup> Alternatively, mature students without undergraduate degrees may enrol in the CPA PEP if they meet certain work experience and technical competence requirements. Successful candidates will also obtain relevant experience over a period of at least 30 months and complete the three-day Common Final Examination (“CFE”).<sup>23</sup> Members may also be admitted if they have passed the examinations of certain other accounting bodies where mutual recognition exists.<sup>24</sup>

26. CPABC has also established a Continuing Professional Development (“CPD”) program, which prescribes compulsory continuing education requirements for CPABC members. Part 6 of the *CPABC Bylaws* governs CPABC's member CPD obligations. CPABC members must complete a minimum of 20

<sup>20</sup> *CPABC Bylaws*, R. 100 “public accounting services”.

<sup>21</sup> *CPABC Bylaws*, R. 100 “other regulated services”.

<sup>22</sup> CPABC is empowered by statute to develop educational programs for students: *CPA Act*, s. 31.

<sup>23</sup> *CPABC Bylaws*, Parts 4-5.

<sup>24</sup> See *CPA Act*, s. 33.

qualifying hours<sup>25</sup> of CPD in each calendar year, including at least 10 verifiable qualifying hours,<sup>26</sup> and must complete a minimum of 120 qualifying hours, including at least 60 verifiable qualifying hours of which at least four must relate to ethics, during each rolling three-year calendar period.<sup>27</sup> Failure to comply with the applicable requirements of the CPD program can result in suspension and/or cancellation of membership. Failure to comply with CPD verification may result in a referral to the Investigation Committee.

27. Since 2017 CPABC has offered CPD courses addressing, in whole or in part, money laundering. A list of those CPD courses provided by CPABC is attached as Appendix “F”.

28. As at March 31, 2020, CPABC had 37,317 members, and admitted 1,326 new members in the 2019-2020 fiscal year. CPABC admitted 643 members to the profession in its fiscal 2019-2020 year by way of the CFE, which must be offered at least once a year.<sup>28</sup> The *CPABC 2019-2020 Regulatory Report to the Public* is attached as Appendix “G”.

29. The current President of CPABC, and by statute Chief Executive Officer, is Lori Mathison FCPA, FCGA, LLB.

30. CPABC is overseen by a 19-person board that consists of three public or lay representatives and 16 CPAs. The CPABC board of directors may exercise the powers and capacity of the CPABC by passing a resolution.<sup>29</sup> These powers afforded to the board under the *CPA Act* also permit it to make bylaws respecting, for example: meetings, board elections, officers, students and applicants for admission,<sup>30</sup> classes of members and member requirements, fellows, professional accounting corporations and registered firms, limited liability partnerships, designations, practice reviews, investigations, hearings and extraordinary suspensions.<sup>31</sup>

<sup>25</sup> The *CPABC Bylaw Regulations* define qualifying hours to mean “hours of learning activities satisfying criteria approved by the Membership Committee, and includes qualifying hours completed by a legacy member before the transition date”: see R. 600/1.

<sup>26</sup> The *CPABC Bylaw Regulations* define verifiable qualifying hours to mean qualifying hours for which there is satisfactory evidence to objectively verify participation in the learning activity, as determined in accordance with criteria approved by the Membership Committee: see R. 600/1.

<sup>27</sup> *CPABC Bylaw Regulations*, R. 600/2.

<sup>28</sup> *CPA Act*, s. 32.

<sup>29</sup> See *CPA Act*, s. 5.

<sup>30</sup> *CPA Act*, ss. 14, 30.

<sup>31</sup> *CPA Act*, Division 2; see also *CPABC Bylaws*, Rs. 200-210.

31. The CPABC Board of Directors may also make bylaws to further the “management and objects of CPABC”.<sup>32</sup> Notably, the CPABC Board has statutory authority to make bylaws respecting the establishment of committees.<sup>33</sup> To this end, it has established several regulatory committees, including: (a) the Executive Committee; (b) the Membership Committee; (c) the Public Practice Committee; (d) the Investigation Committee; (e) the Disciplinary Committee; and (f) the Bylaws Committee.<sup>34</sup> Particulars regarding the composition and procedures of the various committees are set out in Part 3 of the *CPABC Bylaw Regulations*.

32. The Executive Committee consists of the CPABC board chair, vice chairs and treasurer, and other appointed board members. Subject to any directions or restrictions specified by the CPABC board, the Executive Committee may exercise and perform, subject to certain exceptions, all of the powers and duties of the CPABC board under the *CPA Act* and the *CPABC Bylaws*.<sup>35</sup>

33. The Membership Committee has a mandate to ensure that only qualified persons of good character are admitted to membership in CPABC and, in turn, that those persons maintain their membership in accordance with the *CPA Act*, the *CPABC Bylaws*, and the *CPABC Bylaw Regulations*. It is also responsible for advising the CPABC board on reciprocal membership agreements and other agreements under negotiation by CPA Canada. The Membership Committee also has an advisory and operational role with respect to CPD.

34. The Public Practice Committee has a mandate to ensure that CPABC members engaged in public practice meet the standards of the profession. It oversees new registration and licensing applications and approves criteria that must be met for members to practice in a particular category of licensure. The Public Practice Committee also approves the practice inspection and evaluation process, determines final practice inspection results, and recommends appropriate consequences for members and firms. It is also responsible for assessing competence and fitness of offices for the education and training of students in pre-approved programs.

35. The Investigation Committee has a mandate to investigate the conduct of CPABC members and firms to determine whether grounds exist for disciplinary action. Where the Committee determines after investigation that grounds exist for disciplinary action, it will, depending on the seriousness of the matter,

<sup>32</sup> *CPA Act*, s. 9.

<sup>33</sup> See *CPA Act*, s. 13.

<sup>34</sup> See *CPA Bylaws*, Part 3.

<sup>35</sup> *CPABC Bylaws*, R. 300.

either make a recommendation to resolve CPABC's concerns by mutual agreement (determination and recommendation) or refer to the matter to the Disciplinary Committee by issuing a Statement of Complaint.

36. The Disciplinary Committee conducts hearings regarding the conduct of CPABC members and firms to determine whether disciplinary action is warranted. The Committee conducts hearings in panels of three or five members and must give reasons for its decision and order. A panel functions as an adjudicative tribunal, independent of CPABC.

37. The Bylaws Committee reviews the *CPA Act*, the *CPABC Bylaws*, the *CPABC Bylaw Regulations* and the *CPABC Code* and recommends amendments to the CPABC board. It also advises the CPABC board on issues arising from the national Uniform Rules Standing Committee whose role is to help facilitate consistency between the Codes of Professional Conduct that are used by provincial and territorial CPA bodies.

38. CPABC has also established the *CPABC Code*, which sets out the principles that guide CPABC members, firms, students and applicants in their practices. The *CPABC Code* applies to all members, students and firms irrespective of the types of services provided.

39. The preamble to the *CPABC Code* sets out the fundamental principles governing the conduct of CPABC members. It reinforces that CPABC members have a responsibility to act in the public interest. As such, the preamble sets out of a number of fundamental principles of ethics that inform the *CPABC Code*:

- a. Professional behaviour: CPABC members are required to conduct themselves at all times in a manner which will maintain the good reputation of the profession and serve the public interest. CPABC members are expected to avoid action that would discredit the profession.
- b. Integrity and due care: CPABC members are required to perform professional services with integrity and due care.
- c. Objectivity: CPABC members are expected not to allow their professional or business judgment to be compromised by bias, conflict of interest or the undue influence of others.

- d. Professional Competence: CPABC members are expected to maintain their professional skills and competence by keeping informed of, and complying with, developments in their area of professional service.
- e. Confidentiality: CPABC members are expected to protect confidential information acquired as a result of professional, employment and business relationships and to not disclose it without proper and specific authority, nor exploit such information for their personal advantage or the advantage of a third party.<sup>36</sup>

40. Professional accountants are subject, as noted above, to duties of objectivity and confidentiality. Pursuant to the former duty, CPABC members must avoid potential conflicts of interest<sup>37</sup> and act objectively when performing their services. CPABC employs the criterion of “whether a reasonable observer would conclude that a specified situation or circumstance posed an unacceptable threat to a registrant’s objectivity and professional judgment”.<sup>38</sup> The reasonable observer should be regarded as a hypothetical individual who has knowledge of the facts which a CPABC member knew or ought to have known, and applies judgment objectively with due care and integrity. The latter duty requires CPABC members to protect and maintain the confidentiality of information<sup>39</sup> subject to five exceptions:

- a. where disclosure is permitted or authorized by the client or employer;
- b. where disclosure is required by law;
- c. where disclosure is permitted or required by a professional right or duty, when not prohibited by law,
- d. where justified in order to defend the member against any lawsuit or other legal proceeding, but only to the extent necessary; or
- e. the client, former client, employer or former employer, as the case may be, has provided consent to such disclosure.<sup>40</sup>

<sup>36</sup> See *CPABC Code*, Rs. 208 208.3.

<sup>37</sup> See *CPABC Code* Rs. 202.1 and 210.

<sup>38</sup> See *CPABC Code* preamble, p. 6.

<sup>39</sup> The *CPABC Code* defines “confidential information” to mean information acquired in the course of a professional services relationship with a party.

<sup>40</sup> See *CPABC Code*, preamble.



41. The *CPABC Code* also requires that, before a CPA in public practice accepts an engagement from a client in replacement of another professional accountant, they must take steps to communicate with the predecessor to inquire whether circumstances exist that may influence the decision of whether to accept the engagement.<sup>41</sup>

42. Firms registered with CPABC also have these responsibilities under the *CPABC Code*. The responsibility of firms under the *CPABC Code* is met at first instance by establishing policies and procedures to ensure their members provide accounting services in a manner that meets prescribed standards of conduct and competence. All persons in a firm are expected to comply with the *CPABC Code* at all times and a firm's accountability for a failure to comply with the *CPABC Code* may, in certain circumstances, be shared with a member or other persons in the firm. A firm will be held accountable (e.g., potentially subject to investigation and disciplinary sanction) where:

- the firm has policies and/or procedures which are inconsistent with the *CPABC Code*;
- the breach of the *CPABC Code* by any person in the firm is found to be related to the absence of quality control procedures or to the existence of quality control procedures that are inadequate for the type of practice in which it is engaged;
- the firm is identified with conduct or the provision of professional services that is in breach of the *CPABC Code* and a person in the firm who is responsible for such breach cannot be identified or held accountable by CPABC;
- the conduct that breaches the *CPABC Code* was authorized, initiated, implemented or condoned by the firm prior to or at the time it takes place;
- the conduct that breaches the *CPABC Code* is condoned or concealed by the firm after it learns of it;
- the firm did not take appropriate action in response to becoming aware of any conduct that breaches the *CPABC Code*; or
- there are repeated instances of breaches of the *CPABC Code* by person(s) in the firm.<sup>42</sup>

<sup>41</sup> *CPABC Code*, R. 302.

<sup>42</sup> *CPABC Code*, preamble and R. 208.1.

43. The *CPABC Code* also prohibits CPABC members and firms from signing or associating with any financial statement, or similar record or oral report, that the member or firm knows, or should know, is false or misleading.<sup>43</sup> Subject to certain exceptions, CPABC members and firms have a duty to report any information concerning an apparent breach of the *CPABC Code* or any information raising doubt as to the competence, integrity or capacity of another CPABC member or applicant.<sup>44</sup> The *CPABC Code* expressly prohibits a CPABC member or firm from associating with any activity they know, or should know, to be unlawful.<sup>45</sup>

44. The *CPABC Code* requires members to report certain matters to CPABC. This includes if a member has been convicted of any criminal offence (including fraud, theft, forgery, money laundering, extortion, counterfeiting, criminal organization activities, charging criminal interest rates, financing terrorism or similar offences related to financial matters, or an offence of conspiring or attempting to commit such offences), found guilty of a violation of the provisions of any securities or tax legislation, or discharged absolutely or upon condition after pleading guilty to or being found guilty of any of the previously mentioned offences.<sup>46</sup>

45. The *CPABC Code* also requires members to promptly notify CPABC in relation to adverse findings in a disciplinary or similar process with any provincial CPA body, another professional regulatory body, or another regulatory body where the matter involves acting in a professional capacity, relates to professional skills, or involves circumstances where there was a reliance on membership in or association with any CPA body.<sup>47</sup> These self-reporting obligation respecting the findings of other regulatory bodies include non-criminal regulatory or administrative lapses.

#### *Professional Conduct Review Process*

46. The *CPA Act* (primarily Part 7) and the *CPABC Bylaws* (primarily Parts 11 and 12) govern CPABC's professional conduct review process.

47. The *CPA Act* includes sections relating to investigation and enforcement.<sup>48</sup> The *CPA Act* provides for two principal avenues in this respect: practice reviews and investigations. Both reviewers and

<sup>43</sup> *CPABC Code*, R. 205.

<sup>44</sup> *CPABC Code*, R. 211.

<sup>45</sup> *CPABC Code*, R. 213.

<sup>46</sup> *CPABC Code*, R. 102.1.

<sup>47</sup> *CPABC Code*, Rs. 102.2, 102.3 and 102.4.

<sup>48</sup> See *CPA Act*, Part 7.

investigators may require individuals to answer inquiries and produce records,<sup>49</sup> and a person must not refuse to comply on the grounds of confidentiality.<sup>50</sup> However, the *CPA Act* provides that any facts, information and records obtained under the *CPA Act* must, subject to limited exceptions, be kept confidential.<sup>51</sup>

### *Practice Reviews*

48. A practice review is an inspection conducted to identify and remedy deficiencies in members' and firms' particular practice, competence or conduct.<sup>52</sup> The purpose of a practice review is to determine whether practice in an office: (a) complies with generally accepted accounting principles and generally accepted audit and review standards; (b) complies with the standards of practice set out in the *CPABC Code*; (c) is maintained at a sufficiently high standard with regard to generally accepted standards of practice in the profession; and (d) should be pre-approved for the training of CPA students.

49. CPABC utilizes the following guidelines to select offices for a practice review:

- a. the practice in each authorized practising office is typically reviewed periodically based upon a 3-year risk adjusted cycle;
- b. priority will be given to reviewing offices with new licences;
- c. priority will be given to authorized practising offices requesting pre-approval to train CPA students or requesting pre-approval to train more CPA students; and
- d. priority will be given to authorized practising offices who received a non-comply in their last practice review and require a follow-up review.

50. Risk factors that may result in a more frequent inspection include:

- a. registration with the Canadian Public Accountability Board ("CPAB") and/or the Public Company Accounting Oversight Board ("PCAOB") of the U.S. in order to audit public companies or reporting issuers;
- b. change in profile of the firm, such as new partners coming on, a merger with another firm or taking on engagements in a new area;

<sup>49</sup> *CPA Act*, s. 51(5)-(6); *CPABC Bylaws*, R. 10002.

<sup>50</sup> *CPA Act*, s. 51(9).

<sup>51</sup> *CPA Act*, s. 69.

<sup>52</sup> *CPA Act*, s. 51(2); *CPABC Bylaws*, R. 1000.

- c. disciplinary decisions by CPABC or another regulator;
- d. failure of a partner to meet CPD requirements;
- e. weak history of practice review results; and
- f. other negative information coming to the attention of CPABC.

51. Practice reviews are conducted for each registered firm, rather than for each individual licensed member. All partners within an office share responsibility for the work undertaken by the office.

52. The CPABC *Practice Review Guidelines* are attached as Appendix “H”.

53. Practice reviews are assessed according to the standards set out in the *CPA Canada Handbook* and the *CPABC Code*. A Practice Review Officer will meet with members of a firm under review and, based on preliminary discussions regarding responsibilities and operations, select a representative sample of engagement files to inspect. The Practice Review Officer reviews and summarizes the findings on the engagement files. At the conclusion of a practice inspection, the Practice Review Officer must prepare a report that will include: (i) an assessment as to whether the practicing office complies with the established standards in those areas set out in the scope of the review; (ii) a summary of the findings and deficiencies; and (iii) key recommendations.<sup>53</sup>

54. The Practice Review Officer’s report is presented to the Public Practice Committee for approval. The Public Practice Committee, which consists of 20 practicing members and two public representatives, must review and approve all practice review results. Respondent offices have the opportunity to make written representations to the Public Practice Committee for consideration by the Committee in arriving at its final assessment.

55. The Public Practice Committee must review and consider the report and make a determination as to whether or not the practice of the member complies with professional standards based on: (i) the report of the Practice Review Officer; and (ii) any representations made by the member in charge of the practicing office received in advance of the Committee meeting. If the Committee determines that the practice of a member does not meet those standards, it may:

<sup>53</sup> *CPABC Bylaws*, R. 1004.

- (a) make one or more recommendations to the member in charge of an authorized practising office regarding desired improvement in the practice of the office;
- (b) direct that a Practice Review Officer conduct a follow-up review to determine whether the recommendations have been adopted and have resulted in the desired improvements being made in the practice;
- (c) adjust the number of students an office can train under a pre-approved pathway or rescind its approval to train students under a pre-approved program;
- (d) take no further action on condition that the member accepts all the recommendations for improvement noted in the practice review findings, which may include the requirement for some form of oversight from an independent licensed practitioner, and/or the member's agreement to voluntarily restrict their practice;
- (e) make a report to the Investigation Committee if it considers any one or more of the following matters to be of a sufficiently serious nature:
  - (i) the uncooperative manner of a member in a review or a follow-up review;
  - (ii) failure to comply with the *CPABC Bylaws* or the *CPABC Code*;
  - (iii) failure to adopt and implement the recommendations, requirements, or restrictions, regarding desired improvements arising from the current or previous practice inspection;
  - (iv) breach of Part 7 of the *CPABC Bylaws* regarding Licensure for Public Practice; or
  - (v) any apparent fraud, misrepresentation, flagrant disregard of standards or gross negligence.<sup>54</sup>

56. These determinations are delivered to the member who must either accept, decline or request a binding opinion with respect to the determinations.<sup>55</sup> If the member accepts, they may be required to write a responding letter that describes the steps taken to implement the recommendations, which letter will be

<sup>54</sup> *CPABC Bylaws*, R. 1005(2); *Practice Review Guidelines* at 3.

<sup>55</sup> *CPABC Bylaws*, R. 1005(5).

reviewed by the Director of Practice Review or Associate Director of Practice Review, who will advise the Public Practice Committee of any further recommendations.

57. A request for a binding opinion involves an impartial referee or referees who must render an opinion as to the appropriateness of the determination and recommendations of the Public Practice Committee.<sup>56</sup>

58. Each year, CPABC publishes an article summarizing the overall inspection findings for the year, along with the common practice inspection deficiencies. The CPABC *Common Practice Inspection Deficiencies* article for 2019-2020 is attached as Appendix “I”.

59. During the 2019-20 fiscal year, CPABC conducted 810 practice reviews, with an overall pass rate of 94 percent. Of the total reviews, 328 of the offices performed assurance engagements and, of that number, 86 percent were assessed as meeting requirements, while 14 percent were assessed by the Committee as not meeting requirements and thereby required follow-up reviews, of which 11 percent were required to have a supervised practice. Of those 482 offices not performing assurance engagements, 99 percent were assessed by the Committee as meeting requirements, and 1 percent were assessed as not meeting requirements and thereby necessitating a follow-up review. Included in the total of 810 reviews were follow-up reviews of 36 offices, of which 81 percent were assessed as meeting requirements, and 19 percent were assessed as not meeting requirements and requiring a re-inspection, of which 86 percent were required to have a supervised practice.

60. Notable findings for firms assessed as not meeting the requirements outlined in *Common Practice Inspection Deficiencies* for 2019-2020 include:

- Many firms had files which, while overall had appropriate documentation, contained material errors, resulting from either not identifying or not applying the appropriate *CPA Canada Handbook* standards to an accounting or assurance issue.
- Many firms used checklists filled in using “Y” or “N”, or otherwise had insufficient or inconsistent documentation in key areas, and were consequently assessed as not meeting the requirements of the Practice Review Program.

<sup>56</sup> *CPA Bylaws*, R. 1009.

- Some firms had issues with the inadequate supervision or review of staff or were impacted due to the departure of a key engagement team member.
- Some firms performed engagements outside of their core area of practice or in an area where they did not have substantial previous experience.
- Some firms performed review engagements which did not take into account the additional procedures and related documentation required under the Canadian Standard for Review Engagements 2400.<sup>57</sup>

### *Professional Conduct Complaint Process*

61. The Investigation Committee comprises 30 members, 24 of whom are CPAs and six of whom are public representatives. The committee is split into two Panels, each comprising 15 members (12 CPAs and three public representatives).

62. Upon receipt of a complaint concerning a CPABC member, former member, student, professional accounting corporation, former professional accounting corporation, registered firm or former registered firm of CPABC, the Director of Professional Conduct undertakes a review of the complaint and supporting material to determine if the matter falls within CPABC's jurisdiction. If so, the matter will be referred to one of the Panel Vice Chairs. They will, in turn, review the matter and decide whether it should be referred for investigation or dismissed,<sup>58</sup> the latter of which requires two public representatives on the Investigation Committee Panel to agree to dismiss the complaint.

63. An investigation is conducted to determine whether grounds indeed exist for disciplinary action.<sup>59</sup> If a matter proceeds, an investigator, who is a CPA member in good standing or other person with relevant experience in investigation, under the supervision of the Director of Professional Conduct, conducts an investigation.<sup>60</sup> The investigator will prepare a draft investigative report, which reviews the nature of the complaint, the relevant rules that are engaged by the alleged conduct, and a summary of the investigation. The draft investigative report is provided to the responding party and, after consideration of comments from the responding party, is sent to the Investigation Committee for review.

<sup>57</sup> *Common Practice Inspection Deficiencies* at 1-2.

<sup>58</sup> *CPABC Bylaws*, R. 1103(4).

<sup>59</sup> *CPA Act*, s. 51(3).

<sup>60</sup> *CPABC Bylaws*, R. 1102.

64. If at any stage of the investigation it becomes apparent there is no evidence to support a breach of the *CPA Act*, the *CPABC Bylaws*, the *CPABC Bylaw Regulations*, or the *CPABC Code*, or that the investigation is beyond the jurisdiction of the Investigation Committee, the matter is referred back to a Panel Vice Chair of the Investigation Committee for a decision on whether or not the investigation is to proceed.

65. Following the completion of an investigation, the respondent is offered the opportunity to meet with the Investigation Committee, at which time the respondent is given an opportunity to respond to the allegations against them. The Investigation Committee must then determine whether grounds exist for disciplinary action. Where the Committee determines that no grounds exist for disciplinary action, two public representatives of the Committee must be in favour of the determination.<sup>61</sup> The Committee must then refer the determination to an independent reviewer, who is a member of the Law Society of British Columbia, for confirmation.<sup>62</sup> The reviewer considers the reasonableness of the Investigation Committee's determination.

66. If the Investigation Committee determines that grounds exist for a disciplinary action,<sup>63</sup> the Investigation Committee must, having regard to the seriousness of the matter, either: (i) make a recommendation that the respondent accepts a reprimand, complete one or more professional development courses, pay a fine of up to \$25,000 for a member (\$4,000 for a student) and up to \$100,000 for a registered firm, pay expenses and take remedial action, or do any combination of these actions; or (ii) deliver a Statement of Complaint to the Disciplinary Committee.<sup>64</sup> CPABC and a respondent may agree to a determination and recommendation to resolve CPABC's concerns. If the respondent accepts the determination and recommendation, and complies with its terms, the matter is concluded.<sup>65</sup>

67. If a respondent disagrees with a recommendation or the determination on which it is based, they can enter a binding opinion process to facilitate a resolution of CPABC's concerns.<sup>66</sup> The use of the binding opinion process must be acceptable to the Investigation Committee, and both parties must agree in writing as to the finality of the binding opinion. The Chair of the Disciplinary Committee selects a panel of three reviewers to provide the opinion.

<sup>61</sup> *CPABC Bylaws*, R. 1106(2).

<sup>62</sup> *CPABC Bylaws*, Rs. 1106(4) and 1107.

<sup>63</sup> *CPABC Bylaws*, R. 1106(5)

<sup>64</sup> *CPABC Bylaws*, R. 1106.

<sup>65</sup> *CPABC Bylaws*, Rs. 1106(5), (9), and (11).

<sup>66</sup> *CPABC Bylaws*, R. 1109 and 1110.



68. If a respondent fails to respond to or declines the determination and recommendation, or fails to comply with agreed upon terms, the Investigation Committee may deliver a Statement of Complaint to the Disciplinary Committee.<sup>67</sup>

69. The Disciplinary Committee is comprised of at least three individuals who are not CPAs, at least ten CPA members who are not members of the CPABC board or any other CPABC committee, and additional *ad hoc* members as the Disciplinary Committee requires. When a Statement of Complaint is received from the Investigation Committee, the Disciplinary Committee Chair will appoint a panel of three or five (usually three) members to preside over the matter. At least one of the members must be a public representative.

70. A Statement of Complaint is a charging document and forms the basis for a hearing before a Disciplinary Committee panel. Disciplinary Committee panels may inquire into the competence, fitness to practice or professional conduct of a CPABC member or firm and decide whether they are incompetent, unfit to practice, have committed professional misconduct, engaged in conduct unbecoming a member, or whether they contravened the *CPA Act* or the *CPABC Bylaws*.<sup>68</sup>

71. Disciplinary Committee hearings are formal, adjudicative proceedings that are open to the public. Respondents may appear with legal counsel at a hearing before a panel.<sup>69</sup> A panel has the same power as a civil court for the purposes of a hearing and may summons and enforce attendance, compel persons to give evidence on oath and compel the production of records.<sup>70</sup> However, a panel is not bound by the rules of evidence.<sup>71</sup>

72. At any time prior to a decision by the Disciplinary Committee panel, CPABC and a respondent may agree to resolution of discipline proceedings.<sup>72</sup> Any such agreements require approval by the CPABC board of directors. Since resolution agreements usually involve serious matters, public notification will be included as part of the agreement.

<sup>67</sup> *CPABC Bylaws*, Rs. 1106(12) and (13).

<sup>68</sup> *CPA Act*, s. 53(2).

<sup>69</sup> *CPABC Bylaws*, R. 1204.

<sup>70</sup> *CPA Act*, s. 53(5); see also *CPABC Bylaws*, Part 12 and, in particular, R. 1206.

<sup>71</sup> *CPABC Bylaws*, R. 1206(3).

<sup>72</sup> *CPABC Bylaws*, Rs. 1111 and 1205.

73. The panel of the Disciplinary Committee must decide to dismiss or confirm a Statement of Complaint in whole or in part, and give reasons for its decisions.<sup>73</sup> If the Statement of Complaint is confirmed, a panel may make a variety of orders, including:

- a. reprimanding a CPABC member or firm;
- b. suspension with or without conditions for a period;
- c. cancellation of CPABC membership;
- d. barring a former member from applying for membership, the former professional accounting corporation from applying for a permit, or the former registered firm from applying for registration with CPABC;
- e. imposing conditions on the continuance of membership;
- f. imposing a fine of not more than \$25,000 or, for certain accounting corporations or firms, \$100,000; or
- g. imposing costs incurred to conduct an investigation or other related proceedings.<sup>74</sup>

74. Orders of the Disciplinary Committee may be appealed to the Supreme Court of British Columbia.<sup>75</sup>

75. A panel consisting of three CPABC board members may also suspend a membership, permit or registration until a disciplinary hearing if they consider the length of time required to hold a hearing prejudicial to the public interest.<sup>76</sup>

76. A synopsis of the CPABC *Professional Conduct Complaint Process* is attached as Appendix “J”.

77. In 2019-2020, CPABC closed 53 investigations, including 15 referrals made to the Discipline Committee, and received 103 new complaints, for a total of 130 active complaints.<sup>77</sup> Of these active complaints, 23 were under review, 44 were dismissed or not accepted, and 63 investigations were

<sup>73</sup> CPABC Bylaws, R. 1207.

<sup>74</sup> CPA Act, s. 53(4).

<sup>75</sup> CPA Act, s. 56.

<sup>76</sup> CPA Act, s. 57.

<sup>77</sup> “Active complaints” include new complaints and complaints carried over from the previous year; see CPABC *Public Report* at 9.

authorized by CPABC. In 2019-2020 the Discipline Committee entered into five resolution agreements and issued four disciplinary panel decisions. Seven disciplinary matters are still pending.<sup>78</sup>

#### **D. Anti-Money Laundering and Accountants**

78. Chartered Professional Accountants and Accounting Firms must fulfill specific obligations under the *PCMLTFA* and its associated *Regulations*.<sup>79</sup> This report will first outline the relevant obligations under the *PCMLTFA* and its associated *Regulations*, followed by a section outlining beneficial ownership developments.

##### **i. *PCMLTFA* Obligations**

79. The *PCMLTFA Regulations* define “Accountant” to mean “a chartered accountant, a certified general accountant or a certified management accountant”.<sup>80</sup> This is synonymous with CPAs, since chartered accountants, certified general accountants, and certified management accountants have become CPAs in all Canadian jurisdictions as a result of the unification of the accounting professions. An “Accounting Firm” is defined to mean “an entity that is engaged in the business of providing accounting services to the public and has at least one partner, employee or administrator that is an accountant”.<sup>81</sup>

80. An entity that does not provide any accounting services to the public is not considered an Accounting Firm under the *PCMLTFA Regulations*, regardless of whether or not it has any partner, employee or administrator who is a CPA, and therefore does not have any obligations pursuant to anti-money laundering legislation applicable to Accounting Firms. Neither anti-money laundering legislation nor FINTRAC has provided specification about what constitutes “providing accounting services to the public”.

81. CPABC does not have any prescribed role, duties or functions under the *PCMLTFA*.

82. CPA Canada similarly has no prescribed role under the *PCMLTFA*. However, CPA Canada participates as a member on the Advisory Committee on Money Laundering and Terrorist Financing and its Legislation and Regulations and Guidance and Policy Interpretation working groups.

<sup>78</sup> *CPABC Public Report* at 9.

<sup>79</sup> SOR/2002-184 [*PCMLTFA Regulations*]. For example, Part 1 of the *PCMLTFA* relating to record keeping, CIV and reporting, apply to professional accountants: *PCMLTFA*, ss. 5(i) and (j), 6-7.

<sup>80</sup> *PCMLTFA Regulations*, s. 1(2) “accountant”.

<sup>81</sup> *PCMLTFA Regulations*, s. 1(2) “accounting firm”.

83. The *PCMLTFA* and the *PCMTLFA Regulations* apply to Accountants and Accounting Firms when they engage in specified activities. These activities generally involve dealing with client assets on their behalf, and may include actually conducting transactions or giving instructions to a party to conduct the transactions. The *PCMLTFA Regulations* provide that Accountants and Accounting Firms are subject to Part 1 of the *PCMLTFA* when they:

- (a) engage in any of the following activities on behalf of any person or entity, namely,
    - (i) receiving or paying funds,
    - (ii) purchasing or selling securities, real property or business assets or entities, or
    - (iii) transferring funds or securities by any means; or
  - (b) give instructions on behalf of any person or entity in respect of any activity referred to in paragraph (a),<sup>82</sup>
- collectively, (“Triggering Activities”).

84. The Financial Transactions and Reports Analysis Centre of Canada (“FINTRAC”) has published guidance on the meaning of the term “give instructions”. When an accountant gives instructions for a Triggering Activity, it means they actually direct the movement of funds which would constitute a Triggering Activity in respect of any of the three categories. An Accountant or Accounting Firm providing advice, meaning making recommendations or suggestions to clients, is not considered to be giving instructions.<sup>83</sup>

85. Accountants are subject to these requirements when they engage in the foregoing activities regardless of whether they receive fees, or have a formal letter of engagement to do so. The receipt of professional accounting fees does not trigger obligations under the *PCMLTFA*.<sup>84</sup>

86. The application of the *PCMLTFA* to an Accountant or an Accounting Firm engaged in Triggering Activities is subject to three further exceptions:

- a. an Accountant when they engage in the statutorily prescribed activities on behalf of an employer;

<sup>82</sup> *PCMLTFA Regulations*, s. 34(1).

<sup>83</sup> See <https://www.fintrac-canafe.gc.ca/re-ed/accts-eng>.

<sup>84</sup> See <https://www.fintrac-canafe.gc.ca/re-ed/accts-eng>.

- b. if an Accountant or Accounting Firm performs Triggering Activities in respect of an audit, review or compilation engagements, carried out in accordance with the recommendations set out in the *CPA Canada Handbook*.<sup>85</sup>; and
- c. if an Accountant or Accounting Firm acts solely in the capacity of a Trustee in Bankruptcy.<sup>86</sup>

87. Accountants and Accounting Firms are responsible under the *PCMLTFA* and the *PCMLTFA Regulations* for providing FINTRAC with certain transaction reports, for implementing a compliance program, for verifying the identity of clients for specific activities and transactions, and for keeping circumscribed records. Additionally, Accountants and Accounting Firms that are captured under the *PCMLTFA* are required to register with FINTRAC.<sup>87</sup>

88. If an Accountant or Accounting Firm receives funds of \$3,000CAD or more in a single transaction in connection with a Triggering Activity, that Accountant or Accounting Firm must: (1) keep a receipt of funds record to be retained for five years following the transaction;<sup>88</sup> (2) ascertain the identity of every person who conducts the transaction;<sup>89</sup> (3) confirm the existence of and ascertain the name and address of every corporation on whose behalf the transaction is conducted and the names of its directors;<sup>90</sup>; and (4) confirm the existence of every entity, other than a corporation, on whose behalf the transaction is conducted.<sup>91</sup> The obligations do not apply if the funds are received from a financial entity or a public body.<sup>92</sup>

89. Accountants and Accounting Firms must also file suspicious transaction reports (“STRs”) with FINTRAC. Pursuant to the *PCMLTFA* and the *PCMLTFA Regulations*, Accountants and Accounting Firms must report to FINTRAC every financial transaction that occurs or is attempted in the course of

<sup>85</sup> *PCMLTFA Regulations*, ss. 34(3).

<sup>86</sup> *PCMLTFA Regulations*, s. 34(2)-(3). See also FINTRAC, *Interpretation Notice no. 7*, online: <https://www.fintrac-canafe.gc.ca/guidance-directives/overview-aperçu/FINS/2011-02-17-eng>. FINTRAC further advises that practices certain services are not considered to be “providing accounting services to the public” and therefore not subject to the *PCMLTFA*, including: (1) acting as a receiver pursuant to Court order or by way of a private appointment under a security interest; (2) as a trustee in bankruptcy; and (3) as a monitor under the provisions of the *Companies’ Creditors Arrangement Act* or any other proceeding that results in the dissolution or restructuring of an enterprise or individual and to which the firm, individual or practitioner serves as an officer of the Court or agent to the debtor or one or more creditors.

<sup>87</sup> *PCMLTFA*, s. 11.1.

<sup>88</sup> *PCMLTFA Regulations*, ss. 36(1)(a), s. 69.

<sup>89</sup> *PCMLTFA Regulations*, s. 59.1(a).

<sup>90</sup> *PCMLTFA Regulations*, s. 59.1(b).

<sup>91</sup> *PCMLTFA Regulations*, s. 59.1(c).

<sup>92</sup> *PCMLTFA Regulations*, s. 36(1).

Triggering Activities in respect of which there are reasonable grounds to suspect the transaction is related to the commission or the attempted commission of a money laundering offence.<sup>93</sup> STRs must be filed with FINTRAC as soon as practicable after completing measures required to establish reasonable grounds to suspect that a transaction is related to the commission or the attempted commission of a money laundering/terrorist activity financing offence, and retained for five years following the transaction(s).<sup>94</sup> Accountants and Accounting Firms must further take reasonable measures to ascertain the identity of every person with whom the Accountant or Firm conducts or attempts to conduct a suspicious transaction.<sup>95</sup>

90. If an Accountant or Accounting Firm receives \$10,000CAD or more in cash either in a single transaction or in multiple transactions within a 24-hour period in respect of a Triggering Activity by, or on behalf of the same person or entity, the Accountant or Accounting Firm must: (i) keep a Large Cash Transaction Record to be retained for five years following the transaction;<sup>96</sup> (ii) file a Large cash Transaction Report (“LCTR”) to FINTRAC within 15 calendar days;<sup>97</sup> (iii) ascertain the identity of every person with whom the Accountant or Accounting Firm conducts a Large Cash Transaction<sup>98</sup>; and (iv) take measures to determine whether the individual who gives the cash is acting on behalf of a third party.<sup>99</sup> These obligations do not apply if the funds are received from a financial entity or a public body.<sup>100</sup>

91. Tables A and B below summarize the number of LCTRs and STRs filed by the accounting sector in British Columbia and Canada, respectively, with FINTRAC from 2014 through 2018.

<b>TABLE A: STRs and LCTRs filed by British Columbia Accountants, 2014-2018</b>					
<b>Year</b>	2014	2015	2016	2017	2018
<b>LCTRs</b>	0	0	0	0	1
<b>STRs</b>	0	0	1	0	1

<sup>93</sup> *PCMLTFA*, s. 7.

<sup>94</sup> *PCMLTFA Regulations*, s. 69.

<sup>95</sup> *PCMLTFA Regulations*, s. 53.1(1).

<sup>96</sup> *PCMLTFA Regulations*, ss. 36(2), s. 69.

<sup>97</sup> *PCMLTFA Regulations*, s. 5(2).

<sup>98</sup> *PCMLTFA Regulations*, s. 53.

<sup>99</sup> *PCMLTFA Regulations*, s. 8(1). A third-party determination involves confirming whether or not the person from whom cash is received is acting on another party’s instructions. If so, the person or entity shall keep a record of the third party’s information and relationship to the individual who gives the cash. The information can be recorded on the Large Cash Transaction Record.

<sup>100</sup> *PCMLTFA Regulations*, s. 35.

<b>TABLE B: STRs and LCTRs filed by Canadian Accountants, 2014-2018</b>					
<b>Year</b>	2014	2015	2016	2017	2018
<b>LCTRs</b>	1	14	4	0	1
<b>STRs</b>	0	1	3	1	3

92. As of 2014,<sup>101</sup> Accountants and Accounting Firms have added obligations where there is a “business relationship”, defined as a relationship with a client that holds one or more accounts with the Accountant or Accounting Firm, or if the client does not hold an account, for transactions and activities for which an Accountant or Accounting Firm is required to ascertain the identity of a person or confirm the existence of an entity.<sup>102</sup> A business relationship gives rise to the obligation to keep a record that sets out the “purpose and intended nature of the business relationship”,<sup>103</sup> to conduct ongoing monitoring,<sup>104</sup> and to keep a record of measures taken and information obtained through ongoing monitoring.<sup>105</sup> If, through ongoing monitoring, the Accountant or Accounting Firm considers there is a high risk of a money laundering offence or terrorist activity financing offence, they must treat the activities as high risk and take enhanced measures.<sup>106</sup> Amendments to the *PCMLTFA Regulations* that further provide for the creation of a “business relationship” when (a) an account is opened by a client, or (b) an Accountant or Accounting Firm is required to verify the identity of the client for a second time, have been passed but are not yet in force.<sup>107</sup>

93. There are exceptions to the client verification rules, which include:

- Accountants and firms need not re-identify an individual or re-confirm the existence of an entity if they previously did so using the methods specified in the *PCMLTFA Regulations* in place at the time and kept the associated records, so long as they have no doubts about the information used.

<sup>101</sup> See SOR/2013-15.

<sup>102</sup> *PCMLTFA Regulations*, s. 1(2).

<sup>103</sup> *PCMLTFA Regulations*, s. 52.1.

<sup>104</sup> *PCMLTFA Regulations*, s. 59.11(a).

<sup>105</sup> *PCMLTFA Regulations*, s. 59.11(b).

<sup>106</sup> *PCMLTFA Regulations*, s. 59.12.

<sup>107</sup> SOR 2019-240, s. 23, as amended by SOR/2020-112, s. 3.

- Accountants and firms do not have to verify the names of a corporation's directors when they confirm the existence of a corporation that is a securities dealer.
- Accountants and firms do not have to identify an individual and/or confirm the existence of an entity if they conduct a transaction for a public body or very large corporation. The same is true regarding a subsidiary of either of those types of entities, if the financial statements of the subsidiary are consolidated with those of the public body or a very large corporation.
- Accountants and firms are not subject to the *PCMLTFA* and the *PCMLTFA Regulations* as an accountant or accounting firm if the activities they undertake are in respect of an audit, review or compilation engagements, or carried out in accordance with the recommendations set out in the *CPA Canada Handbook*.
- Accountants and firms do not have to identify an individual or confirm the existence of an entity for the receipt of funds in an amount of \$3,000 or more, if the amount is received from a financial entity or public body.
- Accountants and firms do not have to identify the individual who conducts a large cash transaction if the cash is received from a financial entity or public body.
- Accountants and firms do not have to take reasonable measures to identify the individual who conducts or attempts to conduct a suspicious transaction **only** if:
  - a. they have already identified the individual as required and have no doubts about the identification information; or
  - b. they believe that identifying the individual would inform them that the accountant or firm is submitting a Suspicious Transaction Report.<sup>108</sup>

94. The *PCMLTFA* and the *PCMLTFA Regulations* require that Accountants and Accounting firms implement a compliance program comprised of five components:

- a. a designated compliance officer, who is responsible for overseeing the compliance program;<sup>109</sup>
- b. the development and application of policies and procedures for Accountants or Accounting Firms to assess and document, in the course of their activities, the risk of a

<sup>108</sup> See <https://www.fintrac-canafe.gc.ca/guidance-directives/client-clientele/client/acc-eng>.

<sup>109</sup> *PCMLTFA Regulations*, ss. 71(1)(a).



money laundering offence or terrorist activity financing offence, that take into consideration various organization-specific factors;<sup>110</sup>

- c. written policies and procedures that are kept up to date and, in the case of Accounting Firms, are approved by a senior officer;<sup>111</sup>
- d. a written ongoing compliance training program for employees and agents;<sup>112</sup> and
- e. an effectiveness review of the Accountant's or Accounting Firm's policies and procedures, risk assessment and training program. Accountants and Accounting Firms are required to carry out the review by an internal or external auditor every two years.<sup>113</sup>

95. Three Canadian Auditing Standards (CAS) contain references to money laundering, namely: CAS 240 *The auditor's responsibilities relating to fraud in an audit of financial statements*; CAS 260 *Communication with those charged with governance*; and CAS 250 *Consideration of laws and regulations in an audit of financial statements*. These standards alert auditors that when they identify certain matters, law or regulation may specifically prohibit a communication, or other action, that might prejudice an investigation by an appropriate authority into an actual, or suspected, illegal act.

96. In addition, CPABC has published a document entitled CAS240 *The Auditor's Responsibilities Relating to Fraud in an Audit*<sup>114</sup> which provides guidance where an auditor encounters circumstances that suggest money-laundering activities and, accordingly, an increased risk of misstatement in financial statements and other forms of fraud. The *Auditor's Responsibilities* guide provides that, in the event that an auditor believes financial statements are false or misleading, they should request additional information. If that information is not forthcoming, the member must consider not releasing the financial statements and resigning from the engagement.

97. In 2014, CPA Canada issued the *Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation*, which is attached as Appendix "L".

<sup>110</sup> PCMLTFA, s. 9.6(2); PCMLTFA Regulations, s. 71(1)(c). Factors include the Accountant's or Accounting Firm's business relationships, products and delivery channels, new developments in, or the impact of, new technologies, and any risk arising from activities of an affiliated entity or from activities of an affiliated foreign entity.

<sup>111</sup> PCMLTFA Regulations, ss. 71(1)(b).

<sup>112</sup> PCMLTFA Regulations, ss. 71(1)(d)

<sup>113</sup> PCMLTFA Regulations, ss. 71(1)(e).

<sup>114</sup> Attached as Appendix "K".

## **Appendix A**

*Chartered Professional Accountants Act*, Assented to March 25, 2015 – November 4,  
2020

This Act is current to November 4, 2020

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

## CHARTERED PROFESSIONAL ACCOUNTANTS ACT

### [SBC 2015] CHAPTER 1

*Assented to March 25, 2015*

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## Part 1 — Definitions

### Definitions

1 In this Act:

"**board**" means the board of the CPABC established under section 4 [*board of directors*];

"**bylaw**" means a bylaw of the CPABC made under this Act;

"**chartered professional accountant member**" means a member described in section 36 (a) [*classes of members*];

"**court**" means the Supreme Court;

"**CPABC**" means the Organization of Chartered Professional Accountants of British Columbia established under section 2 (1);

"**disciplinary committee**" means a disciplinary committee appointed by the board in accordance with the bylaws;

"**hearing**" means a hearing under section 53 [*hearing*];

"**investigation**" means an investigation under section 51 (3) [*practice review and investigation*];

"**legacy designation**" means a legacy designation prescribed by regulation;

"**limited liability partnership**" means a partnership registered as a limited liability partnership under Part 6 of the *Partnership Act*;

"**member**" means a member of the CPABC;

"**permit**" means a permit issued under section 40 [*professional accounting corporation permits*];

"**practice review**" means a practice review under section 51 (2);

"**professional accounting corporation**" means a corporation that holds a valid permit;

"**register**" means the register under section 48 [*register*];

"**registered firm**" means a firm registered under section 42 [*registration of firms*];

"**registrar**" means the person appointed as registrar for the CPABC under section 6 (3) [*officers*];

"**registration**" means the registration of a firm under section 42;

"**review committee**" means a review committee appointed in accordance with the bylaws;

"**review on the record**" means a review on the record under section 55 [*review on the record*].

## Part 2 — Organization of Chartered Professional Accountants

### Division 1 — Organization and Board

#### Organization established

- 2 (1) The Certified General Accountants Association of British Columbia, the Certified Management Accountants Society of British Columbia and the Institute of Chartered Accountants of British Columbia are amalgamated and continued as a corporation to be known as the Organization of Chartered Professional Accountants of British Columbia.
- (2) The organization may operate under the name Chartered Professional Accountants of British Columbia, CPA British Columbia or CPABC.
- (3) For the purposes of exercising its powers and performing its duties under this Act, the organization has all the powers and capacity of a natural person.
- (4) The head office of the organization must be
  - (a) in the City of Vancouver, or
  - (b) if specified in the bylaws, in another location in British Columbia.

#### Objects of CPABC

**3 The CPABC has the following objects:**

- (a) to promote and maintain the knowledge, skill and proficiency of members and students in the practice of accounting;
- (b) to establish qualifications and requirements for admission as a member and continuation of membership, and for enrolment and continuation of enrolment of students;
- (c) to regulate all matters, including competency, fitness and professional conduct, relating to the practice of accounting by members, students, professional accounting corporations and registered firms;
- (d) to establish and enforce professional standards;
- (e) to represent the interests of members and students.

**Board of directors****4 (1) A board of directors is established and must consist of the following:**

- (a) not less than 9 persons elected by and from the members in accordance with the bylaws;
- (b) up to 3 persons appointed by the Lieutenant Governor in Council who are not members.

**(2) The members eligible to be elected under subsection (1) (a) must be**

- (a) resident in British Columbia, and
- (b) either
  - (i) chartered professional accountant members in good standing, or
  - (ii) members in good standing in another class of members specified in the bylaws.

**(3) A member of the board**

- (a) elected under subsection (1) (a) serves for a term specified in the bylaws, and
- (b) appointed under subsection (1) (b) serves for a term specified in the appointment by the Lieutenant Governor in Council.

**(4) Elections referred to in subsection (1) (a) must be held at least every 24 months.****(5) Unless the bylaws otherwise provide, if a vacancy among the elected positions of the board occurs between annual general meetings, the board may appoint a member until the next annual general meeting or special general meeting.****Powers of board****5 (1) The powers and capacity of the CPABC under section 2 (3) *[organization established]* may be exercised by the board on behalf of the CPABC.****(2) The board must pass a resolution to exercise a power or capacity under subsection (1).**

- (3) A resolution under subsection (2) may provide that a power or capacity may be exercised
- (a) on a specified occasion, or
  - (b) from time to time.
- (4) If a bylaw and a resolution are in conflict, the bylaw prevails.

## Officers

- 6 (1) The officers of the CPABC are
- (a) a chair, one or more vice chairs and a treasurer elected by the board from among board members elected under section 4 (1) (a) [*board of directors*],
  - (b) a president and a secretary appointed by the board, and
  - (c) any other officers as specified in the bylaws.
- (2) The president serves as the chief executive officer of the CPABC.
- (3) The president must appoint a registrar in accordance with the bylaws and may delegate the powers of the registrar to another person or a committee.

## Meetings of CPABC

- 7 (1) An annual general meeting must be held, in accordance with the bylaws, for
- (a) an election to fill vacancies on the board,
  - (b) the conduct of business specified in the bylaws, and
  - (c) the conduct of other business that may be brought before the meeting.
- (2) The board may call a special general meeting as specified in the bylaws.
- (3) Unless the bylaws otherwise provide, only chartered professional accountant members in good standing are eligible to vote at an annual general meeting or a special general meeting.
- (4) At an annual general meeting or a special general meeting, a member may be represented and vote by proxy under the following conditions:
- (a) a proxy must not be exercised by a person who is not a member;
  - (b) the proxy must be exercised in accordance with the bylaws on voting and proxies.

## Benevolent and educational funds

- 8 (1) The CPABC may, directly or indirectly, receive, manage and invest contributions and donations from members or others as
- (a) a benevolent fund for the benefit of any member, or the family of a deceased member, who may require financial assistance, or
  - (b) an educational fund for the benefit of any of the following who may require financial assistance, including the provision of scholarships or bursaries:
    - (i) applicants for enrolment as a student;



- (ii) students;
- (iii) members;
- (iv) applicants for admission as members.

(2) The CPABC may contribute to a fund referred to in subsection (1) (a) or (b).

## **Division 2 — Bylaws**

### **Bylaws respecting management and objects of CPABC**

- 9 The board may make bylaws for the purposes of the management and objects of the CPABC.

### **Bylaws respecting meetings**

- 10 Without limiting section 9, the board may make bylaws respecting annual general meetings and special general meetings, including
- (a) the time, place and manner of holding meetings,
  - (b) voting rights, if any, of members in a class, and
  - (c) voting procedures, including procedures for voting by proxy or by electronic means.

### **Bylaws respecting board elections**

- 11 Without limiting section 9, the board may make bylaws respecting the election of members to the board, including
- (a) procedures to be adopted at meetings for elections,
  - (b) terms of office of members elected to the board, including the staggering of terms of office and the setting of terms longer than 24 months to facilitate the staggering of terms, and
  - (c) the election of board members on a regional basis.

### **Bylaws respecting officers**

- 12 Without limiting section 9, the board may make bylaws respecting officers of the CPABC, including the appointment, election and replacement of officers, and the officers' powers, duties and remuneration.

### **Bylaws respecting committees**

- 13 Without limiting section 9, the board may make bylaws respecting committees, including
- (a) respecting the establishment of an executive committee, including the composition of an executive committee, the functions, duties and powers of an executive committee and the delegation of the board's functions, duties and powers to an executive committee, and
  - (b) respecting the establishment of a disciplinary committee, a review committee and any other committee, including the composition of a committee which may include persons who are not members of the CPABC,

the functions, duties and powers of a committee, the delegation of the board's functions, duties and powers to a committee and the delegation of a committee's functions, duties and powers to one or more panels of a committee.

### **Bylaws respecting students and other applicants for admission**

14 Without limiting section 9, the board may make bylaws respecting students and other applicants for admission, including

- (a) establishing procedures for admission of students and other applicants as members,
- (b) setting the requirements, including fitness and character requirements, for admission of students and other applicants as members,
- (c) establishing standards for the manner and method of practice of students and other applicants for membership,
- (d) conducting investigations into the conduct of students or other applicants for membership, and
- (e) establishing an appeal process in respect of the manner in which examinations for admissions as a member are conducted.

### **Bylaws respecting fellows**

15 Without limiting section 9, the board may make bylaws respecting the election of a member as a fellow of the CPABC.

### **Bylaws respecting classes of members**

16 Without limiting section 9, the board may make bylaws respecting

- (a) classes of members, and
- (b) standards of competency, fitness and professional conduct for a class of members.

### **Bylaws respecting members**

17 Without limiting section 9, the board may make bylaws respecting members, including

- (a) qualification and competency requirements of members, including establishing those requirements and conducting reviews of members to ensure compliance with those requirements,
- (b) optional or compulsory learning activities or continuing education for members,
- (c) certification or licensing requirements for members to provide specified types of accounting services,
- (d) specification of types of accounting services for the purposes of paragraph (c), and
- (e) standards for the manner and method of practice of members.

**Bylaws respecting professional accounting corporations**

- 18 Without limiting section 9, the board may make bylaws respecting the issuance of permits to professional accounting corporations, including
- (a) renewal of permits,
  - (b) terms and conditions that must be met to be issued a permit under section 40 [*professional accounting corporation permits*], including terms and conditions relating to the ownership and control of a professional accounting corporation,
  - (c) procedures for granting, suspending and cancelling a permit, and
  - (d) the names and the approval of names, including the type of names, by which a professional accounting corporation may be known.

**Bylaws respecting registered firms**

- 19 Without limiting section 9, the board may make bylaws respecting the registration of firms, including
- (a) renewal of registrations,
  - (b) classes of registration,
  - (c) terms and conditions that must be met to be registered under section 42 [*registration of firms*],
  - (d) procedures for granting, suspending and cancelling a registration, and
  - (e) the names and the approval of names, including the type of names, by which a registered firm may be known.

**Bylaws respecting limited liability partnerships**

- 20 Without limiting section 9, the board may make bylaws respecting limited liability partnerships, including
- (a) granting permission to members to provide accounting services to the public through a limited liability partnership, and
  - (b) establishing prerequisites, conditions, limitations and requirements for members to provide accounting services to the public through a registered firm that is a limited liability partnership.

**Bylaws respecting designations**

- 21 Without limiting section 9, the board may make bylaws respecting designations, including
- (a) the use and display by a member, a professional accounting corporation or a registered firm of a designation and the initials signifying that designation under this Act, including requiring the use or display of a designation and the initials signifying that designation and setting conditions for the use and display of a designation and the initials signifying that designation, and

- (b) establishing who may use and display a legacy designation and the initials signifying that designation, including requiring or prohibiting the use or display of a legacy designation and the initials signifying that designation and setting conditions for the use and display of a legacy designation and the initials signifying that designation.

### **Bylaws respecting practice reviews, investigations, hearings and extraordinary suspensions**

22 Without limiting section 9, the board may make bylaws respecting practice reviews, investigations, hearings and extraordinary suspensions, including respecting

- (a) the conduct of practice reviews and investigations, including
  - (i) requiring members, professional accounting corporations and registered firms to submit to a practice review, and
  - (ii) requiring members, former members, students, professional accounting corporations, former professional accounting corporations, registered firms and former registered firms to submit to an investigation,
- (b) the inspection of offices, books, accounts and other records of a person subject to an investigation or practice review,
- (c) the conduct of hearings,
- (d) the establishment of a panel for the purposes of section 57 [*extraordinary suspension*] and the conduct of a proceeding under that section, and
- (e) authorizing a person or committee appointed under section 51 [*practice review and investigation*] to resolve a matter, by agreement,
  - (i) in a practice review, with a member who is, or a professional accounting corporation or registered firm that is, the subject of the practice review, and
  - (ii) in an investigation, with a respondent as defined in section 50 [*definitions for this Part*].

### **Bylaws respecting reviews on the record**

23 Without limiting section 9, the board may make bylaws respecting reviews on the record of an order of a panel of a disciplinary committee, including

- (a) the procedures for making an application to a review committee,
- (b) the practice and procedure for conducting reviews on the record, and
- (c) the circumstances in which a review committee may hear evidence that is not part of the record.

### **Bylaws respecting tariff of costs**

24 (1) Without limiting section 9, the board may make bylaws establishing a tariff of costs to partially indemnify

- (a) the CPABC for the expenses it incurs to conduct an investigation,

- (b) the CPABC for the expenses it incurs to conduct a hearing,
  - (c) the CPABC for the expenses it incurs to conduct a review on the record,
  - (d) the CPABC for the expenses it incurs concerning a proceeding under section 57 *[extraordinary suspension]*,
  - (e) if section 54 (1) *[costs]* applies, a respondent in a proceeding referred to in paragraph (a), (c) or (d), other than the CPABC, for the expenses the respondent incurs concerning the proceeding, and
  - (f) if section 54 (1) applies, a respondent in a hearing for the expenses the respondent incurs concerning the hearing.
- (2) A tariff of costs established under subsection (1) must not provide for the recovery of
- (a) the remuneration paid to members of a committee,
  - (b) the remuneration of employees of the CPABC, or
  - (c) legal expenses of the CPABC other than those incurred to conduct a proceeding before a committee.

### **Bylaws respecting insurance**

- 25 Without limiting section 9, the board may make bylaws respecting insurance against professional liability claims, including
- (a) requirements that members, professional accounting corporations and registered firms maintain insurance,
  - (b) the exemption of a member, a category of members, a professional accounting corporation, a category of professional accounting corporations, a registered firm or a category of registered firms from requirements established under paragraph (a), and
  - (c) authorization of the CPABC to act as agent for its members, professional accounting corporations and registered firms in obtaining the insurance.

### **Bylaws respecting chapters, branches and affiliations**

- 26 Without limiting section 9, the board may make bylaws respecting
- (a) the establishment of chapters or branches of the CPABC in British Columbia for the social and educational welfare of its members and students, with the powers as may be provided for in the bylaws, and
  - (b) authorization of the CPABC to enter into contracts, in accordance with the bylaws, to affiliate with a body that has objects and purposes similar to those of the CPABC.

### **General bylaw-making powers**

- 27 (1) The board may by bylaw amend or repeal a bylaw.
- (2) Provisions in a bylaw may be different for different categories of persons.
- (3) The board must deal with a matter referred to in sections 10 to 26 only by

- (a) enacting a bylaw, or
- (b) acting as authorized under a bylaw.

### Bylaw approval

28 (1) A bylaw must be confirmed at

- (a) a special general meeting called for the purpose of considering the bylaw, or
  - (b) the next annual general meeting.
- (2) The board must file a copy of a bylaw with the minister within 30 days after the bylaw is confirmed at the special general meeting or annual general meeting.
- (3) A bylaw may be disallowed by the minister within 45 days after the bylaw is filed under subsection (2).
- (4) Unless the minister disallows the bylaw under subsection (3), a bylaw comes into force
- (a) 45 days after the date the bylaw is filed under subsection (2), or
  - (b) on an earlier date if the minister declares that the bylaw comes into force on an earlier date.

### Ministerial powers in relation to certain bylaws

- 29 (1) If the minister, in order to protect the public interest, considers that a bylaw should be made, amended or repealed under section 18 [*bylaws respecting professional accounting corporations*] respecting the ownership or control of professional accounting corporations, the minister may, by notice in writing to the board, request that the board make a new bylaw or amend or repeal an existing bylaw, under that section in the manner and by the date specified in the notice.
- (2) If the board does not comply with a request under subsection (1), the Lieutenant Governor in Council may make the new bylaw or amend or repeal the existing bylaw in accordance with the request.

## Part 3 — Students and Membership

### Students

30 The board may determine one or more of the following:

- (a) requirements for enrolment and training in accountancy to be met by students;
- (b) curriculum of studies in accountancy to be pursued by students;
- (c) standards of skill and competency in accountancy to be met by students;
- (d) the rules, not contrary to this Act or the bylaws, for examinations or evaluations, including recognizing results from examinations held by other bodies.

## Educational programs

- 31 (1) The CPABC may establish educational programs in accountancy for students.
- (2) The CPABC may make arrangements with a post-secondary institution or other educational body for the establishment or delivery of the programs referred to in subsection (1), including for the enrolment and training of students and the conduct and delivery of examinations.

## Examinations

- 32 The board must hold examinations for admission as a member, or arrange that examinations for admission as a member be held, at least once a year.

## Equivalent examinations

- 33 (1) The board must by bylaw establish the conditions under which persons who have passed the examinations of other corporate bodies that have the same or similar objects may be admitted as members.
- (2) The conditions established under subsection (1) must be reasonable and are subject to amendment by the Lieutenant Governor in Council.
- (3) If the board omits to pass a bylaw described in subsection (1), the Lieutenant Governor in Council may prescribe the conditions.

## Appeals

- 34 (1) In this section, "**appeal process**" means an appeal process of the CPABC established by bylaw or an appeal process of a person who holds examinations for admission as a member.
- (2) A person who has failed to pass an examination for admission as a member may appeal the manner in which the examination was conducted to the court within 3 months from the date of either of the following, as applicable:
- (a) if there is an appeal process, the decision in the appeal process;
  - (b) if there is no appeal process, the publication, by the CPABC or by the person who held the examination, of the result of the examination.
- (3) If there is an appeal process, a person may not initiate an appeal to the court until the person has first exhausted the appeal process.

## Admission as member

- 35 (1) The board must admit a person to membership in the CPABC if the person
- (a) passes examinations required by the board,
  - (b) satisfies the board that the person is of good character,
  - (c) pays any applicable fees established by the board, and
  - (d) meets any other requirements for admission to membership specified in the bylaws.

- (2) The board must admit a person to membership in the CPABC if the person is entitled under the *Labour Mobility Act* to be admitted to membership in the CPABC.
- (3) The board may delegate its powers and duties under subsections (1) and (2) to the registrar.

### Classes of members

36 The classes of members of the CPABC are as follows:

- (a) chartered professional accountants, including fellows;
- (b) associate members;
- (c) technologist members;
- (d) other classes of members established by bylaw.

### Honorary members

- 37 (1) The board may confer honorary membership on persons the board considers to have provided outstanding or notable services to the CPABC.
- (2) An honorary membership does not confer the right to be elected to the board, vote as a member or practise as a chartered professional accountant.

### Fees, dues and assessments

38 The board may

- (a) establish and collect fees, dues and assessments payable to the CPABC by
  - (i) applicants for enrolment as a student,
  - (ii) students,
  - (iii) applicants for admission as a member,
  - (iv) members,
  - (v) applicants for professional accounting corporation permits,
  - (vi) professional accounting corporations,
  - (vii) applicants for registration as a registered firm,
  - (viii) registered firms, and
  - (ix) persons applying for examination or evaluation,
- (b) provide for special fees, special dues and special assessments to be paid by the persons described in paragraph (a),
- (c) set the date by which fees, dues, assessments, special fees, special dues or special assessments must be paid, and
- (d) exempt a person or a category of persons from payment of a fee, dues, assessment, special fee, special dues or special assessment.

## Part 4 — Professional Accounting Corporations, Registered Firms and Limited Liability Partnerships



## Definition for this Part

- 39 In this Part, "**holding company**" means a corporation incorporated under the *Business Corporations Act* or registered under Part 11 of that Act, all the voting shares of which are legally and beneficially owned, directly or indirectly, by chartered professional accountant members in good standing.

## Professional accounting corporation permits

- 40 (1) Subject to subsection (3), the board must issue a permit to a corporation that is a company as defined in the *Business Corporations Act*, and that is in good standing under that Act or that is an extraprovincial company as defined in that Act, if the board is satisfied that
- (a) the corporation has complied with this Part and the bylaws,
  - (b) each voting share is legally and beneficially owned by chartered professional accountant members in good standing or by holding companies,
  - (c) all the directors of the corporation are chartered professional accountant members in good standing,
  - (d) the president of the corporation is a chartered professional accountant member in good standing,
  - (e) each non-voting share is legally and beneficially owned by
    - (i) a chartered professional accountant member in good standing,
    - (ii) a holding company,
    - (iii) a person who is a relative of or resides with a chartered professional accountant member in good standing who is a shareholder or who is a shareholder in a professional accounting corporation that is a shareholder,
    - (iv) a corporation, all the shares of which are beneficially owned by one or more of the persons referred to in subparagraph (i) or (iii), or
    - (v) a trust, all the beneficiaries of which are individuals referred to in subparagraph (i) or (iii),
  - (f) each person who provides accounting services in British Columbia to the public on behalf of the professional accounting corporation is
    - (i) a chartered professional accountant member in good standing, or
    - (ii) under the direct supervision of a chartered professional accountant member in good standing who is an employee or shareholder of the professional accounting corporation, and
  - (g) the corporation satisfies any other requirements specified in the bylaws.
- (2) Subject to the bylaws, if a corporation that has been issued a permit under subsection (1) ceases to meet the criteria for a permit set out in subsection (1) because

- (a) a shareholder, director or president of a corporation dies or resigns from the corporation, or
- (b) a shareholder of a holding company owning shares in the corporation dies or resigns from the holding company,

the corporation may continue to hold a permit for a period of 6 months after the death or resignation.

(3) The board may refuse to issue a permit under subsection (1)

- (a) if a professional accounting corporation had its permit cancelled or suspended previously,
- (b) if a shareholder of the professional accounting corporation was a shareholder of a professional accounting corporation that had its permit cancelled or suspended previously,
- (c) if a shareholder of the professional accounting corporation, or a shareholder of a holding company that owns shares in the firm, had her or his membership cancelled or suspended previously, or had her or his application to renew membership refused previously, or
- (d) in accordance with the bylaws.

(4) The board may delegate its powers and duties under subsection (1) to the registrar.

### **Voting trust, proxy and similar agreements forbidden**

**41** A shareholder of

- (a) a professional accounting corporation, or
- (b) a holding company owning shares in a professional accounting corporation

must not enter into a voting trust agreement, proxy agreement or any other type of agreement that vests in another person who is not a chartered professional accountant member in good standing the authority to exercise the voting rights attached to any or all of the shares of the professional accounting corporation if the exercise of those voting rights could result in persons who are not chartered professional accountant members in good standing holding the majority voting control of the professional accounting corporation.

### **Registration of firms**

**42** (1) The board may accept any of the following entities for registration as a firm in accordance with the bylaws:

- (a) a partnership, including a limited liability partnership;
- (b) a professional accounting corporation;
- (c) a sole proprietorship;
- (d) an entity specified in the bylaws.

(2) Subject to the bylaws and subsection (3), the board must register a firm or renew the registration of a firm on application by a person who

- (a) holds a direct or indirect proprietary interest in the firm,
  - (b) is a chartered professional accountant member in good standing, and
  - (c) is authorized by the firm to bring the application.
- (3) The board may refuse to register a firm or renew a registration under subsection (2)
- (a) if the firm had its registration cancelled or suspended previously, or had its application to renew its registration refused previously,
  - (b) if a shareholder, partner or proprietor of the firm, or a shareholder of a holding company that owns shares in the firm, was a shareholder, partner or proprietor of a firm that had its registration cancelled or suspended previously,
  - (c) if a shareholder, partner or proprietor of the firm, or a shareholder of a holding company that owns shares in the firm, had her or his membership cancelled or suspended previously, or had her or his application to renew membership refused previously, or
  - (d) in accordance with the bylaws.
- (4) The board may delegate its powers and duties under subsection (2) to the registrar.

**Practice through professional accounting corporation or registered firm does not limit professional accountability**

- 43** (1) The civil liability for professional negligence as an accountant of a member for her or his own professional negligence is not affected by the fact that the member is carrying on the practice of accounting
- (a) as an employee, shareholder, officer, director or contractor of a professional accounting corporation or on its behalf,
  - (b) through a registered firm, or
  - (c) through a limited liability partnership.
- (2) The relationship of a member to a professional accounting corporation, to a registered firm or to a limited liability partnership as
- (a) an employee, shareholder, officer, director, partner or contractor of the professional accounting corporation or the registered firm,
  - (b) a shareholder of a holding company that owns shares in the professional accounting corporation or the registered firm, or
  - (c) an employee, partner or contractor of the limited liability partnership or on its behalf
- does not affect, modify or diminish the application to the member of this Act or the bylaws.
- (3) This Act does not affect, modify or limit any law applicable to the fiduciary, confidential or ethical relationships that exist between a member, professional accounting corporation or registered firm and a person receiving accounting services from the member, professional accounting corporation or registered firm.

- (4) The relationship between a professional accounting corporation and a person receiving accounting services through the professional accounting corporation is subject to all applicable laws relating to the fiduciary, confidential and ethical relationships that exist between a member and the member's client.

## Part 5 — Designations and Prohibitions

### Designations

- 44 (1) A chartered professional accountant member in good standing may use or display the designation "professional accountant" and the designation "Chartered Professional Accountant" or the initials "CPA" signifying that designation.
- (2) A chartered professional accountant member in good standing who is a fellow may use or display the designation "Fellow of the Chartered Professional Accountants" or the initials "FCPA" signifying that designation.
- (3) A member in good standing described in section 36 (b) [*classes of members*] may use or display the designation "Associate of the Chartered Professional Accountants" or the initials "ACPA" signifying that designation.
- (4) A member in good standing described in section 36 (c) may use or display the designation "Associate Accounting Technologist" or the initials "AAT" signifying that designation.
- (5) A person on whom the board has conferred honorary membership under section 37 [*honorary members*] may use or display the designation "Chartered Professional Accountant, Honorary" or the initials "CPA (Hon.)" signifying that designation.
- (6) A professional accounting corporation and a registered firm may use or display the designation "Chartered Professional Accountant" or the initials "CPA" signifying that designation.
- (7) Subsection (6) only applies to a registered firm that is a partnership, including a limited liability partnership, if
- (a) each partner resident in British Columbia is a chartered professional accountant member in good standing or is a professional accounting corporation, and
  - (b) each partner that is not resident in British Columbia and not a chartered professional accountant member or a professional accounting corporation is
    - (i) a member of a body of chartered professional accountants, chartered accountants, certified management accountants or certified general accountants incorporated by an enactment that corresponds to this Act in a province or Bermuda, or
    - (ii) a corporation recognized and approved for the practice of public accounting by a body of chartered professional accountants, chartered accountants, certified management accountants or

certified general accountants incorporated by an enactment that corresponds to this Act in a province or Bermuda.

- (8) A person authorized under subsection (1), (2), (3), (4), (5) or (6) to use or display a designation or initials signifying that designation in the English language is also authorized to use or display the designation or initials signifying that designation together with their equivalent in a language other than English.
- (9) The use or display of a designation or initials signifying that designation under this section must comply with the bylaws.

### Use of designations

- 45** (1) Except as authorized by this Act, and in the case of legacy designations, as authorized or required by the bylaws, a person must not
- (a) use or display
    - (i) a designation or the initials signifying a designation authorized to be used or displayed under section 44 (1), (2), (3), (4), (5) or (6), or
    - (ii) a legacy designation,
  - (b) use or display in a language other than English a designation or the initials signifying a designation that is equivalent to the corresponding designation or initials referred to in paragraph (a), or
  - (c) in any other manner, imply, suggest or hold out that the person is a person entitled to use or display a designation or the initials signifying a designation referred to in paragraph (a), or otherwise is a chartered professional accountant, or possesses accounting qualifications granted or approved under the bylaws.
- (2) A person must not, in any manner, imply, suggest or hold out that the person is a certified public accountant or a certified public auditor or use or display the designation "certified public accountant" or "certified public auditor" unless
- (a) the person is a chartered professional accountant member in good standing,
  - (b) the designation or initials are used or displayed together with and follow the designation "Chartered Professional Accountant",
  - (c) the use or display is accompanied by the name of the jurisdiction where the designation "certified public accountant" or "certified public auditor" were granted, and
  - (d) the jurisdiction where the designation "certified public accountant" or "certified public auditor" were granted authorizes the person to use and display it in that jurisdiction.
- (3) A professional accounting corporation or a registered firm must not, in any manner, imply, suggest or hold itself out as a certified public accountant or a certified public auditor or use or display the designation "certified public accountant" or "certified public auditor".

- (4) Subject to section 44 (1), a person must not use or display the designation "professional accountant" or the initials "PA" signifying that designation or, in any manner, imply, suggest or hold out that the person is a professional accountant.

### **Persons not affected**

- 46** Subject to section 47, this Act does not affect the right of a person who is not a member to practice as an accountant or auditor in British Columbia.

### **Professional accounting**

- 47** (1) The practice of professional accounting comprises one or more of the following services:

- (a) performing an audit engagement and issuing an auditor's report in accordance with the standards of professional practice published by the Chartered Professional Accountants of Canada, as amended from time to time, or an audit engagement or a report purporting to be performed or issued, as the case may be, in accordance with those standards;
- (b) performing any other assurance engagement and issuing an assurance report in accordance with the standards of professional practice published by the Chartered Professional Accountants of Canada, as amended from time to time, or an assurance engagement or a report purporting to be performed or issued, as the case may be, in accordance with those standards;
- (c) issuing any form of certification, declaration or opinion with respect to information related to a financial statement or any part of a financial statement, on the application of
  - (i) financial reporting standards published by the Chartered Professional Accountants of Canada, as amended from time to time, or
  - (ii) specified auditing procedures in accordance with standards published by the Chartered Professional Accountants of Canada, as amended from time to time.

- (2) A person must not provide or perform the services referred to in subsection (1) other than the following persons if those persons are authorized by the CPABC to do so:

- (a) a chartered professional accountant member in good standing;
- (b) a professional accounting corporation;
- (c) a registered firm.

- (3) Subsection (2) does not apply to the following:

- (a) a member who is not authorized by the CPABC to provide or perform the services referred to in subsection (1) or a student, if the member or student is providing or performing those services under the direct supervision and control of any of the following persons if those persons are authorized by the CPABC to provide and perform those services:

- (i) a chartered professional accountant member in good standing;
  - (ii) a professional accounting corporation;
  - (iii) a registered firm;
- (b) a person performing a service for academic research or teaching purposes and not for the purpose of providing advice to a particular person;
- (c) an employee in relation to services provided to her or his employer or in her or his capacity as an employee of an employer that is not a registered firm;
- (d) a person providing advice based directly on a declaration, certification or opinion of any of the following persons if those persons are authorized by the CPABC to provide and perform the services referred to in subsection (1):
- (i) a chartered professional accountant member in good standing;
  - (ii) a professional accounting corporation;
  - (iii) a registered firm;
- (e) a person providing bookkeeping services, consulting services or income tax return preparation and processing services that do not purport to be based on the standards of the Chartered Professional Accountants of Canada;
- (f) a person acting pursuant to the authority of any other Act.

## **Part 6 — Register of Members, Professional Accounting Corporations and Registered Firms**

### **Register**

- 48 (1) The registrar must establish and maintain a register of all members, professional accounting corporations and registered firms.
- (2) The register must include the following information:
- (a) the name of each member;
  - (b) the class of membership of each member;
  - (c) the name of each professional accounting corporation;
  - (d) the name of each registered firm;
  - (e) the class of registration of each registered firm.
- (3) Only those members whose names are entered in the register are entitled to the privileges of membership in the CPABC.
- (4) The register, or a copy or an extract of the register certified by the secretary, is proof in the absence of evidence to the contrary in any court that
- (a) a person whose name is entered in the register is a member in good standing,
  - (b) a professional accounting corporation whose name is entered in the register is a professional accounting corporation,

- (c) a registered firm whose name is entered in the register is a registered firm,
  - (d) a person whose name is not entered in the register is not a member,
  - (e) a professional accounting corporation whose name is not entered in the register is not a professional accounting corporation, and
  - (f) a registered firm whose name is not entered in the register is not a registered firm.
- (5) The register may include the name of a person whose name was previously entered in the register and the period when the name was entered.

### Inspection of register

- 49 (1) The registrar must make the register available for public inspection free of charge.
- (2) The registrar may refuse a person access to the register if the registrar reasonably believes that
- (a) access by the person could threaten the safety of another person, or
  - (b) the person is seeking access for commercial purposes.
- (3) If access is refused under subsection (2), the registrar may disclose to the person information from the register that the registrar considers appropriate in the circumstances.

## Part 7 — Practice Reviews, Investigations and Hearings

### Definitions for this Part

- 50 (1) In this Part:

**"investigator"** means a person or committee designated under section 51 (1) to conduct an investigation;

**"party"** means a person subject to

- (a) a practice review, or
- (b) an investigation;

**"respondent"** means any of the following subject to a hearing:

- (a) a member;
- (b) a former member;
- (c) a student;
- (d) a professional accounting corporation;
- (e) a former professional accounting corporation;
- (f) a registered firm;
- (g) a former registered firm;



**"reviewer"** means a person or committee designated under section 51 (1) to conduct a practice review.

- (2) For the purposes of section 22 [*bylaws respecting practice reviews, investigations, hearings and extraordinary suspensions*] and this Part,
- (a) former members include former members of The Certified General Accountants Association of British Columbia, the Certified Management Accountants Society of British Columbia and the Institute of Chartered Accountants of British Columbia, and
  - (b) former registered firms include former licensed firms under the *Accountants (Chartered) Act*.

### Practice review and investigation

- 51** (1) An officer, a committee or any other person designated in accordance with the bylaws may conduct a practice review or an investigation.
- (2) A reviewer may conduct a practice review of a person listed in subsection (4) (a) by reviewing the person's professional practice for the purpose of identifying any deficiencies in the practice or the fitness or professional conduct of the person.
- (3) An investigator may conduct an investigation of the conduct of a person listed in subsection (4) (b) to determine whether grounds exist for disciplinary action against that person under section 53.
- (4) The persons
- (a) for the purposes of subsection (2) are as follows:
    - (i) a member;
    - (ii) a professional accounting corporation;
    - (iii) a registered firm, and
  - (b) for the purposes of subsection (3) are as follows:
    - (i) a member;
    - (ii) a former member;
    - (iii) a student;
    - (iv) a professional accounting corporation;
    - (v) a former professional accounting corporation;
    - (vi) a registered firm;
    - (vii) a former registered firm.
- (5) If the reviewer or investigator is satisfied on reasonable grounds that a member or student possesses any information, record or thing that is relevant to a practice review or an investigation, the reviewer or investigator may make a written request to the member or student requiring the member or student to answer inquiries of the reviewer or investigator relating to the practice review or investigation and to produce to the reviewer or investigator the record or thing.
- (6) A person who receives a request under subsection (5) must comply with the request.

- (7) If a person who receives a request under subsection (5) refuses or neglects as soon as practicable to comply with the request, the CPABC may apply to the court for an order requiring the person to comply.
- (8) The court, on being satisfied that a person has contravened subsection (6), may order that the person comply and may impose requirements as to time and manner of compliance.
- (9) A person must not refuse to comply with this section on the grounds of confidentiality.
- (10) A person who, in accordance with this Act and the bylaws, provides the reviewer or investigator with any information, records or things that are confidential or subject to a solicitor-client privilege is deemed conclusively not to have breached any duty or obligation that would otherwise have been owed to a client not to disclose the information, records or things.
- (11) A provision of this section that applies to a member also applies to a professional accounting corporation and a registered firm.

### Court ordered production

- 52 On application by the CPABC to the court, the court may order that a person produce to an officer or committee of the CPABC, a reviewer or an investigator any record or thing if the court is satisfied that the record or thing is relevant to and reasonably required by the reviewer for a review of the professional practice of a party or relevant to and reasonably required by the investigator for an investigation of the conduct of a party.

### Hearing

- 53 (1) A disciplinary committee may appoint a panel to conduct a hearing under this section.
- (2) Subject to subsection (3), a panel of a disciplinary committee appointed under subsection (1) may inquire, in accordance with the bylaws, into the competence, fitness to practice or professional conduct of a respondent and decide whether the respondent
- (a) is incompetent,
  - (b) is unfit to practice,
  - (c) has committed professional misconduct,
  - (d) has,
    - (i) as a member, engaged in conduct unbecoming a member, or
    - (ii) as a professional accounting corporation or a registered firm, engaged in conduct that, if engaged in by a member, would have been conduct unbecoming a member, or
  - (e) has contravened this Act or the bylaws.
- (3) A panel may not commence a hearing under subsection (2) in respect of a former member, a former professional accounting corporation or a former registered firm if

- (a) the former member has not been a member for more than 6 years,
  - (b) the former professional accounting corporation has not been a professional accounting corporation for more than 6 years, and
  - (c) the former registered firm has not been a registered firm for more than 6 years.
- (4) If, after a hearing, a panel is satisfied that subsection (2) (a), (b), (c), (d) or (e) applies to a respondent, the panel may make an order to that effect and may, by order, do one or more of the following:
- (a) reprimand the respondent;
  - (b) suspend with or without conditions for a period specified by the panel
    - (i) the membership of the member,
    - (ii) the enrolment of the student,
    - (iii) the permit of the professional accounting corporation, or
    - (iv) the registration of the registered firm;
  - (c) cancel the membership of the member, the enrolment of the student, the permit of the professional accounting corporation or the registration of the registered firm;
  - (d) bar the former member from applying for membership, the former professional accounting corporation from applying for a permit or the former registered firm from applying for registration
    - (i) for the period specified in the order, or
    - (ii) until the conditions specified in the order are met;
  - (e) impose conditions on the continuance of the membership of the member, the enrolment of the student, the permit of the professional accounting corporation or the registration of the registered firm;
  - (f) impose a fine payable to the CPABC of not more than
    - (i) \$25 000 for
      - (A) a professional accounting corporation or a former professional accounting corporation, of which all the voting shares are owned, directly or indirectly, by one member or former member,
      - (B) a registered firm or a former registered firm that is a sole proprietorship, or
      - (C) a member or a former member,
    - (ii) \$100 000 for
      - (A) a professional accounting corporation or a former professional accounting corporation that is not described in subparagraph (i) (A), or
      - (B) a registered firm or former registered firm that is not a sole proprietorship, and
    - (iii) \$4 000 for a student;

- (g) impose costs, based on the tariff established in the bylaws, against the respondent for the expenses the CPABC incurred to conduct an investigation, a proceeding under section 57 [*extraordinary suspension*] or a hearing.
- (5) The panel and any member of the panel has, for the purposes of a hearing, the same power as the court has for the trial of civil actions
  - (a) to summon and enforce the attendance of a person,
  - (b) to compel a person to give evidence on oath or in any other manner, and
  - (c) to compel a person to produce records and things in the person's possession or control.
- (6) For the purposes of subsection (5), the failure or refusal of a person
  - (a) to attend,
  - (b) to take an oath or affirmation,
  - (c) to give evidence, or
  - (d) to produce the records or things in the person's possession or control
 makes the person, on application by the CPABC to the court, liable to be committed for contempt as if in breach of an order or judgment of the court.
- (7) The panel must provide written notice of an order under subsection (4) to the respondent.
- (8) The respondent is deemed to be in receipt of the written notice under subsection (7) on the earlier of
  - (a) the receipt by the respondent of the written notice, or
  - (b) 3 days after the day the CPABC mails the written notice to the respondent at the respondent's last address on file with the CPABC.

## Costs

- 54 (1) If a panel of a disciplinary committee decides that the allegations giving rise to a hearing were without merit, the panel may impose costs, based on the tariff established by the bylaws, against the CPABC for the expenses incurred by the respondent in respect of an investigation, a proceeding under section 57 [*extraordinary suspension*] or a hearing.
- (2) Costs imposed under section 53 (4) (g) must not exceed 100% of disbursements, plus 50% of the other actual costs, incurred by the CPABC to conduct an investigation, a proceeding under section 57 or a hearing.
  - (3) Costs imposed under subsection (1) must not exceed 100% of disbursements, plus 50% of the other actual costs, incurred by the respondent regarding an investigation, a proceeding under section 57 or a hearing.
  - (4) Despite subsection (2), if the panel is satisfied that the actual cost to the CPABC to conduct an investigation, a proceeding under section 57 or a hearing was made greater because of the reprehensible conduct of the respondent during these

proceedings, the panel may award further costs to the CPABC not exceeding 80% of the actual increase of the cost to the CPABC caused by that conduct.

### Review on the record

- 55 (1) This section applies only if the CPABC has made bylaws under section 23 *[bylaws respecting reviews on the record]*.
- (2) Within 30 days after receiving the written notice under section 53 (8) of an order of a panel of a disciplinary committee, a respondent may apply in writing for a review on the record of that order by a review committee.
- (3) Within 30 days after an order of a panel of a disciplinary committee, a disciplinary committee may refer the matter to a review committee for a review on the record by a review committee.
- (4) If, in the opinion of a review committee, there are special circumstances, the review committee may hear evidence that is not part of the record in accordance with the bylaws.
- (5) After a hearing under this section, a review committee may
- (a) confirm the order of the panel of a disciplinary committee, or
  - (b) substitute an order the panel of a disciplinary committee could have made under this Act.

### Appeal of disciplinary decision

- 56 (1) The following may appeal an order under section 53 *[hearing]* to the court on a question of law or jurisdiction:
- (a) the respondent against whom the order was made, whether or not the respondent applied for a review on the record;
  - (b) the CPABC, whether or not a disciplinary committee has referred the matter for a review on the record.
- (2) The court may confirm, vary or reverse the order referred to in subsection (1) or send the matter back to the disciplinary committee with directions.
- (3) An appeal under subsection (1) must be brought
- (a) by the respondent within 30 days after receiving the written notice under section 53 (8), and
  - (b) by the CPABC within 30 days of the date the order is made.
- (4) If an order under section 53 is appealed, the order remains in effect until the determination of the appeal.
- (5) An appeal from a decision of the court lies to the Court of Appeal with leave of a justice of the Court of Appeal.

### Extraordinary suspension

- 57 (1) If a panel consisting of any 3 members of the board considers that the length of time that would be required to hold a hearing concerning a member, professional accounting corporation or registered firm would be prejudicial to the public interest, the panel, without giving the member, professional accounting corporation or registered firm an opportunity to be heard, may suspend the membership of the person, the permit of the professional accounting corporation or the registration of the registered firm until a hearing and order under section 53 *[hearing]*.
- (2) If the panel decides under subsection (1) to suspend a member, the permit of a professional accounting corporation or the registration of a registered firm, it must give written notice to the member, professional accounting corporation or registered firm of the order, the reasons for the order and the right of the member, professional accounting corporation or registered firm to apply to the court to have the suspension removed.
- (3) The suspension under subsection (1) is not effective until the earlier of
- (a) receipt by the member, professional accounting corporation or registered firm of the written notice, or
  - (b) 3 days after the day the CPABC mails the written notice to the member, professional accounting corporation or registered firm at their last address on file with the CPABC.
- (4) A member suspended, a professional accounting corporation whose permit is suspended or a registered firm whose registration is suspended under subsection (1) may apply to the court to have the suspension removed, and the court may make any order respecting the suspension that the court considers appropriate.
- (5) A member of the board who takes part in the decision under subsection (1) must not sit on any hearing or review on the record with respect to any matter in relation to which the member of the board exercised the power of decision.

## Injunction

- 58 (1) The CPABC may apply to the court for an injunction restraining a person from contravening this Act or the bylaws.
- (2) The court may grant an injunction under subsection (1) if the court is satisfied that there is reason to believe that there has been or will be a contravention of this Act or the bylaws.
- (3) The court may grant an interim injunction until the outcome of an application is commenced under subsection (1).

## Part 8 — Custodians

### Definitions for this Part

- 59 (1) In this Part:

**"accountant"** means a member, a former member, a professional accounting corporation, a former professional accounting corporation, a registered firm or a former registered firm;

**"custodian"** means a person appointed by an order under section 60;

**"practice"** includes an accounting practice carried on by a member on behalf of a professional accounting corporation whether as an employee of the professional accounting corporation or otherwise;

**"property"** includes books, records, accounts, funds, securities and any other real or personal property, wherever located,

- (a) in the possession or control of an accountant, if held or used by the accountant for the benefit of a client or other person, or otherwise held or used in the accountant's capacity as an accountant,
- (b) in the possession or control of a person other than an accountant if the accountant has a duty to account to a client or other person for the property, or
- (c) referred to in paragraph (a) or (b), if held or used by a professional accounting corporation or a registered firm.

(2) For the purposes of the definition of "accountant",

- (a) former members include former members of The Certified General Accountants Association of British Columbia, the Certified Management Accountants Society of British Columbia and the Institute of Chartered Accountants of British Columbia, and
- (b) former registered firms include former licensed firms under the [\*Accountants \(Chartered\) Act\*](#).

### Appointment of custodian

60 (1) The CPABC may apply to the court, with or without notice to anyone, for an order appointing the CPABC, a member in good standing, a professional accounting corporation, a registered firm or any other person as a custodian of the practice of an accountant to

- (a) take possession of or control over all or part of the property of the accountant, and
- (b) determine the status of, manage, arrange for the conduct of and, if appropriate, wind up or sell the practice of the accountant.

(2) The court may grant a custodianship order under subsection (1), if, in the opinion of the court,

- (a) the accountant consents to the appointment of a custodian,
- (b) if the accountant is a member, the accountant dies or resigns or otherwise terminates membership in the CPABC,

- (c) if the accountant is a professional accounting corporation or a registered firm, the accountant terminates a permit or registration,
  - (d) the accountant is unable to practice as an accountant because of physical or mental illness or for any other reason,
  - (e) the accountant disappears or neglects or abandons the accountant's practice,
  - (f) if the accountant is a member, the accountant's membership was suspended or cancelled, or
  - (g) if the accountant is a professional accounting corporation or a registered firm, the corporation's permit or firm's registration was suspended or cancelled.
- (3) An order under this section must direct that any person receiving notice of the order must retain all the accountant's property that is in or comes into that person's possession or control, until directed otherwise by the custodian or by an order of the court.
- (4) An order under this section may
- (a) direct a sheriff to search for, seize, remove and place into the possession or control of the custodian all or part of the accountant's property,
  - (b) authorize the sheriff, for the purpose of paragraph (a), to enter
    - (i) any building or place other than an accountant's private residence and open any safety deposit box or other receptacle, and
    - (ii) the accountant's private residence and open any safe or other receptacle, if there are grounds to believe that the accountant's property may be found there,
  - (c) direct any savings institution or other person to deal with, hold or dispose of the accountant's property as the court directs, and to deliver to the custodian or otherwise, as the court directs, one or more of the following:
    - (i) the accountant's property;
    - (ii) a copy of records relating to the accountant's practice;
    - (iii) a copy of other records, when necessary for the effective conduct of the custodianship,
  - (d) give directions to the custodian respecting the disposition of the accountant's property and the manner in which the custodianship should be conducted,
  - (e) make provision for remuneration, disbursements, costs and indemnification of a custodian out of the accountant's property, or otherwise as specified by the court,
  - (f) give directions as to the service of an order made or notice required under this Part, and
  - (g) include other orders or give other directions to facilitate the conduct of the custodianship and any terms or conditions the court considers necessary.



- (5) Unless otherwise directed by the court, the custodian must cause an order made under this Part to be served on the accountant as soon as practicable.
- (6) A sheriff executing an order under this Part has the same powers and entitlements to fees and disbursements as that person has in the execution of a writ of seizure and sale.

### **If CPABC appointed as custodian**

**61** If the CPABC is appointed as a custodian, the president must

- (a) designate a person who is
  - (i) an employee of the CPABC, and
  - (ii) a chartered professional accountant member in good standing, or
- (b) retain the services of a chartered professional accountant member in good standing, a professional accounting corporation or a registered firm

to perform the duties and functions and exercise the powers of a custodian on behalf of the CPABC.

### **Powers of custodian**

**62** A custodian may do any or all of the following:

- (a) notify a client of the accountant, or any other person, of the custodian's appointment, and communicate with that client or person respecting the conduct of the custodianship;
- (b) if appropriate, inform a client of the accountant, or any other person, that the client or person may
  - (i) have an interest in the accountant's property examined by the custodian, and
  - (ii) apply for delivery of the property or copies of any documents or papers regarding transactions the client or person had with the accountant;
- (c) continue accounting services for a client of the accountant, in place of that accountant, in respect of any accounting services that accountant was engaged in at the time a custodian was appointed, to the extent necessary to preserve the interests of the client;
- (d) conduct or authorize an examination of the accountant's property;
- (e) require from the accountant or any other person records and information that may be reasonably necessary to facilitate the conduct of the custodianship and, if necessary, apply to the court for an order to enforce the requirement;
- (f) report to an insurer any facts of which the custodian becomes aware that indicate that the accountant in that accountant's professional capacity may be liable to a client or other person;

- (g) cooperate with an insurer respecting any claim arising out of the accountant's practice, to the extent required by the policy;
- (h) deal with the assets and liabilities of the accountant's practice to the extent necessary to protect the interests of the accountant's clients and, subject to the interests of clients,
  - (i) pay all or part of the expenses and disbursements of and incidental to any acts done or proceedings taken under this Part, and
  - (ii) preserve the value of the practice;
- (i) employ or retain assistance in the conduct of the custodianship.

### **CPABC access to property**

- 63** (1) An officer or employee of the CPABC may at any time examine and make copies of any of the accountant's property in the possession or control of the custodian.
- (2) Copies made under subsection (1) must be made at the CPABC's expense and only for the CPABC's own use.

### **Property in custody of custodian**

- 64** (1) A custodian may deliver property in the custodian's possession or control to a person claiming the property if the custodian is satisfied that
- (a) the person is entitled to the property, and
  - (b) the president of the CPABC has been given a reasonable opportunity to examine the property under section 63.
- (2) A delivery under subsection (1) is not a determination of any proprietary rights in the property.

### **Application to court**

- 65** (1) A custodian, the CPABC, the accountant concerned or any other interested person may apply to the court for an order under this section, with or without notice to anyone.
- (2) On an application under subsection (1), the court may do one or more of the following:
- (a) discharge the custodian, unless the CPABC shows cause why the custodianship should be continued;
  - (b) appoint another chartered professional accountant member in good standing, professional accounting corporation or registered firm or any other person as a custodian;
  - (c) direct that the accountant's property in the custodian's possession or control is delivered to the accountant;
  - (d) include any terms or conditions the court considers necessary;
  - (e) make no order.

- (3) Despite anything in this Part, the court may at any time extend or shorten the time within which anything is required to be done or dispense with any of the requirements of this Part.

## Costs

- 66 (1) No costs may be awarded against a custodian, the CPABC or a person acting for either of them in relation to a court application made under this Part.
- (2) Unless the court otherwise orders, the accountant or the estate of a deceased accountant must pay to the CPABC the fees, expenses and disbursements of and incidental to any acts done or proceedings taken under this Part, including the fees, expenses and disbursements of a custodian.

## Part 9 — General

### Protection against actions

- 67 (1) Subject to subsections (2) and (3), no legal proceeding for damages lies or may be commenced or maintained against a person because of anything done or omitted
- (a) in the performance or intended performance of any duty under this Act, or
  - (b) in the exercise or intended exercise of any power under this Act.
- (2) Subsection (1) does not apply to the CPABC if the CPABC is performing a duty or exercising a power other than a duty or power under Part 8 [*Custodians*].
- (3) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.
- (4) No legal proceedings for damages lies or may be commenced or maintained against a custodian or person acting on behalf of a custodian or against the CPABC or a person acting on behalf of the CPABC because of anything done or omitted
- (a) in the performance or intended performance of any duty under Part 8, or
  - (b) in the exercise or intended exercise of any power under Part 8.
- (5) Subsection (4) does not apply to a person referred to in that subsection, including the CPABC, in relation to anything done or omitted by that person in bad faith.
- (6) Subsection (1) does not absolve the CPABC from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force except as provided in subsection (4).

### Offences

- 68 (1) Section 5 of the [Offence Act](#) does not apply to this Act or to the bylaws made under it.
- (2) A person who contravenes one of the following sections commits an offence:
- (a) section 45 [*use of designations*];
  - (b) section 47 (2) [*professional accounting*];
  - (c) section 69.

## Confidentiality

- 69 (1) A person acting under this Act must keep confidential all facts, information and records obtained or provided under this Act or under a former enactment, except so far as the person's public duty requires or this Act or the bylaws permit the person to disclose or to report or take official action on the facts, information and records.
- (2) Insofar as the laws of British Columbia apply, a person must not give, or be compelled to give, evidence in a court or in proceedings of a judicial nature concerning knowledge gained in the exercise of a power or in the performance of a duty under Part 7 [*Practice Reviews, Investigations and Hearings*] unless
- (a) the proceedings are under this Act, or
  - (b) disclosure of the knowledge is authorized under subsection (1) or under the bylaws.
- (3) The records relating to the exercise of a power or the performance of a duty under Part 7 are not compellable in a court or in proceedings of a judicial nature insofar as the laws of British Columbia apply unless
- (a) the proceedings are under this Act, or
  - (b) disclosure of the knowledge is authorized under subsection (1) or under the bylaws.

## Power to make regulations

- 70 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by this Act.

# Part 10 — Transitional Provisions, Repeals and Consequential Amendments

## Division 1 — Transitional Provisions

### Transition — definitions

71 In this Division:

"CGA-BC" means The Certified General Accountants Association of British Columbia under the former CGA Act;

"CMABC" means the Certified Management Accountants Society of British Columbia under the former CMA Act;

"former Acts" means the former CA Act, the former CGA Act and the former CMA Act;

"former CA Act" means the *Accountants (Chartered) Act*, R.S.B.C. 1996, c. 3;

"former CGA Act" means the *Accountants (Certified General) Act*, R.S.B.C. 1996, c. 2;

"former CMA Act" means the *Accountants (Management) Act*, R.S.B.C. 1996, c. 4;

"former entities" means the CGA-BC, the CMABC and the ICABC;

"ICABC" means the Institute of Chartered Accountants of British Columbia under the former CA Act.

## Repealed

72 [Repealed 2015-1-72 (6).]

## Transition — interim board

73 (1) On the date this Part comes into force,

- (a) the appointment of each member of the Board of Governors under the former CGA Act is rescinded, and members of the Board, whether appointed or elected, cease to hold office,
- (b) the appointment of each member of the council under the former CA Act is rescinded, and members of the council, whether appointed or elected, cease to hold office, and
- (c) the appointment of each member of the board of directors under the former CMA Act is rescinded, and members of the board, whether appointed or elected, including the most recent past president if that person is on the board, cease to hold office.

(2) The minister must, by order,

- (a) appoint, in accordance with subsection (4), persons to an interim board of directors of the CPABC, who hold office until the time at which board members referred to in section 4 (1) [*board of directors*] are first elected, and
- (b) specify the date on or before which the first election referred to in paragraph (a) must be held.

(3) For the purposes of subsection (2) (b), the minister may specify more than one date to allow for staggered elections.

(4) The minister

- (a) must appoint the members to the interim board of directors of the CPABC as follows:
  - (i) 6 persons who
    - (A) held office on the Board of Governors under the former CGA Act on the date this Part comes into force, and
    - (B) were elected by and from the members of the CGA-BC;
  - (ii) 6 persons who
    - (A) held office on the council under the former CA Act on the date this Part comes into force, and
    - (B) were elected to the council of the ICABC;
  - (iii) 3 persons who

- (A) held office on the board of directors under the former CMA Act on the date this Part comes into force, and
  - (B) were elected under the bylaws by certified members from those certified members resident in British Columbia, and
- (b) may appoint up to 3 persons to the interim board of directors of the CPABC who are not members of a former entity on the date this Part comes into force and may set the term of their appointment.

#### **Transition — bylaws**

- 74 Despite section 28 (4) [*bylaw approval*], the initial bylaws made by the interim board appointed under section 73 come into force when the bylaws are made.

#### **Transition — property, liabilities and agreements**

- 75 (1) All property, rights and interest of each former entity continue to be the property, rights and interests of the CPABC.
- (2) The CPABC continues to be liable for the obligations of each former entity.
- (3) On the date this Part comes into force, a reference to the following in any commercial paper, contract, lease, licence, permit or other instrument or document is deemed to be a reference to the CPABC:
- (a) The Certified General Accountants Association of British Columbia or Board of Governors of The Certified General Accountants Association of British Columbia;
  - (b) the Certified Management Accountants Society of British Columbia or the board of directors of the Certified Management Accountants Society of British Columbia;
  - (c) the Institute of Chartered Accountants of British Columbia or the council of the Institute of Chartered Accountants of British Columbia.
- (4) The amalgamation of the former entities does not constitute an assignment by operation of law, a transfer or any other disposition of the property, rights and interests of a former entity to the CPABC.

#### **Transition — legal proceedings**

- 76 (1) Any legal proceeding by or against a former entity on the date this Part comes into force may be commenced or continued, by or against the CPABC, and may not be commenced or continued against the former entity.
- (2) A conviction against a former entity may be enforced against the CPABC, and may not be enforced against the former entity.
- (3) A ruling, order or judgment in favour of or against a former entity may be enforced by or against the CPABC, and may not be enforced by or against the former entity.
- (4) A cause of action or claim against a former entity existing on the date this Part comes into force must be commenced or continued against the CPABC.

- (5) Subject to subsections (1) to (4), a cause of action or claim existing on the date this Part comes into force is unaffected by anything done under this Part.

### Transition — students

- 77 A person who, immediately before the date this Part comes into force, is enrolled with the CGA-BC or the ICABC as a student, or is a student member of the CMABC, is deemed to be a student of the CPABC.

### Transition — members

- 78 A person who, immediately before the date this Part comes into force, is
- (a) a member of the CGA-BC under the former CGA Act is deemed to be a chartered professional accountant member of the CPABC,
  - (b) a chartered accountant member of the ICABC under the former CA Act is deemed to be a chartered professional accountant member of the CPABC,
  - (c) a certified member of the CMABC under the former CMA Act is deemed to be a chartered professional accountant member of the CPABC,
  - (d) an associate member of the ICABC under the former CA Act is deemed to be an associate member of the CPABC,
  - (e) a technologist member of the CMABC under the former CMA Act is deemed to be a technologist member of the CPABC, or
  - (f) an honorary member of one of the former entities is deemed to be an honorary member of the CPABC.

### Transition — corporations

- 79 (1) A corporation that, immediately before the date this Part comes into force, is one of the following is deemed to hold a permit under section 40 [*professional accounting corporation permits*]:
- (a) a corporation in respect of which a member of the CGA-BC has consent from the CGA-BC to be associated with the corporation in accordance with rules and requirements of the board of the CGA-BC for granting consent to members of the CGA-BC to be associated with a corporation engaged in the practice of public accounting, as those rules and requirements read on the day after the date of First Reading of this Act;
  - (b) a corporation in respect of which a permit has been issued to a Public Practicing Certified Member or a technologist member of the CMABC under Rule 408.2 of the Rules of Professional Conduct of the CMABC, as that rule read on the day after the date of First Reading of this Act;
  - (c) a corporation that holds an incorporation licence under the bylaws of the ICABC.
- (2) A corporation in respect of which a permit has been issued to a technologist member of the CMABC under Rule 408.2 of the Rules of Professional Conduct of the CMABC, as that rule read on the day after the date of First Reading of this Act, may use or

display the designation "Associate Accounting Technologist" or the initials "AAT" signifying that designation.

### Transition — practice reviews and investigations

- 80** (1) If, before the date this Part comes into force, a practice review or an investigation under a former Act has started but has not been concluded, the practice review or investigation must be continued under this Act.
- (2) If, before the date this Part comes into force, a practice review has been referred to
- (a) the Practice Review Committee of the CGA-BC,
  - (b) the Practice Review Committee of the CMABC, or
  - (c) the Practice Review and Licensing Committee of the ICABC,
- and the committee has not concluded the practice review, a person or committee designated under section 51 (1) [*practice review and investigation*] must
- (d) refer the matter back to the applicable committee referred to in paragraph (a), (b) or (c) to conclude the practice review, or
  - (e) continue the practice review under this Act.
- (3) If, before the date this Part comes into force, an investigation has been referred to
- (a) the Ethics Committee of the CGA-BC,
  - (b) the Professional Conduct Enquiry Committee of the CMABC, or
  - (c) the Professional Conduct Enquiry Committee of the ICABC,
- and the committee has not concluded the investigation, a person or committee designated under section 51 (1) must
- (d) refer the matter back to the applicable committee referred to in paragraph (a), (b) or (c) to conclude the investigation, or
  - (e) continue the investigation under this Act.
- (4) If a practice review or an investigation is referred back to a committee under subsection (2) (d) or (3) (d), the persons who were members on the committee immediately before the date this Part comes into force continue to be members on the committee and may continue with the practice review or investigation, as applicable.
- (5) For certainty, for the purposes of this section,
- (a) a former member referred to in section 51 (4) (b) (ii) includes a former member of the CGA-BC, the CMABC and the ICABC, and
  - (b) a former registered firm referred to in section 51 (4) (b) (vii) includes a former licensed firm under the former CA Act.

### Transition — hearings

- 81** (1) If, before the date this Part comes into force, a matter was referred to an inquiry under a former Act but no committee or panel of a committee was appointed to



conduct the inquiry, the inquiry must be conducted as a hearing under this Act.

(2) If, before the date this Part comes into force, a panel of a committee has started an inquiry under a former Act,

(a) the members of the panel of the committee conducting the inquiry are deemed to be members of a panel of a disciplinary committee under this Act, and

(b) the inquiry must be continued as a hearing under this Act.

(3) If a panel member withdraws from a hearing referred to in subsection (2), a disciplinary committee may do one of the following:

(a) if at least 2 panel members remain on the committee or panel, authorize the remaining panel members to hear the matter, and the vacancy does not invalidate the hearing;

(b) remove the remaining panel members hearing the matter and appoint a new panel of a disciplinary committee under this Act to conduct a new hearing under this Act.

### Transition — appeals

82 If, before the date this Part comes into force, an appeal under section 23 (2) of the former CGA Act has been started,

(a) the members of the committee of the board of the CGA-BC who have started to hear the appeal must continue to sit on the committee and hear the appeal, and

(b) the appeal must be continued under the former CGA Act.

### Transition — professional accounting services

83 Section 47 (2) [*professional accounting*] of this Act does not apply to a person who, immediately before the date this Part comes into force,

(a) is a technologist member of the CMABC, and

(b) has authorization under the former CMA Act to provide or perform the services referred to in section 47 (1) of this Act, and

continues not to apply to the person as long as that person remains a technologist member of good standing of the CPABC.

## Division 2 — Repeals

### Repeals

[Note: See Table of Legislative Changes for the status of sections 84 to 103.]

Section(s)	Affected Act
84	<a href="#">Accountants (Certified General) Act</a>
	<a href="#">Accountants (Chartered) Act</a>
	<a href="#">Accountants (Management) Act</a>

## Division 3 — Consequential Amendments

### Consequential Amendments

Section(s)	Affected Act
85 — 86	<i>Business Corporations Act</i>
87	<i>Business Practices and Consumer Protection Act</i>
88	<i>Community Charter</i>
89	<i>Cooperative Association Act</i>
90	<i>Credit Union Incorporation Act</i>
91	<i>Financial Institutions Act</i>
92	<i>Freedom of Information and Protection of Privacy Act</i>
93	<i>Greater Vancouver Sewerage and Drainage District Act</i>
94	<i>Greater Vancouver Water District Act</i>
95	<i>International Business Activity Act</i>
96	<i>Legal Profession Act</i>
97	<i>Notaries Act</i>
98	<i>School Act</i>
99	<i>Small Business Venture Capital Act</i>
100	<i>Society Act</i>
101	<i>South Coast British Columbia Transportation Authority Act</i>
102	<i>Vancouver Charter</i>
103	<i>Vancouver Foundation Act</i>

### Commencement

**104** This Act comes into force by regulation of the Lieutenant Governor in Council.

## **Appendix B**

FATF, *Guidance For A Risk-Based Approach: Accounting Profession* – June 2019



GUIDANCE FOR A RISK-BASED APPROACH

# ACCOUNTING PROFESSION

JUNE 2019





The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard.

For more information about the FATF, please visit [www.fatf-gafi.org](http://www.fatf-gafi.org)

This document and/or any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

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## Acronyms

AML/CFT	Anti-money laundering/Countering the financing of terrorism
CDD	Client <sup>1</sup> due diligence
DNFBP	Designated non-financial businesses and professions
FATF	Financial Action Task Force
FIU	Financial intelligence unit
INR.	Interpretive Note to Recommendation
ML	Money laundering
NRA	National Risk Assessment
PEP	Politically Exposed Person
R.	Recommendation
RBA	Risk-based approach
SRB	Self-regulatory body
STR	Suspicious transaction report
TCSP	Trust and company service providers
TF	Terrorist financing

<sup>1</sup> In some jurisdictions or professions, the term “customer” is used, which has the same meaning as “client” for the purposes of this document.





## Executive Summary

1. The risk-based approach (RBA) is central to the effective implementation of the FATF Recommendations. It means that supervisors, financial institutions, and professional accountants in public practice (also referred to as “accountants” or “accountancy profession” for the purpose of this Guidance) identify, assess, and understand the money laundering and terrorist financing (ML/TF) risks to which they are exposed, and implement the most appropriate mitigation measures. This approach enables them to focus their resources where the risks are higher.
2. The FATF RBA Guidance aims to support the implementation of the RBA, taking into account national ML/TF risk assessments and AML/CFT legal and regulatory frameworks. It includes a [general presentation](#) of the RBA and provides [specific guidance](#) for the accountancy profession and for their supervisors. The Guidance was developed in partnership with the profession, to make sure it reflects expertise and good practices from within the industry.
3. The development of the ML/TF risk assessment is a key starting point for the application of the RBA. It should be commensurate with the nature, size and complexity of the business. The most commonly used risk criteria are country or geographic risk, client risk, service/transaction risk. The Guidance provides [examples of risk factors](#) under these risk categories.
4. The Guidance highlights that it is the responsibility of the senior management of accountants to foster and promote a culture of compliance as a core business value. They should ensure that accountants are committed to manage ML/TF risks when establishing or maintaining business relationships.
5. The Guidance highlights that accountants should design their policies and procedures so that the level of initial and ongoing client due diligence measures addresses the ML/TF risks they are exposed to. In this regard, the Guidance explains the obligations for accountants regarding identification and verification of [beneficial ownership information](#) and provides [examples](#) of standard, simplified and enhanced CDD measures based on ML/TF risk.
6. The Guidance has a [section for supervisors](#) of the accountancy profession and highlights the role of self-regulatory bodies (SRBs) in supervising and monitoring. It explains the risk-based approach to supervision as well as supervision of the risk-based approach by providing specific guidance on licensing or registration requirements for the accountancy profession, mechanisms for on-site and off-site supervision, enforcement, guidance, training and value of information-exchange between the public and private sector.
7. The Guidance also highlights the importance of [supervision of beneficial ownership](#) requirements and nominee arrangements. It underscores how supervisory frameworks can help ascertain whether accurate and up-to-date beneficial ownership information on legal persons and legal arrangements is maintained by the accountants and made available in a timely manner to competent authorities when required.



## Section I - Introduction and key concepts

This Guidance should be read in conjunction with the following, which are available on the FATF website: [www.fatf-gafi.org](http://www.fatf-gafi.org).

- a) The FATF Recommendations, especially Recommendations 1, 10, 11, 12, 17, 19, 20, 21, 22, 23, 24, 25 and 28 and their Interpretive Notes (INR), and the Glossary.
- b) Other relevant FATF Guidance documents such as:
  - The FATF Guidance on National Money Laundering and Terrorist Financing Risk Assessment (February 2013)
  - FATF Guidance on Transparency and Beneficial Ownership (October 2014)
  - FATF Guidance on the Risk-Based Approach for Trust and Company Service Providers (TCSPs) (June 2019)
  - FATF Guidance on the Risk-Based Approach for legal professionals (June 2019)
- c) Other relevant FATF Reports such as the Joint FATF and Egmont Group Report on Concealment of Beneficial Ownership (July 2018).

### Background and context

8. The risk-based approach (RBA) is central to the effective implementation of the revised FATF International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, which were adopted in 2012<sup>2</sup>. The FATF has reviewed its 2009 RBA Guidance for accountants, in order to bring it in line with the new FATF requirements<sup>3</sup> and to reflect the experience gained by public authorities and the private sector over the years in applying the RBA. This revised version applies to professional accountants in public practice (hereinafter also referred to as “accountants” or “accountancy profession”- see paragraph 16 below). Accountants should also refer to the RBA Guidance for trust and company service providers, when they provide TCSP services.

9. The RBA Guidance for accountants was drafted by a project group comprising FATF members and representatives of the private sector. The project group was co-led by the UK, the United States, the Institute of Chartered Accountants in England and Wales, the International Bar Association and the Society of Trust and Estate Practitioners. Membership of the project group is set out in Annex 4.

10. The FATF adopted this updated RBA Guidance for accountants at its June 2019 Plenary.

<sup>2</sup> [FATF \(2012\)](#).

<sup>3</sup> The FATF Standards are comprised of the [FATF Recommendations](#), their Interpretive Notes and applicable definitions from the Glossary.

## Purpose of the Guidance

11. The purpose of this Guidance is to:
- a) Support a common understanding of a RBA for the accountancy profession, financial institutions and designated non-financial businesses and professions (DNFPBs)<sup>4</sup> that maintain relationships with accountants, competent authorities and self-regulatory bodies (SRBs)<sup>5</sup> responsible for monitoring the compliance of accountants with their AML/CFT obligations;
  - b) Assist countries, competent authorities and accountants in the design and implementation of a RBA to AML/CFT by providing guidelines and examples of current practice, with a particular focus on providing advice to sole practitioners and small firms;
  - c) Recognise the difference in the RBA for different accountants providing diverse services such as statutory audit, financial and tax advice, insolvency related services, among others;
  - d) Outline the key elements involved in applying a RBA to AML/CFT related to accountants;
  - e) Highlight that financial institutions that have accountants as clients should identify, assess and manage the ML/TF risk associated with accountants and their services;
  - f) Assist countries, competent authorities and SRBs in the implementation of the FATF Recommendations with respect to accountants, particularly Recommendations 22, 23 and 28;
  - g) Assist countries, SRBs and the private sector to meet the requirements expected of them, particularly under IO.3 and IO.4;
  - h) Support the effective implementation of action plans of NRAs conducted by countries; and
  - i) Support the effective implementation and supervision of national AML/CFT measures, by focusing on risks as well as preventive and mitigating measures.

## Target audience, status and content of the Guidance

12. This Guidance is aimed at the following audience:
- a) Practitioners in the accountancy profession;
  - b) Countries and their competent authorities, including AML/CFT supervisors of accountants, SRBs, AML/CFT supervisors of banks that rely on the CDD performed by accountants, and Financial Intelligence Units (FIU); and
  - c) Practitioners in the banking sector, other financial services sectors and DNFPBs that rely on the CDD performed by accountants.
13. The Guidance consists of four sections. Section I sets out introduction and key concepts. Section II contains key elements of the RBA and should be read in conjunction with specific guidance to accountants (Section III) and guidance to

<sup>4</sup> See definition of the term 'Designated Non-Financial Businesses and Professions' in the FATF Glossary.

<sup>5</sup> See definition of the term 'Self-regulatory body' in the FATF Glossary

supervisors of accountants on the effective implementation of a RBA (Section IV). There are four annexes:

- a) Beneficial ownership information in relation to a company, trust or other legal arrangements to whom an accountant provides services (Annex 1);
- b) Glossary of terminology (Annex 2);
- c) Supervisory practices for implementation of the RBA (Annex 3); and
- d) Members of the RBA Drafting Group (Annex 4).

14. This Guidance recognises that an effective RBA will take into account the national context, consider the legal and regulatory approach and relevant sector guidance in each country, and reflect the nature, diversity, maturity and risk profile of a country's accountancy profession and the risk profile of individual accountants operating in the sector. The Guidance sets out different elements that countries and accountants could consider when designing and implementing an effective RBA.

15. This Guidance is non-binding and does not overrule the purview of national authorities<sup>6</sup>, including on their local assessment and categorisation of the accountancy profession based on the prevailing ML/TF risk situation and other contextual factors. It draws on the experiences of countries and of the private sector to assist competent authorities and accountants to implement applicable FATF Recommendations effectively. National authorities may take this Guidance into account while drawing up their own Guidance for the sector. DNFPBs should also refer to relevant legislation and sector guidance for the country in which an accountant is based.

## Scope of the Guidance and key features of the accountancy profession

### *Scope and Terminology*

16. This Guidance is for professional accountants in public practice<sup>7</sup> and is aimed to help them comply with the FATF Recommendations that apply to them. Professional accountant in public practice refers to professional accountants, irrespective of functional classification (for example, audit, tax, advisory or consulting) in a firm or individual practitioners that provide professional services. The nature of services provided (e.g. statutory audit as against other professional services such as financial advice, company services) will determine the scope and depth of due diligence and risk assessment. Professional accountants should also consider their ethical obligations as set out under the Code of Ethics issued by the International Federation of Accountants (IFAC)<sup>8</sup> where relevant.

17. This Guidance is not meant to apply to professional accountants in business, which includes professional accountants employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not-for-profit sector, regulatory bodies or professional bodies. Such

<sup>6</sup> National authorities should however take the Guidance into account when carrying out their supervisory functions.

<sup>7</sup> The term 'accountant' is used interchangeably with 'professional accountant in public practice' throughout this guidance.

<sup>8</sup> [Handbook of the International Code of Ethics for Professional Accountants issued in 2018.](#)

accountants should refer to their professional code of conduct or other alternative sources of Guidance, on the appropriate action to take in relation to suspected illegal activity by their employer or a third party.

### *Key features*

18. Accountants provide a range of services and activities that vastly differ (e.g. in their methods of delivery and in the depth and duration of the relationships formed with clients, and the size of their operation). This Guidance is written at a high-level to cater for all, and the different levels and forms of supervision or monitoring that may apply. Each country and its national authorities should aim to establish a partnership with its designated non-financial businesses and professions (DNFBP) sector that will be mutually beneficial to combating ML/TF.

19. The roles, and therefore risks, of the different DNFBP and/or professional constituents, including accountants frequently differ. However, in some areas, there are inter-relationships between different DNFBP and/or professional sectors, and between the DNFBPs and financial institutions. For example, businesses or professionals within other DNFBP and/or professional sectors or by financial institutions that may instruct accountants. In some jurisdictions, accountants may also provide trust and company services covered by the FATF Recommendations. For such activities, accountants should refer to the guidance on the risk-based approach for Trust and Company Service Providers (TCSPs).

20. Professional accountants in public practice may provide a wide range of services, to a diverse range of clients. The actual services delivered by accountants may vary between jurisdictions and the examples provided here may not be applicable in every jurisdiction. Services may include (but are not limited to) the following, though not necessarily to the same client. The FATF recommendations apply to specified activities in R.22 (see paragraph 31).

- a) Audit and assurance services (including reporting accountant work in initial public offerings);
- b) Book-keeping and the preparation of annual and periodic accounts;
- c) Tax compliance work;
- d) Tax advice;
- e) Trust and company services;
- f) Internal audit (as a professional service), and advice on internal control and risk management;
- g) Regulatory and compliance services, including outsourced regulatory examinations and remediation services;
- h) Company liquidation/insolvency/receiver-managers/bankruptcy related services;
- i) Advice on the structuring of transactions;
- j) Due diligence in relation to mergers and acquisitions
- k) Succession advice;
- l) Advice on investments and custody of client money; and
- m) Forensic accounting.

21. In many countries, accountants are the professionals frequently consulted by many small businesses and individuals when seeking general business advice and a wide range of regulatory and compliance advice. Subject to the codes of professional conduct in the relevant jurisdiction, where services are not within their competence or risk appetite or comfort zone, accountants should refuse the engagement. However, they may advise on an alternate professional advisor (such as a legal professional, notary or trust and company service provider, or another professional accountant).

### *Vulnerabilities of accounting services*

22. Some of the functions performed by accountants that are the most susceptible to the potential launderer include:

- a) Financial and tax advice – criminals may pose as individuals seeking financial or tax advice to place assets out of reach in order to avoid future liabilities.
- b) Company and trust formation – criminals may attempt to confuse or disguise the links between the proceeds of a crime and the perpetrator through the formation of corporate vehicles or other complex legal arrangements (trusts, for example).
- c) Buying or selling of property – criminals may use property transfers to serve as either the cover for transfers of illegal funds (layering stage) or else the final investment of these proceeds after their having passed through the laundering process (integration stage).
- d) Performing financial transactions – criminals may use accountants to carry out or facilitate various financial operations on their behalf (e.g. cash deposits or withdrawals on accounts, retail foreign exchange operations, issuing and cashing cheques, purchase and sale of stock, sending and receiving international funds transfers, etc.).
- e) Gaining introductions to financial institutions- criminals may use accountants as introducers or intermediaries. This can occur both ways as criminals may use financial institutions to gain introductions to accountants as well.

23. Further, maintenance of incomplete records by clients as revealed during the accounting/bookkeeping services provided by accountants can be an area of higher risk. Also, preparation, review and auditing of financial statements may be susceptible to misuse by criminals where there is a lack of professional body oversight or required use of accounting and auditing standards.

24. Many aspects of this Guidance on applying a RBA to AML/CFT may also apply in the context of predicate offences, particularly for other financial crimes such as tax crimes. The ability to apply the RBA effectively to relevant predicate offences will also reinforce the AML/CFT obligations. Accountants may also have specific obligations in respect of identifying risks of predicate offences such as tax crimes, and supervisors may have a role to play in oversight and enforcement against those crimes. Therefore, in addition to this guidance, accountants and supervisors should have regard to other sources of guidance that may be relevant in managing the risks of predicate offences.

25. Services relating to the formation and management of companies and trusts are seen as being a particular area of vulnerability.



### *Formation of companies and trusts<sup>9</sup>*

26. In some countries, accountants are involved in the formation of a company. While in other countries members of the public are able to register a company themselves directly with the company registry, an accountant's advice is sometimes sought at least in relation to initial corporate, tax and administrative matters.

27. Criminals may seek the opportunity to retain control over criminally derived assets while frustrating the ability of law enforcement to trace the origin and ownership of the assets. Companies and often trusts and other similar legal arrangements are seen by criminals as potentially useful vehicles to achieve this outcome. While shell companies<sup>10</sup>, which do not have any ongoing business activities or assets, may be used for legitimate purposes such as serving as a transaction vehicle, they may also be used to conceal beneficial ownership, or enhance the perception of legitimacy. Criminals may also seek to misuse shelf companies<sup>11</sup>, which can be formed by accountants, by seeking access to companies that have been 'sitting on the shelf' for a long time. This may be in an attempt to create the impression that the company is reputable and trading in the ordinary course because it has been in existence for many years. Shelf companies can also add to the overall complexity of corporate structures, further concealing the underlying beneficial ownership information.

### *Management of companies and trusts*

28. In some cases, criminals will seek to have accountants involved in the management of companies and trusts in order to provide greater respectability and legitimacy to the company or trust and its activities. In some countries professional rules preclude an accountant from acting as a trustee or as a company director, or require a disclosure of directorship positions to ensure independence and transparency is maintained. This will affect whether any funds relating to activities by the company or trust can go through the relevant accountant's client account.

### *Acting as nominee*

29. Individuals may sometimes have accountants or other persons hold their shares as a nominee, where there are legitimate privacy, safety or commercial concerns. However, criminals may also use nominee shareholders to obscure their ownership of assets. In some countries, accountants are not permitted to hold shares in entities for whom they provide advice, while in other countries accountants regularly act as nominees. Accountants should identify beneficial owners when establishing business relations in these situations. This is important to prevent the unlawful use of legal persons and arrangements, by gaining a sufficient understanding of the client to be able to properly assess and mitigate the potential ML/TF risks associated with the business relationship. Where accountants are asked to act as a nominee, they should understand the reason for this request and ensure they are able

<sup>9</sup> The illustrations could also apply to other legal persons and arrangements.

<sup>10</sup> A shell company is an incorporated company with no independent operations, significant assets, ongoing business activities, or employees.

<sup>11</sup> A shelf company is an incorporated company with inactive shareholders, directors, and secretary, which has been left dormant for a longer period even if a customer relationship has already been established.

to verify the identity of the beneficial owner of the shares and that the purpose appears to be legitimate.

*Accountancy services for falsified accounts and tax evasion, misuse of client accounts and of insolvency services*

30. Criminals may abuse services provided by accountants to provide a sense of legitimacy to falsified accounts in order to conceal the source of funds. For example, accountants may review and sign off such accounts for businesses engaged in criminality, thereby facilitating the laundering of the proceeds. Accountants may also perform high value financial transactions allowing criminals to misuse accountants' client accounts. Insolvency practice, which may be conducted by certain accountancy professionals also pose a risk of criminals concealing the audit trail of money laundered through a company and transferring the proceeds of crime. Accountancy services may also be used to facilitate tax evasion and VAT fraud.

**FATF Recommendations applicable to accountants**

31. The basic intent behind the FATF Recommendations as it relates to accounting professionals is consistent with their ethical obligations as professionals, namely to avoid assisting criminals or facilitating criminal activity. The requirements of R.22 regarding customer due diligence, record-keeping, PEPs, new technologies and reliance on third parties set out in R. 10, 11, 12, 15 and 17 apply to accountants in certain circumstances. Specifically, the requirements of R.22 applies to accountants when they prepare for or carry out transactions for their clients concerning the following activities:

- a) Buying and selling of real estate;
- b) Managing of client money, securities or other assets;
- c) Management of bank, savings or securities accounts;
- d) Organisation of contributions for the creation, operation or management of companies; and
- e) Creating, operating or management of legal persons or arrangements, and buying and selling of business entities.

32. R.23 requires that R.18, 19, 20 and 21 provisions regarding internal AML/CFT controls, measures to be taken with respect to countries that do not or insufficiently comply with the FATF Recommendations, reporting of suspicious activity and associated prohibitions on tipping-off and confidentiality apply to accountants when, on behalf of or for a client, they engage in a financial transaction in relation to the activities described in R.22 above. Section III provides further guidance on the application of R.22 and R.23 obligations to accountants.

33. Countries should establish the most appropriate regime, tailored to address relevant ML/TF risks, which takes into consideration the activities and applicable code of conduct for accountants.

# Section II – The RBA to AML/CFT

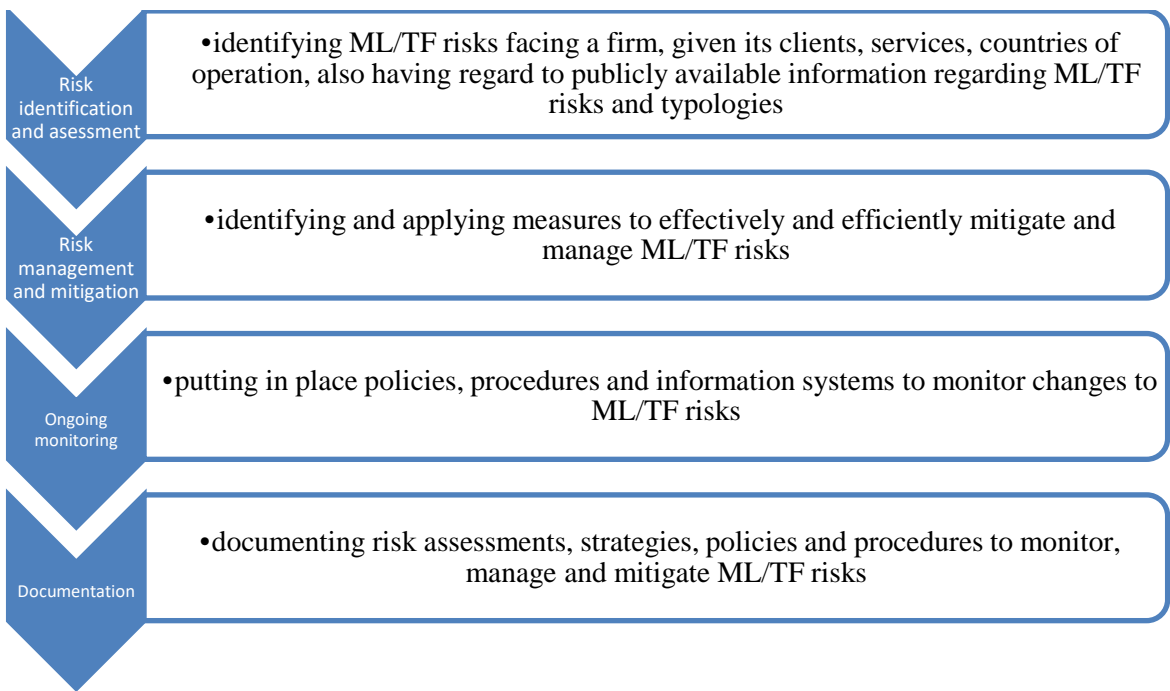
## What is the risk-based approach?

34. The RBA to AML/CFT means that countries, competent authorities, DNFBPs, including accountants<sup>12</sup> should identify, assess and understand the ML/TF risks to which they are exposed and take the required AML/CFT measures to effectively and efficiently mitigate and manage the risks.

35. For accountants, identifying and maintaining an understanding of the ML/TF risk faced by the sector as well as specific to their services, client base, the jurisdictions in which they operate and the effectiveness of actual and potential risk controls that are or can be put in place, will require the investment of resources and training. For supervisors, this will also require maintaining an understanding of the ML/TF risks specific to their area of supervision, and the degree to which AML/CFT measures can reasonably be expected to mitigate such risks.

36. The RBA is not a “zero failure” approach; there may be occasions where an accountancy practice has taken reasonable and proportionate AML/CFT measures to identify and mitigate risks, but is still used for ML or TF purposes in isolated instances. Although there are limits to any RBA, ML/TF is a real and serious problem that accountants must address so that they do not, unwittingly or otherwise, encourage or facilitate it.

37. Key elements of a RBA can be summarised as follows:



<sup>12</sup> Including both legal and natural persons, see definition of Designated Non-Financial Businesses and Professions in the FATF Glossary.

## The rationale for the new approach

38. In 2012, the FATF updated its Recommendations to keep pace with evolving risk and strengthen global safeguards. Its purposes remain to protect the integrity of the financial system by providing governments with updated tools needed to take action against financial crime.

39. There was an increased emphasis on the RBA to AML/CFT, especially in preventive measures and supervision. Though the 2003 Recommendations provided for the application of a RBA in some areas, the 2012 Recommendations considered the RBA to be an essential foundation of a country's AML/CFT framework.<sup>13</sup>

40. The RBA allows countries, within the framework of the FATF requirements, to adopt a more tailored set of measures in order to target their resources more effectively and efficiently and apply preventive measures that are commensurate with the nature of risks.

41. The application of a RBA is therefore essential for the effective implementation of the FATF Standards by countries and accountants.<sup>14</sup>

## Application of the risk-based approach

42. The FATF standards do not predetermine any sector as higher risk. The standards identify sectors that may be vulnerable to ML/TF. The overall risk should be determined through an assessment of the sector at a national level. Different entities within a sector will pose higher or lower risk depending on a variety of factors, including, services, products, clients, geography and the strength of an entity's compliance program.

43. R.1 sets out the scope of application of the RBA as follows:

- a) **Who should be subject to a country's AML/CFT regime?** In addition to the sectors and activities already included in the scope of the FATF Recommendations<sup>15</sup>, countries should extend their regime to additional institutions, sectors or activities if they pose a higher risk of ML/TF. Countries could also consider exempting certain institutions, sectors or activities from some AML/CFT obligations where specified conditions are met, such as proven low risk of ML/TF and in strictly limited and justified circumstances.<sup>16</sup>

<sup>13</sup>. R.1.

<sup>14</sup> The effectiveness of risk-based prevention and mitigation measures will be assessed as part of the mutual evaluation of the national AML/CFT regime. The effectiveness assessment will measure the extent to which a country achieves a defined set of outcomes that are central to a robust AML/CFT system and will analyse the extent to which a country's legal and institutional framework is producing the expected results. Assessors will need to take into account the risks and the flexibility allowed by the RBA when determining whether there are deficiencies in a country's AML/CFT measures, and their importance (*FATF, 2013f*).

<sup>15</sup> See Glossary, definitions of "Designated non-financial businesses and professions" and "Financial institutions".

<sup>16</sup> See INR.1.

- b) **How should those subject to the AML/CFT regime be supervised or monitored for compliance with this regime?** Supervisors should ensure that accountants are implementing their obligations under R.1. AML/CFT supervisors should consider an accountant's own risk assessment and mitigation and acknowledge the degree of discretion allowed under the national RBA.
- c) **How should those subject to the AML/CFT regime be required to comply?** The general principle of a RBA is that, where there are higher risks, enhanced measures should be taken to manage and mitigate those risks. The range, degree, frequency or intensity of preventive measures and controls conducted should be stronger in higher risk scenarios. Accountants are required to apply each of the CDD measures under (a) to (d) below<sup>17</sup>: (a) identification and verification of the client's identity; (b) identification and taking reasonable measures to verify the identity of the beneficial owner; (c) understanding the purpose and nature of the business relationship; and (d) on-going monitoring of the relationship. However, where the ML/TF risk is assessed as lower, the degree, frequency and/or the intensity of the controls conducted will be relatively lighter. Where risk is assessed at a normal level, the standard AML/CFT controls should apply.
- d) **Consideration of the engagement in client relationships:** Accountants are not obliged to avoid risk entirely. Even if the services they provide to their clients are considered vulnerable to the risks of ML/TF based on risk assessment, it does not mean that all accountants and all their clients or services pose a higher risk when taking into account the risk mitigating measures that have been put in place.
- e) **Importance of accountancy services to the overall economy:** Accountants often play significant roles in the legal and economic life of a country. The role of accountants in providing objective assurance regarding the financial status and activity of a business is vital. The risks associated with any type of client group is not static and the expectation is that within a client group, based on a variety of factors, individual clients could also be classified into risk categories, such as low, medium, medium, medium-high or high risk (see section III below for a detailed description). Measures to mitigate risk should be applied accordingly.

## Challenges

44. Implementing a RBA can present a number of challenges for accountants in identifying what necessary measures they need to take. A RBA requires resources and expertise, both at a country and sector level, to gather and interpret information on risks, to develop policies and procedures and to train personnel. A RBA is also reliant on individuals exercising sound and well-trained judgement when designing and implementing such policies and procedures. It will also lead to a diversity in practice, although this can result in innovative solutions to address areas of higher risk. On the other hand, accountants may be uncertain as to how to comply with the regulatory

<sup>17</sup> See R.10

framework itself and the accountancy profession may find it difficult to apply an informed approach to RBA.

45. Accountants need to have a good understanding of the risks and should be able to exercise sound judgement. This requires the profession, and the individuals within it, to build expertise through practice and training. If accountants attempt to adopt a RBA without sufficient expertise, or understanding and knowledge of the risks faced by the sector, they may make flawed judgements. Accountants may over-estimate risk, which could lead to wasteful use of resources, or they may under-estimate risk, and thereby creating vulnerabilities.

46. Accountants may find that some staff members are uncomfortable making risk-based judgements. This may lead to overly cautious decisions, or disproportionate time spent documenting the rationale behind a decision. It may also encourage a 'tick-box' approach to risk assessment.

47. Developing sound judgement needs good information, and intelligence sharing by designated competent authorities and SRBs. The existence of good practice guidance, training, industry studies and other available information and materials will also assist the accountants to develop methods to analyse the information in order to obtain risk based criteria. Accountants must be able to access this information and guidance easily so that they have the best possible knowledge on which to base their judgements.

48. The services and products accountants provide to their clients vary and are not wholly of financial nature. The FATF Recommendations apply equally to accountants when they are engaged in a specified activity (see paragraph 31), including obligations related to customer due diligence, reporting of suspicious transactions and associated prohibitions on tipping off, record-keeping, identification and risk management related to politically exposed persons or new technologies, and reliance on other third-party financial institutions and DNFBPs.

#### **Box 1. Particular RBA challenges for accountants**

***Culture of compliance and adequate resources.*** Implementing a RBA requires that accountants have a sound understanding of the risks and are able to exercise good professional judgement. Above all, management should recognise the importance of a culture of compliance across the organisation and ensure sufficient resources are devoted to its implementation, appropriate to the size, scale and activities of the organisation. This requires the building of expertise including for example, through training, recruitment, taking professional advice and 'learning by doing'. It also requires the allocation of necessary resources to gather and interpret information on risks, both at the country and institutional levels, and to develop procedures and systems, including ensuring effective decision-making. The process will benefit from information sharing by relevant competent authorities, supervisors and SRBs. The provision of good practice guidance by competent authorities, supervisors and SRBs is also valuable.

***Significant variation in services and clients.*** Accountants may vary substantially in the breadth and nature of services provided and the clients

they serve, as well as the size, focus, and sophistication of the firm and its employees. In implementing the RBA, accounting (and related auditing) professionals should make reasonable judgements for their particular services and activities. Supervisors and SRBs should acknowledge that in a risk-based regime, not all accountants will adopt identical AML/CFT controls. Appropriate mitigation measures will also depend on the nature of the professional's role and involvement. Circumstances may vary considerably between professionals who represent clients directly and those that are engaged for distinct purposes. Where these services involve tax laws and regulations, accounting professionals also have additional considerations related to a country or jurisdiction's permissible means to structure transactions and entities or operations to legally avoid taxes.

***Transparency of beneficial ownership on legal persons and arrangements<sup>18</sup>***. Accountants may be involved in the formation, management, or administration of legal entities and arrangements, though in many countries any legal or natural person also may be able to conduct these activities. Where professionals do play this “gatekeeper” role, they may be challenged in obtaining and keeping current and accurate beneficial ownership information depending upon the nature and activities of their clientele. Other challenges may arise when taking on new clients with minimal economic activity associated with the legal entity and/or its owners or beneficial owners - such as start-up firms. Finally, whether the source is a public registry or the clientele, there is always potential risk in the correctness of the information, in particular where the underlying information has been self-reported (accountants should refer to the RBA Guidance for TCSPs in this respect). Those risks notwithstanding, from the outset the accountant should seek answers from the immediate client in determining beneficial ownership (having first determined that none of the relevant exceptions to ascertaining beneficial ownership apply, e.g. the client is a publicly listed company). The information provided by the client should then be appropriately confirmed by reference to public registers and other third party sources where possible. This may require further and clarifying questions to be put to the immediate client. The goal is to ensure that the accountant is reasonably satisfied about the identity of the beneficial owner. For more practical guidance on beneficial ownership, refer to the guidance in Box 2.

***Risk of criminality***. Because of their crucial role in providing a legally required window into the financial health and operations of a firm, accountants should be particularly alert to ML/TF risks posed by the services they provide to avoid the possibility that they may unwittingly commit or become an accessory to the commission of a substantive offence of ML/TF. Accounting (and related auditing) firms must protect themselves from misuse by criminals and terrorists.

<sup>18</sup> Reference should also be made to the Joint FATF and Egmont Group Report on Concealment of Beneficial Ownership published in July 2018.



## Allocating responsibility under a RBA

49. An effective risk-based regime builds on, and reflects, a country's legal and regulatory approach, the nature, diversity and maturity of its financial sector, and its risk profile. Accountants should identify and assess their own ML/TF risk taking account of the NRAs in line with R.1, as well as the national legal and regulatory framework, including any areas of prescribed significant risk and mitigation measures. Accountants are required to take appropriate steps to identify and assess their ML/TF risks and have policies, controls and procedures that enable them to manage and mitigate effectively the risks that have been identified.<sup>19</sup> Where ML/TF risks are higher, accountants should always apply enhanced CDD, although national law or regulation might not prescribe exactly how these higher risks are to be mitigated (e.g. varying the degree of enhanced ongoing monitoring).

50. Strategies adopted by accountants to mitigate ML/TF risks has to take account of the applicable national legal, regulatory and supervisory frameworks. When deciding the extent to which accountants can decide how to mitigate risk, countries should consider the ability of the sector to effectively identify and manage ML/TF risks as well as the expertise and resources of their supervisors to adequately supervise how accountants manage ML/TF risks and take action to address any failures. Countries may also consider evidence from competent authorities on the level of compliance in the sector, and the sector's approach to dealing with ML/TF risk. Countries whose services sectors are emerging or whose legal, regulatory and supervisory frameworks are still developing, may determine that accountants are not fully equipped to effectively identify and manage ML/TF risk. In such cases, a more prescriptive implementation of the AML/CFT requirements may be appropriate until understanding and experience of the sector is strengthened.<sup>20</sup>

51. Accountants should not be exempted from AML/CFT supervision even where their compliance controls are adequate. However, the RBA allows competent authorities to focus more supervisory resources on higher risk entities.

## Identifying ML/TF risk

52. Access to accurate, timely and objective information on ML/TF risks is a prerequisite for an effective RBA. INR.1.3 requires countries to have mechanisms to provide appropriate information on the results of the risk assessments to all relevant competent authorities, SRBs, financial institutions and accountants. Where information is not readily available, for example where competent authorities have inadequate data to assess risks, are unable to share important information on ML/TF risks and threats, or where access to information is restricted by censorship, it will be difficult for accountants to correctly identify ML/TF risk.

53. R.34 requires competent authorities, supervisors and SRBs to establish guidelines and provide feedback to financial institutions and DNFBPs. Such guidelines

<sup>19</sup> R.1 and IN.1.

<sup>20</sup> This could be based on a combination of elements described in Section II, as well as objective criteria such as mutual evaluation reports, follow-up reports or FSAP.



and feedback help institutions and businesses to identify the ML/TF risks and to adjust their risk mitigating programmes accordingly.

### Assessing ML/TF risk

54. Assessing ML/TF risk requires countries, competent authorities, including supervisors, SRBs and accountants to determine how the ML/TF threats identified will affect them. They should analyse the information obtained to understand the likelihood of these risks occurring, and the impact that these would have, on the individual accountants, the entire sector and on the national economy. As a starting step, ML/TF risks are often classified as low, medium-low, medium, medium-high and high. Assessing ML/TF risk therefore goes beyond the mere gathering of quantitative and qualitative information, without its proper analysis; this information forms the basis for effective ML/TF risk mitigation and should be kept up-to-date to remain relevant.<sup>21</sup>

55. Competent authorities, including supervisors and SRBs should employ skilled and trusted personnel, recruited through fit and proper tests, where appropriate. They should be technically equipped commensurate with the complexity of their responsibilities. Accounting firms/accountants that are required to routinely conduct a high volume of enquiries when on-boarding clients, e.g. because of the size and geographic footprint of the firm may also consider engaging skilled and trusted personnel who are appropriately recruited and checked. Such accounting firms are also likely to consider using the various technological options (including artificial intelligence) and software programs that are now available to assist accountants in this regard.

56. Accounting firms should develop internal policies, procedures and controls, including appropriate compliance management arrangements, and adequate screening procedures to ensure high standards when hiring employees. Accounting firms should also develop an ongoing employee training programme. They should be trained commensurate with the complexity of their responsibilities.

### Mitigating and managing ML/TF risk

57. The FATF Recommendations require that, when applying a RBA, accountants, countries, competent authorities and supervisors decide on the most appropriate and effective way to mitigate and manage the ML/TF risk they have identified. They should take enhanced measures to manage and mitigate situations when the ML/TF risk is higher. In lower risk situations, less stringent measures may be applied.<sup>22</sup>

- a) Countries may decide not to apply some of the FATF Recommendations requiring accountants to take certain actions, provided (i) there is a proven low risk of money laundering and terrorist financing, this occurs in strictly limited and justified circumstances and it relates to a particular type of accountants or (ii) a financial activity is carried out by a natural or legal person

<sup>21</sup> [FATF \(2013a\)](#), paragraph 10. See also Section I D for further detail on identifying and assessing ML/TF risk.

<sup>22</sup> Subject to the national legal framework providing for Simplified Due Diligence.

on an occasional or very limited basis such that there is a low risk of ML/TF, according to the exemptions of INR 1.6 are met.

- b) Countries and accountants looking to apply simplified measures should conduct an assessment to ascertain the lower risk connected to the category of clients or services targeted, establish a threshold for the lower level of the risks involved, and define the extent and the intensity of the required AML/CFT measures, provided that the specific conditions required for one of the exemptions of INR 1.6 are met. Specific Recommendations set out in more detail how this general principle applies to particular requirements.<sup>23</sup>

### Developing a common understanding of the RBA

58. The effectiveness of a RBA depends on a common understanding by competent authorities and accountants of what the RBA entails, how it should be applied and how ML/TF risks should be addressed. In addition to a legal and regulatory framework that spells out the degree of discretion, accountants should deal with the risks they identify. Competent authorities should issue guidance to accountants on meeting their legal and regulatory AML/CFT obligations in a risk-sensitive way. Supporting ongoing and effective communication between competent authorities and the sector is essential.

59. Competent authorities should acknowledge that not all accountants will adopt identical AML/CFT controls in a risk-based regime. On the other hand, accountants should understand that a flexible RBA does not exempt them from applying effective AML/CFT controls with a RBA.

<sup>23</sup> For example, R.22 on Customer Due Diligence.

## Section III: Guidance for accountants on implementing a risk-based approach

### Risk identification and assessment

60. Accountants should take appropriate steps to identify and assess the risk firm-wide, given their particular client base, that they could be used for ML/TF. This is usually performed as part of the overall client and engagement acceptance processes. They should document those assessments, keep these assessments up to date, and have appropriate mechanisms to provide risk assessment information to competent authorities and supervisors.<sup>24</sup> The nature and extent of any assessment of ML/TF risks should be appropriate to the type of business, nature of clients and size of operations.

61. ML/TF risks can be organised into three categories: (a) country/geographic risk, (b) client risk and (c) transaction/service and associated delivery channel risk<sup>25</sup>. The risks and red flags listed in each category are not exhaustive but provide a starting point for accountants to use when designing their RBA.

62. When assessing risk, accountants should consider all the relevant risk factors before determining the level of overall risk and the appropriate level of mitigation to be applied. Such risk assessment may well be informed by findings of the NRA, the supra-national risk assessments, sectoral reports conducted by competent authorities on ML/TF risks that are inherent in accounting services/sector, risk reports in other jurisdictions where the accountant based in, and any other information which may be relevant to assess the risk level particular to their practice. For example, press articles and other widely available public information highlighting issues that may have arisen in particular jurisdictions. Accountants may well also draw references to FATF Guidance on indicators and risk factors. During the course of a client relationship, procedures for ongoing monitoring and review of the client's risk profile are also important. Competent authorities should consider how they can best alert accountants to the findings of any national risk assessments, the supranational risk assessments and any other information which may be relevant to assess the risk level particular to an accounting practice in the relevant country.

63. Due to the nature of services that an accountant generally provides, automated transaction monitoring systems of the type used by financial institutions will not be appropriate for most accountants. There may be some scope to use artificial intelligence and analytical tools in an audit context to spot unusual transactions. The accountant's knowledge of the client and its business will develop throughout the duration of a longer term and interactive professional relationship (in some cases, such relationships may exist for short term clients as well, e.g. for property transactions). However, although individual accountants are not expected to investigate their client's affairs, they may be well positioned to identify and detect changes in the type of work or the nature of the client's activities in the course of business relationship. Accountants will also need to consider the nature of the risks presented by short-term client relationships that may inherently, but not necessarily

<sup>24</sup> Paragraph 8 of INR.1

<sup>25</sup> Including products, transactions or delivery channels.

be low risk (e.g. one-off client relationship). Accountants should also be mindful of the subject matter of the professional services (the engagement) being sought by an existing or potential client and the related risks.

64. Identification of the ML/TF risks associated with certain clients or categories of clients, and certain types of work will allow accountants to determine and implement reasonable and proportionate measures and controls to mitigate such risks. The risks and appropriate measures will depend on the nature of the accountant's role and involvement. Circumstances may vary considerably between professionals who represent clients on a single transaction and those involved in a long term advisory relationship.

65. The amount and degree of ongoing monitoring and review will depend on the nature and frequency of the relationship, along with the comprehensive assessment of client/transactional risk. An accountant may also have to adjust the risk assessment of a particular client based upon information received from a designated competent authority, SRB or other credible sources (including a referring accountant).

66. Accountants may assess ML/TF risks by applying various categories. This provides a strategy for managing potential risks by enabling accountants, where required, to subject each client to reasonable and proportionate risk assessment.

67. The weight given to these risk categories (individually or in combination) in assessing the overall risk of potential ML/TF may vary given the size, sophistication, nature and scope of services provided by the accountant and/or firm. These criteria, however, should be considered holistically and not in isolation. Accountants, based on their individual practices and reasonable judgements, will need to independently assess the weight to be given to each risk factor.

68. Although there is no universally accepted set of risk categories, the examples provided in this Guidance are the most commonly identified risk categories. There is no single methodology to apply these risk categories, and the application of these risk categories is intended to provide a suggested framework for approaching the assessment and management of potential ML/TF risks. For smaller firms and sole practitioners, it is advisable to look at the services they offer (e.g. providing company management services may entail greater risk than other services).

69. Criminals use a range of techniques and mechanisms to obscure the beneficial ownership of assets and transactions. Many of the common mechanisms/techniques have been compiled by FATF in the previous studies, including the 2014 FATF Guidance on Transparency and Beneficial Ownership and the 2018 Joint FATF and Egmont Group Report on Concealment of Beneficial Ownership. Accountants may refer to the studies for more details on the use of obscuring techniques and relevant case studies.

70. A practical starting point for accounting firms (especially smaller firms) and accountants (especially sole practitioners) would be to take the following approach. Many of these elements are critical to satisfying other obligations owed to clients, such as fiduciary duties, and as part of their general regulatory obligations:

- a) Client acceptance and know your client policies: identify the client (and its beneficial owners where appropriate) and the true "beneficiaries" of the transaction. Obtain an understanding of the source of funds and source of

wealth<sup>26</sup> of the client, where required, its owners and the purpose of the transaction.

- b) Engagement acceptance policies: Understand the nature of the work. Accountants should know the exact nature of the service that they are providing and have an understanding of how that work could facilitate the movement or obscuring of the proceeds of crime. Where an accountant does not have the requisite expertise, the accountant should not undertake the work.
- c) Understand the commercial or personal rationale for the work: Accountants need to be reasonably satisfied that there is a commercial or personal rationale for the work undertaken. Accountants however are not obliged to objectively assess the commercial or personal rationale if it appears reasonable and genuine.
- d) Be attentive to red flag indicators: exercise vigilance in identifying and then carefully reviewing aspects of the transaction if there are reasonable grounds to suspect that funds are the proceeds of a criminal activity, or related to terrorist financing. These cases would trigger reporting obligations. Documenting the thought process by having an action plan may be a viable option to assist in interpreting/assessing red flags/indicators of suspicion.
- e) Then consider what action, if any, needs to be taken.
- f) The outcomes of the above action (i.e. the comprehensive risk assessment of a particular client/transaction) will dictate the level and nature of the evidence/documentation collated under a firm's CDD/EDD procedures (including evidence of source of wealth or funds).
- g) Accountants should adequately document and record steps taken under a) to e).

### *Country/Geographic risk*

71. A client may be higher risk when features of their business are connected to a higher risk country as regards:

- a) the origin, or current location of the source of wealth or funds;
- b) where the services are provided;

<sup>26</sup> The source of funds and the source of wealth are relevant to determining a client's risk profile. The source of funds is the activity that generates the funds for a client (e.g. salary, trading revenues, or payments out of a trust), while the source of wealth describes the activities that have generated the total net worth of a client (e.g. ownership of a business, inheritance, or investments). While these may be the same for some clients, they may be partially or entirely different for other clients. For example, a PEP who receives a modest official salary, but who has substantial funds, without any apparent business interests or inheritance, might raise suspicions of bribery, corruption or misuse of position. Under the RBA, accountants should satisfy themselves that adequate information is available to assess a client's source of funds and source of wealth as legitimate with a degree of certainty that is proportionate to the risk profile of the client.

- c) the client's country of incorporation or domicile;
  - d) the location of the client's major operations;
  - e) the beneficial owner's country of domicile; or
  - f) target company's country of incorporation and location of major operations (for potential acquisitions).
72. There is no universally agreed definition of a higher risk country or geographic area but accountants should pay attention to those countries that are:
- a) Countries/areas identified by credible sources<sup>27</sup> as providing funding or support for terrorist activities or that have designated terrorist organisations operating within them.
  - b) Countries identified by credible sources as having significant levels of organized crime, corruption, or other criminal activity, including source or transit countries for illegal drugs, human trafficking and smuggling and illegal gambling.
  - c) Countries subject to sanctions, embargoes or similar measures issued by international organisations such as the United Nations.
  - d) Countries identified by credible sources as having weak governance, law enforcement, and regulatory regimes, including countries identified by FATF statements as having weak AML/CFT regimes, in relation to which financial institutions (as well as DNFBPs) should give special attention to business relationships and transactions.
  - e) Countries identified by credible sources to be uncooperative in providing beneficial ownership information to competent authorities, a determination of which may be established from reviewing FATF mutual evaluation reports or reports by organisations that also consider various co-operation levels such as the OECD Global Forum reports on compliance with international tax transparency standards.

### *Client risk*

73. The key risk factors that accountants should consider are:
- a) The firm's client base includes industries or sectors where opportunities for ML/TF are particularly prevalent.
  - b) The firm's clients include PEPs or persons closely associated with or related to PEPs, who are considered as higher risk clients (Please refer to the FATF Guidance (2013) on politically-exposed persons for further guidance on how to identify PEPs).

<sup>27</sup> "Credible sources" refers to information that is produced by reputable and universally recognised international organisations and other bodies that make such information publicly and widely available. In addition to the FATF and FATF-style regional bodies, such sources may include, but are not limited to, supra-national or international bodies such as the International Monetary Fund, the World Bank and the Egmont Group of Financial Intelligence Units.

## **Box 2. Particular considerations for PEPs and source of funds and wealth**

If an accountant is advising a PEP client, or where a PEP is the beneficial owner of assets in a transaction, appropriate enhanced CDD is required if a specified activity under R.22 is involved. Such measures include, obtaining senior management (e.g. senior partner, managing partner or CEO) approval before establishing a business relationship, taking reasonable measures to establish the source of wealth and source of funds of clients and beneficial owners identified as PEPs, and conducting enhanced ongoing monitoring on that relationship.

The source of funds and the source of wealth are relevant to determining a client's risk profile. The source of funds is the activity that generates the funds for a client (e.g. salary, trading revenues, or payments out of a trust). Source of funds relates directly to the literal origin of funds to be used in a transaction. This is likely to be a bank account. Generally, this would be evidenced by bank statements or similar. Source of wealth describes the activities that have generated the total net worth of a client (e.g. ownership of a business, inheritance, or investments). Source of wealth is the origin of the accrued body of wealth of an individual. Understanding source of wealth is about taking reasonable steps to be satisfied that the funds to be used in a transaction are not the proceeds of crime.

While source of funds and wealth may be the same for some clients, they may be partially or entirely different for other clients. For example, a PEP who receives a modest official salary, but who has substantial funds, without any apparent business interests or inheritance, might raise suspicions of bribery, corruption or misuse of position. Under the RBA, accountants should satisfy themselves that adequate information is available to assess a client's source of funds and source of wealth as legitimate with a degree of certainty that is proportionate to the risk profile of the client.

Relevant factors that influence the extent and nature of CDD include the particular circumstances of a PEP, PEPs' separate business interests and the time those interests prevailed in relation to the public position, whether the PEP has access to official funds, makes decisions regarding the allocation of public funds or public procurement contracts, the PEP's home country, the type of activity that the PEP is instructing the accountant to perform, whether the PEP is domestic or international, particularly having regard to the services asked for, and the scrutiny to which the PEP is under in the PEP's home country.

- c) Clients conducting their business relationship or requesting services in unusual or unconventional circumstances (as evaluated taking into account all the circumstances of the client's representation).
- d) Clients where the structure or nature of the entity or relationship makes it difficult to identify in a timely manner the true beneficial owner or controlling

interests or clients attempting to obscure understanding of their business, ownership or the nature of their transactions, such as:

- i. Unexplained use of shell and/or shelf companies, front company, legal entities with ownership through nominee shares or bearer shares, control through nominee and corporate directors, legal persons or legal arrangements, splitting company incorporation and asset administration over different countries, all without any apparent legal or legitimate tax, business, economic or other reason.
  - ii. Unexplained use of informal arrangements such as family or close associates acting as nominee shareholders or directors.
  - iii. Unusual complexity in control or ownership structures without a clear explanation, where certain circumstances, structures, geographical locations, international activities or other factors are not consistent with the accountants' understanding of the client's business and economic purpose.
- e) Client companies that operate a considerable part of their business in or have major subsidiaries in countries that may pose higher geographic risk.
- f) Clients that are cash (and/or cash equivalent) intensive businesses. Where such clients are themselves subject to and regulated for a full range of AML/CFT requirements consistent with the FATF Recommendations, this will aid to mitigate the risks. These may include, for example:
  - i. Money or Value Transfer Services (MVTs) businesses (e.g. remittance houses, currency exchange houses, casas de cambio, centros cambiarios, remisores de fondos, bureaux de change, money transfer agents and bank note traders or other businesses offering money transfer facilities);
  - ii. Operators, brokers and others providing services in virtual assets;
  - iii. Casinos, betting houses and other gambling related institutions and activities;
  - iv. Dealers in precious metals and stones
- g) Businesses that while not normally cash intensive appear to have substantial amounts of cash.
- h) Non-profit or charitable organizations engaging in transactions for which there appears to be no logical economic purpose or where there appears to be no link between the stated activity of the organization and the other parties in the transaction.
- i) Clients using financial intermediaries, financial institutions or DNFBPs that are not subject to adequate AML/CFT laws and measures and that are not adequately supervised by competent authorities or SRBs.
- j) Clients who appear to be acting on somebody else's instructions without disclosure.
- k) Clients who appear to actively and inexplicably avoid face-to-face meetings or who provide instructions intermittently without legitimate reasons and are



otherwise evasive or very difficult to reach, when this would not normally be expected.

- l) Clients who request that transactions be completed in unusually tight or accelerated timeframes without a reasonable explanation for accelerating the transaction, which would make it difficult or impossible for the accountants to perform a proper risk assessment.
- m) Clients with previous convictions for crimes that generated proceeds, who instruct accountants (who in turn have knowledge of such convictions) to undertake specified activities on their behalf.
- n) Clients who have no address, or multiple addresses without legitimate reasons.
- o) Clients who have funds that are obviously and inexplicably disproportionate to their circumstances (e.g. their age, income, occupation or wealth).
- p) Clients who change their settlement or execution instructions without appropriate explanation.
- q) Clients who change their means of payment for a transaction at the last minute and without justification (or with suspect justification), or where there is an unexplained lack of information or transparency in the transaction. This risk extends to situations where last minute changes are made to enable funds to be paid in from/out to a third party.
- r) Clients who insist, without adequate justification or explanation, that transactions be effected exclusively or mainly through the use of virtual assets for the purpose of preserving their anonymity.
- s) Clients who offer to pay unusually high levels of fees for services that would not ordinarily warrant such a premium. However, bona fide and appropriate contingency fee arrangements, where accountants may receive a significant premium for a successful provision of their services, should not be considered a risk factor.
- t) Unusually high levels of assets or unusually large transactions compared to what might reasonably be expected of clients with a similar profile may indicate that a client not otherwise seen as higher risk should be treated as such.
- u) Where there are certain transactions, structures, geographical location, international activities or other factors that are not consistent with the accountants' understanding of the client's business or economic situation.
- v) The accountants' client base includes industries or sectors where opportunities for ML/TF are particularly prevalent.
- w) Clients who are suspected to be engaged in falsifying activities through the use of false loans, false invoices, and misleading naming conventions.
- x) The transfer of the seat of a company to another jurisdiction without any genuine economic activity in the country of destination poses a risk of creation of shell companies which might be used to obscure beneficial ownership.

- y) The relationship between employee numbers/structure and nature of the business is divergent from the industry norm (e.g. the turnover of a company is unreasonably high considering the number of employees and assets used compared to similar businesses).
  - z) Sudden activity from a previously dormant client without any clear explanation.
  - aa) Clients that start or develop an enterprise with unexpected profile or abnormal business cycles or clients that enters into new/emerging markets. Organised criminality generally does not have to raise capital/debt, often making them first into a new market, especially where this market may be retail/cash intensive.
  - bb) Indicators that client does not wish to obtain necessary governmental approvals/filings, etc.
  - cc) Reason for client choosing the accountant is unclear, given the firm's size, location or specialisation.
  - dd) Frequent or unexplained change of client's professional adviser(s) or members of management.
  - ee) Client is reluctant to provide all the relevant information or accountants have reasonable grounds to suspect that the information provided is incorrect or insufficient.
  - ff) Clients seeking to obtain residents rights or citizenship in the country of establishment of the accountants in exchange for capital transfers, purchase of property or government bonds, or investment in corporate entities.
74. The clients referred to above may be individuals that are, for example, trying to obscure their own business interests and assets or the clients may be representatives of a company's senior management who are, for example, trying to obscure the ownership structure.

#### *Transaction/Service and associated delivery channel risk*

75. Services which may be provided by accountants and which (in some circumstances) risk being used to assist money launderers may include:
- a) Use of pooled client accounts or safe custody of client money or assets without justification.
  - b) Situations where advice on the setting up of legal arrangements may be misused to obscure ownership or real economic purpose (including setting up of trusts, companies or change of name/corporate seat or establishing complex group structures). This might include advising in relation to a discretionary trust that gives the trustee discretionary power to name a class of beneficiaries that does not include the real beneficiary (e.g. naming a charity as the sole discretionary beneficiary initially with a view to adding the real beneficiaries at a later stage). It might also include situations where a trust is set up for the purpose of managing shares in a company with the intention of making it more difficult to determine the beneficiaries of assets managed by the trust.

- c) In case of an express trust, an unexplained (where explanation is warranted) nature of classes of beneficiaries and acting as trustees of such a trust.
- d) Services where accountants may in practice represent or assure the client's standing, reputation and credibility to third parties, without a commensurate knowledge of the client's affairs.
- e) Services that are capable of concealing beneficial ownership from competent authorities.
- f) Services requested by the client for which the accountant does not have expertise except where the accountant is referring the request to an appropriately trained professional for advice.
- g) Non-cash wire transfers through the use of many inter-company transfers within the group to disguise the audit trail.
- h) Services that rely heavily on new technologies (e.g. in relation to initial coin offerings or virtual assets) that may have inherent vulnerabilities to exploitation by criminals, especially those not regulated for AML/CFT.
- i) Transfer of real estate or other high value goods or assets between parties in a time period that is unusually short for similar transactions with no apparent legal, tax, business, economic or other legitimate reason.
- j) Transactions where it is readily apparent to the accountant that there is inadequate consideration, where the client does not provide legitimate reasons for the transaction.
- k) Administrative arrangements concerning estates where the deceased was known to the accountant as being a person who had been convicted of proceeds generating crimes.
- l) Services that have deliberately provided, or depend upon, more anonymity in relation to the client's identity or regarding other participants, than is normal under the circumstances and in the experience of the accountant.
- m) Use of virtual assets and other anonymous means of payment and wealth transfer within the transaction without apparent legal, tax, business, economic or other legitimate reason.
- n) Transactions using unusual means of payment (e.g. precious metals or stones).
- o) The postponement of a payment for an asset or service delivered immediately to a date far from the moment at which payment would normally be expected to occur, without appropriate assurances that payment will be made.
- p) Unexplained establishment of unusual conditions/clauses in credit arrangements that do not reflect the commercial position between the parties and may require accountants to be aware of risks. Arrangements that may be abused in this way might include unusually short/long amortisation periods, interest rates materially above/below market rates, or unexplained repeated cancellations of promissory notes/mortgages or other security instruments substantially ahead of the maturity date initially agreed.
- q) Transfers of goods that are inherently difficult to value (e.g. jewels, precious stones, objects of art or antiques, virtual assets), where this is not common for

the type of clients, transaction, or with accountant's normal course of business such as a transfer to a corporate entity, or generally without any appropriate explanation.

- r) Successive capital or other contributions in a short period of time to the same company with no apparent legal, tax, business, economic or other legitimate reason.
- s) Acquisitions of businesses in liquidation with no apparent legal, tax, business, economic or other legitimate reason.
- t) Power of representation given in unusual conditions (e.g. when it is granted irrevocably or in relation to specific assets) and the stated reasons for these conditions are unclear or illogical.
- u) Transactions involving closely connected persons and for which the client and/or its financial advisors provide inconsistent or irrational explanations and are subsequently unwilling or unable to explain by reference to legal, tax, business, economic or other legitimate reason.
- v) Situations where a nominee is being used (e.g. friend or family member is named as owner of property/assets where it is clear that the friend or family member is receiving instructions from the beneficial owner) with no apparent legal, tax, business, economic or other legitimate reason.
- w) Payments received from un-associated or unknown third parties and payments for fees in cash where this would not be a typical method of payment.
- x) Commercial, private, or real property transactions or services to be carried out by the client with no apparent legitimate business, economic, tax, family governance, or legal reasons.
- y) Existence of suspicions regarding fraudulent transactions, or transactions that are improperly accounted for. These might include:
  - i. Over or under invoicing of goods/services.
  - ii. Multiple invoicing of the same goods/services.
  - iii. Falsely described goods/services – over or under shipments (e.g. false entries on bills of lading).
  - iv. Multiple trading of goods/services.

76. In relation to the areas of risk identified above, accountants may also consider the examples of fraud risk factors listed in International Standard of Auditing 240: The auditor's responsibilities relating to fraud in an audit of financial statements (ISA 240) and the examples of conditions and events that may indicate risks of material misstatement in International Standard of Auditing 315: Identifying and assessing risks of material misstatement through understanding the entity and its environment (ISA315). Even where the accountant is not performing an audit, ISA 240 and ISA 315 provide helpful lists of additional red flags.

### *Variables that may impact on a RBA and on risk*

77. While all accountants should follow robust standards of due diligence in order to avoid regulator arbitrage, due regard should be accorded to differences in practices, size, scale and expertise amongst accountants, as well as the nature of the clients they serve. As a result, consideration should be given to these factors when creating a RBA that complies with the existing obligations of accountants.

78. Consideration should also be given to the resources that can be reasonably allocated to implement and manage an appropriately developed RBA. For example, a sole practitioner would not be expected to devote an equivalent level of resources as a large firm; rather, the sole practitioner would be expected to develop appropriate systems and controls and a RBA proportionate to the scope and nature of the practitioner's practice and its clients. Small firms serving predominantly locally based and low risk clients cannot generally be expected to devote a significant amount of senior personnel's time to conducting risk assessments. In such cases, it may be more reasonable for sole practitioners to rely on publicly available records and information supplied by a client for a risk assessment than it would be for a large firm having a diverse client base with different risk profiles. However, where the source is a public registry, or the client, there is always potential risk in the correctness of the information. Sole practitioners and small firms may be regarded by criminals as more of a target for money launderers than large law firms. Accountants in many jurisdictions and practices are required to conduct both a risk assessment of the general risks of their practice, and of all new clients and current clients engaged in one-off specific transactions. The emphasis must be on following a RBA.

79. A significant factor to consider is whether the client and proposed work would be unusual, risky or suspicious for the particular accountant. This factor must always be considered in the context of the accountant's practice, as well as the legal, professional, and ethical obligations in the jurisdiction(s) of practice. An accountant's RBA methodology may thus take account of risk variables specific to a particular client or type of work. Consistent with the RBA and proportionality, the presence of one or more of these variables may cause an accountant to conclude that either enhanced CDD and monitoring is warranted, or conversely that standard CDD and monitoring can be reduced, modified or simplified. When reducing, modifying or simplifying CDD, accountants should always adhere to the minimum requirements as set out in national legislation. These variables may increase or decrease the perceived risk posed by a particular client or type of work. While the presence of the specific factors referred to in paragraphs 71-76 may tend to increase risk, there are more general client/ engagement-related variables that may add to or mitigate that risk.

80. Examples of factors that may increase risk are:

- a) Unexplained urgency of assistance required.
- b) Unusual sophistication of client, including complexity of control environment.
- c) Unusual sophistication of transaction/scheme.
- d) The irregularity or duration of the client relationship. One-off engagements involving limited client contact throughout the relationship may present higher risk.

81. Examples of factors that may decrease risk are:

- a) Involvement of adequately regulated financial institutions or other DNFBP professionals.
- b) Similar country location of accountants and client.
- c) Role or oversight of a regulator or multiple regulators.
- d) The regularity or duration of the client relationship. Long-standing relationships involving frequent client contact and easy flow of information throughout the relationship may present less risk.
- e) Private companies that are transparent and well-known in the public domain.
- f) Accountant's familiarity with a particular country, including knowledge of and compliance with local laws and regulations as well as the structure and extent of regulatory oversight.

### *Documentation of risk assessments*

82. Accountants must always understand their ML/TF risks (for clients, countries or geographic areas, services, transactions or delivery channels). They should document those assessments in order to be able to demonstrate their basis and exercise due professional care and use compelling good judgement. However, competent authorities or SRBs may determine that individual documented risk assessments are not required, if the specific risks inherent to the sector are clearly identified and understood.

83. Accountants may fail to satisfy their AML/CFT obligations, for example by relying completely on a checklist risk assessment where there are other clear indicators of potential illicit activity. Completing risk assessments in a time efficient yet comprehensive manner has become more important.

84. Each of these risks could be assessed using indicators such as low risk, medium risk and/or high risk. A short explanation of the reasons for each attribution should be included and an overall assessment of risk determined. An action plan (if required) should then be outlined to accompany the assessment, and dated. In assessing the risk profile of the client at this stage, reference must be made to the relevant targeted financial sanctions lists to confirm neither the client nor the beneficial owner is designated and included in any of them.

85. A risk assessment of this kind should not only be carried out for each specific client and service on an individual basis, but also to assess and document the risks on a firm-wide basis, and to keep risk assessment up-to-date through monitoring of the client relationship. The written risk assessment should be made accessible to all professionals having to perform AML/CFT duties.

### **Risk mitigation**

86. Accountants should have policies, controls and procedures that enable them to effectively manage and mitigate the risks that they have identified (or that have been identified by the country). They should monitor the implementation of those controls and enhance or improve them if they find the controls to be weak or ineffective. The policies, controls and procedures should be approved by senior management, and the measures taken to manage and mitigate the risks (whether

higher or lower) should be consistent with national requirements and with guidance from competent authorities and supervisors. Measures and controls may include:

- a) General training on ML/TF methods and risks relevant to accountants.
- b) Targeted training for increased awareness by the accountants providing specified activities to higher risk clients or to accountants undertaking higher risk work.
- c) Increased or more appropriately targeted CDD or enhanced CDD for higher risk clients/situations that concentrate on providing a better understanding about the potential source of risk and obtaining the necessary information to make informed decisions about how to proceed (if the transaction/ business relationship can be proceeded with). This could include training on when and how to ascertain, evidence and record source of wealth and beneficial ownership information if required.
- d) Periodic review of the services offered by the accountant, and the periodic evaluation of the AML/CFT framework applicable to the accountant and the accountant's own AML/CFT procedures, to determine whether the ML/TF risk has increased.
- e) Reviewing client relationships from time to time to determine whether the ML/TF risk has increased.

#### *Initial and ongoing CDD (R.10 and 22)*

87. Accountants should design CDD procedures to enable them to establish with reasonable certainty the true identity of each client and, with an appropriate degree of confidence, know the types of business and transactions the client is likely to undertake. Accountants should have procedures to:

- a) Identify the client and verify that client's identity using reliable, independent source documents, data or information.
- b) Identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner, such that accountants are satisfied that they knows who the beneficial owner is. This should include accountants' understanding of the ownership and control structure of the client. This is articulated in the following box

#### **Box 3. Beneficial ownership information obligations (see R.10, R.22 and INR.10)**

R.10 sets out the instances where accountants will be required to take steps to identify and verify beneficial owners, including when there is a suspicion of ML/TF, when establishing business relations, or where there are doubts about the veracity of previously provided information. INR.10 indicates that the purpose of this requirement is two-fold: first, to prevent the unlawful use of legal persons and arrangements, by gaining a sufficient understanding of the client to be able to properly assess the potential ML/TF risks associated with the business relationship; and, second, to take appropriate steps to mitigate the

risks. Accountants should have regard to these purposes when assessing what steps are reasonable to take to verify beneficial ownership, commensurate with the level of risk. Accountants should also have regard to the AML/CFT 2013 Methodology Criteria 10.5 and 10.8-10.12.

At the outset of determining beneficial ownership, steps should be taken to identify how the immediate client can be identified. Accountants can verify the identity of a client by, for example meeting the client in person and then verifying their identity through the production of a passport/identity card and documentation confirming his/her address. Accountants can further verify the identity of a client on the basis of documentation or information obtained from reliable, publicly available sources (which are independent of the client).

A more difficult situation arises where there is a beneficial owner who is not the immediate client (e.g. in the case of companies and other entities). In such a scenario reasonable steps must be taken so that the accountant is satisfied about the identity of the beneficial owner and takes reasonable measures to verify the beneficial owner's identity. This likely requires taking steps to understand the ownership and control of a separate legal entity that is the client, and may include conducting public searches as well as by seeking information directly from the client.

Accountants will likely need to obtain the following information for a client that is a legal entity:

- a) the name of the company;
- b) the company registration number;
- c) the registered address and/ or principal place of business (if different);
- d) the identity of shareholders and their percentage ownership;
- e) names of the board of directors or senior individuals responsible for the company's operations;
- f) the law to which the company is subject and its constitution; and
- g) the types of activities and transactions in which the company engages.

To verify the information listed above, accountants may use sources such as the following:

- a) constitutional documents (such as a certificate of incorporation, memorandum and articles of incorporation/association);
- b) details from company registers;
- c) shareholder agreements or other agreements between shareholders concerning control of the legal person; and
- d) filed audited accounts.

Accountants should adopt a RBA to verify beneficial owners of an entity. It is often necessary to use a combination of public sources and to seek further confirmation from the immediate client that information from public sources is correct and up-to-date or to ask for additional documentation that confirms the beneficial ownership and company structure. The obligation to identify beneficial ownership does not end with identifying the first level of ownership, but requires reasonable steps to be taken to identify the beneficial ownership at each level of the corporate structure until an ultimate beneficial owner is identified.



- c) Understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship.
- d) Conduct ongoing due diligence on the business relationship. Ongoing due diligence ensures that the documents, data or information collected under the CDD process are kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher-risk categories of clients. Undertaking appropriate CDD may also facilitate the accurate filing of suspicious transaction reports (STRs) to the financial intelligence unit (FIU), or to respond to requests for information from an FIU and the law enforcement agencies.

88. Accountants should design their policies and procedures so that the level of client due diligence addresses the risk of being used for ML/TF by the client. In accordance with the national AML/CFT framework, accountants should design a 'standard' level of CDD for normal risk clients and a reduced or simplified CDD process for low risk clients. Simplified CDD measures are not acceptable whenever there is a suspicion of ML/TF or where specific higher-risk scenarios apply. Enhanced due diligence should be applied to those clients that are assessed as high risk. These activities may be carried out in conjunction with firms' normal client acceptance procedures and should take account of any specific jurisdictional requirements for CDD.

89. In the normal course of their work, accountants are likely to learn more about some aspects of their client, such as their client's business or occupation and/or their level and source of income, than other advisors. This information is likely to help them reassess the ML/TF risk.

90. A RBA means that accountants should perform varying levels of work according to the risk level. For example, where the client or the owner of the controlling interest is a public company that is subject to regulatory disclosure requirements, and that information is publicly available, fewer checks may be appropriate. In the case of trusts, foundations or similar legal entities where the beneficiaries are distinct from the legal owners of the entity, it will be necessary to form a reasonable level of knowledge and understanding of the classes and nature of the beneficiaries; the identities of the settlor, trustees or natural persons exercising effective control; and an indication of the purpose of the trust. Accountants will need to obtain a reasonable level of comfort that the declared purpose of the trust is in fact its true purpose.

91. Changes in ownership or control of clients should lead to review or repeat of client identification and verification procedures. This may be carried out in conjunction with any professional requirements for client continuation processes.

92. Public information sources may assist with this ongoing review (scrutinising transactions undertaken throughout the course of that relationship). The procedures that need to be carried out can vary, in accordance with the nature and purpose for which the entity exists, and the extent to which the underlying ownership differs from apparent ownership by the use of nominees and complex structures.

93. The following box provides a non-exhaustive list of examples of standard, enhanced and simplified CDD:

**Box 4. Examples of Standard/Simplified/Enhanced CDD measures  
(see also INR.10)**

**Standard CDD**

- Identifying the client and verifying that client's identity using reliable, independent source documents, data or information
- Identifying the beneficial owner, and taking reasonable measures on a risk-sensitive basis to verify the identity of the beneficial owner, such that the accountant is satisfied about the identity of beneficial owner. For legal persons and arrangements, this should include understanding the ownership and control structure of the client and gaining an understanding of the client's source of wealth and source of funds, where required
- Understanding and obtaining information on the purpose and intended nature of the business relationship
- Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the business and risk profile the client, including, where necessary, the source of wealth and funds

**Simplified CDD**

- Limiting the extent, type or timing of CDD measures
- Obtaining fewer elements of client identification data
- Altering the type of verification carried out on client's identity
- Simplifying the verification carried out on client's identity
- Inferring the purpose and nature of the transactions or business relationship established based on the type of transaction carried out or the relationship established
- Verifying the identity of the client and the beneficial owner after the establishment of the business relationship
- Reducing the frequency of client identification updates in the case of a business relationship
- Reducing the degree and extent of ongoing monitoring and scrutiny of transactions

**Enhanced CDD**

- Obtaining additional information on the client (e.g. occupation, volume of assets, information available through public databases, internet, etc.), and updating more regularly the identification data of client and beneficial owner
- Carrying out additional searches (e.g. internet searches using independent and open sources) to better inform the client risk profile (provided that the internal policies of accountants should enable them to disregard source documents, data or information, which is perceived to be unreliable)
- Obtaining additional information and, as appropriate, substantiating documentation, on the intended nature of the business relationship
- Obtaining information on the source of funds and/or source of wealth of the client and clearly evidencing this through appropriate documentation obtained
- Obtaining information on the reasons for intended or performed transactions
- Obtaining the approval of senior management to commence or continue the business relationship

- Conducting enhanced monitoring of the business relationship, by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination
- Requiring the first payment to be carried out through an account in the client's name with a bank subject to similar CDD standards
- Increasing awareness of higher risk clients and transactions, across all departments with a business relationship with the client, including the possibility of enhanced briefing of engagement teams responsible for the client.
- Enhanced CDD may also include lowering the threshold of ownership (e.g. below 25%), to ensure complete understanding of the control structure of the entity involved. It may also include looking further than simply holdings of equity shares, to understand the voting rights of each party who holds an interest in the entity.

#### *Politically exposed persons (PEP) (R.12 and R.22)*

94. Accountants should take reasonable measures to identify whether a client is a PEP or a family member or close associate of a PEP. Accountants should also refer to the 2013 FATF Guidance on politically-exposed persons for further guidance on how to identify PEPs.

95. If the client or the beneficial owner is a PEP or a family member or close associate of a PEP, accountants should perform the following additional procedures:

- a) obtain senior management approval for establishing (or continuing, for existing clients) such business relationships;
- b) take reasonable measures to establish the source of wealth and source of funds<sup>28</sup>; and
- c) conduct enhanced ongoing monitoring of the business relationship.

96. Relevant factors that will influence the extent and nature of CDD include the particular circumstances of a PEP, the PEP's role in a particular government/government agency, whether the PEP has access to official funds, the PEP's home country, the type of work the PEP is instructing the accountant to perform or carry out (i.e. the services that are being asked for), whether the PEP is domestically based or international, particularly having regard to the services asked for, and the scrutiny to which the PEP is under in the PEP's home country.

97. The nature of the risk should be considered in light of all relevant circumstances, such as:

- a) The nature of the relationship between the client and the PEP. If the client is a trust, company or legal entity, even if the PEP is not a natural person exercising effective control or the PEP is merely a discretionary beneficiary who has not received any distributions, the PEP may nonetheless affect the risk assessment.
- b) The nature of the client (e.g. where it is a public listed company or regulated entity which is subject to and regulated for a full range of AML/CFT requirements consistent with FATF recommendations, the fact that it is

<sup>28</sup> See INR 28.1.

subject to reporting obligations will be a relevant factor, albeit this should not automatically qualify the client for simplified CDD).

- c) The nature of the services sought. For example, lower risks may exist where a PEP is not the client but a director of a client that is a public listed company or regulated entity and the client is purchasing property for adequate consideration.

#### *Ongoing monitoring of clients and specified activities (R.10 and 22)*

98. Accountants are not expected to scrutinise every transaction that goes through their clients' books and some accounting services are provided only on a one-off basis, without a continuing relationship with the client and without the accountant having access to client's books and/or bank records. However, many of the professional services provided by accountants put them in a relatively good position to encounter and recognise suspicious activities (or transactions) carried out by their clients through their inside knowledge of, and access, to the client's records and management processes and operations, as well as through close working relationships with senior managers and owners. The continued administration and management of the legal persons and arrangements (e.g. account reporting, asset disbursements and corporate filings) would also enable the relevant accountants to develop a better understanding of the activities of their clients.

99. Accountants need to be alert for events or situations which are indicative of a reason to be suspicious of ML/TF, employing their professional experience and judgement in the forming of suspicions where appropriate. An advantage in carrying out this function is the professional scepticism which is a defining characteristic of many professional accountancy functions and relationships.

100. Ongoing monitoring of the business relationship should be carried out on a risk related basis, to ensure that accountants are aware of any changes in the client's identity and risk profile established at client acceptance. This requires an appropriate level of scrutiny of activity during the relationship, including enquiry into source of funds where necessary, to judge consistency with expected behaviour based on accumulated CDD information. As discussed below, ongoing monitoring may also give rise to filing a STR.

101. Accountants should also consider reassessing CDD on an engagement/assignment basis for each client. Well-known, reputable, long-standing clients may suddenly request a new type of service that is not in line with the previous relationship between the client and accountant. Such an assignment may suggest a greater level of risk.

102. Accountants should not conduct investigations into suspected ML/TF on their own but instead file a STR or if the behaviour is egregious they should contact the FIU or law enforcement or supervisors, as appropriate, for guidance. Within the scope of engagement, an accountant should be mindful of the prohibition on "tipping off" the client where a suspicion has been formed. Carrying out additional investigations, which are not within the scope of the engagement should also be considered against the risk alerting a money launderer.

103. When deciding whether or not an activity or transaction is suspicious, accountants may need to make additional enquiries (within the normal scope of the assignment or business relationship) of the client or their records this could typically be done as part of the accountant's CDD process. Normal commercial enquiries, being

made to fulfil duties to clients, may assist in understanding an activity or transaction to determine whether or not it is suspicious.

#### *Suspicious activity/transaction reporting, tipping-off, internal controls and higher-risk countries (R.23)*

104. R.23 sets out obligations for accountants on reporting and tipping-off, internal controls and higher-risk countries as set out in R.20, R.21, R.18 and R.19.

##### *Suspicious transaction reporting and tipping-off (R.20, 21 and 23)*

105. R.23 requires accountants to report suspicious transactions set out in R.20. Where a legal or regulatory requirement mandates the reporting of suspicious activity once a suspicion has been formed, a report must always be made promptly. The requirement to file a STR is not subject to a RBA, but must be made whenever required in the country concerned.

106. Accountants may be required to report suspicious activities, as well as specific suspicious transaction, and so may make reports on a number of scenarios including suspicious business structures or management profiles which have no legitimate economic rationale and suspicious transactions, such as the misappropriation of funds, false invoicing or company purchase of goods unrelated to the company's business. As specified under INR.23, where accountants seek to dissuade a client from engaging in illegal activity, this does not amount to tipping-off.

107. However, it should be noted that a RBA is appropriate for the purpose of identifying a suspicious activity or transaction, by directing additional resources at those areas that have been identified as higher risk. The designated competent authorities or SRBs may provide information to accountants, which can inform their approach for identifying suspicious activity or transactions, as part of a RBA. Accountant should also periodically assess the adequacy of their system for identifying and reporting suspicious activity or transactions.

108. Accountants should review CDD if they have a suspicion of ML/TF.

##### *Internal controls and compliance (R.18 and 23)*

109. In order for accountants to have effective RBA, the risk-based process must be imbedded within the internal controls of the firm and they must be appropriate for the size and complexity of the firm.

##### Internal controls and governance

110. Strong leadership and engagement by senior management and the Board of Directors (or equivalent body) in AML/CFT is an important aspect of the application of the RBA. Senior management must create a culture of compliance, ensuring that staff adhere to the firm's policies, procedures and processes designed to limit and control risks.

111. The nature and extent of the AML/CFT controls, as well as meeting national legal requirements, need to be proportionate to the risk involved in the services being offered. In addition to other compliance internal controls, the nature and extent of AML/CFT controls will encompass a number of aspects, such as:

- a) designating an individual or individuals, at management level responsible for managing AML/CFT compliance;
  - b) designing policies and procedures that focus resources on the firm's higher-risk, services, products, clients and geographic locations in which their clients/they operate, and include risk-based CDD policies, procedures and processes;
  - c) ensuring that adequate controls are in place before new services are offered; and
  - d) ensuring adequate controls for accepting higher risk clients or providing higher risk services, such as management approval.
112. These policies and procedures should be implemented across the firm and include:
- a) performing a regular review of the firm's policies and procedures to ensure that they remain fit for purpose;
  - b) performing a regular compliance review to check that staff are properly implementing the firm's policies and procedures;
  - c) providing senior management with a regular report of compliance initiatives, identifying compliance deficiencies, corrective action taken, and STRs filed;
  - d) planning for changes in management, staff or firm structure so that there is compliance continuity;
  - e) focusing on meeting all regulatory record-keeping and reporting requirements, recommendations for AML/CFT compliance and providing for timely updates in response to changes in regulations;
  - f) enabling the timely identification of reportable transactions and ensuring accurate filing of required reports;
  - g) incorporating AML/CFT compliance into job descriptions and performance evaluations of appropriate personnel;
  - h) providing for appropriate training to be given to all relevant staff;
  - i) having appropriate risk management systems to determine whether a client, potential client, or beneficial owner is a PEP or a person subject to applicable financial sanctions;
  - j) providing for adequate controls for higher risk clients and services, as necessary (e.g. additional due diligence, evidencing the source of wealth and funds of a client and escalation to senior management, or additional review and/or consultation);
  - k) providing increased focus on the accountant/accounting firm's operations (e.g. services, clients and geographic locations) that are more vulnerable to abuse for ML/TF;
  - l) providing for periodic review of the risk assessment and management processes, taking into account the environment within which the accountant/accounting firm operates and the services it provides; and

- m) providing for an AML/CFT compliance function and review programme, as appropriate, given the scale of the organisation and the nature of the accountant's practice.

113. The firm should perform a firm-wide risk assessment that takes into account the size and nature of the practice; the existence of high-risk clients (if any); and the provision of high-risk services (if any). Once completed, the firm-wide risk assessment will assist the firm in designing its policies and procedures.

114. Accountants should consider using proven technology-driven solutions to minimise the risk of error and find efficiencies in their AML/CFT processes. As these solutions are likely to become more affordable, and more tailored to the needs of accountants as they continue to develop, this may be particularly important for smaller firms that may be less able to commit significant resources of time to these activities.

115. Depending on the size of the firm, the types of services provided, the risk profile of clients and the overall assessed ML/TF risk, it may be possible to simplify internal procedures. For example, for sole practitioners, providing limited services to low risk clients, client acceptance may be reserved to the sole owners/proprietors taking into account their business and client knowledge and experience. The involvement of the sole owner/proprietor may also be required in detecting and assessing possible suspicious activities. For larger firms, serving a diverse client base and providing multiple services across geographical locations, more sophisticated procedures are likely to be necessary.

#### Internal mechanisms to ensure compliance

116. Accountants (at the senior management level) should monitor the effectiveness of internal controls. If accountants identify any weaknesses in those internal controls, improved procedures should be designed.

117. The most effective tool to monitor the internal controls is a regular (typically at least annually) independent (internal or external) compliance review. If carried out internally, a staff member that has a good working knowledge of the firm's AML/CFT internal control framework, policies and procedures and is sufficiently senior to challenge them should perform the review. The person conducting an independent review should not be the same person who designed or implemented the controls being reviewed. The compliance review should include a review of CDD documentation to confirm that staff are properly applying the firm's procedures.

118. If the compliance review identifies areas of weakness and makes recommendations on how to improve the policies and procedures, then senior management should monitor how the firm is acting on those recommendations.

119. Accountants should review/update firm-wide risk assessments regularly and ensure that policies and procedures continue to target those areas where the ML/TF risks are highest.

#### Vetting and recruitment

120. Accountants should consider the skills, knowledge and experience of staff both before they are appointed to their role and on an ongoing basis. The level of

assessment should be proportionate to their role in the firm and the ML/TF risks they may encounter. Assessment may include criminal records checking and other forms of pre-employment screening such as credit reference checks and background verification (as permitted under national legislation) for key staff positions.

#### Education, training and awareness

121. R.18 requires that accounting firms/ accountants provide their staff with AML/CFT training. For accountants, and those in smaller firms in particular, such training may also assist with raising awareness of monitoring obligations. The accounting firm's commitment to having appropriate controls in place relies fundamentally on both training and awareness. This requires a firm-wide effort to provide all relevant staff with at least general information on AML/CFT laws, regulations and internal policies.

122. Firms should provide targeted training for increased awareness by the accountant providing specified activities to higher-risk clients and to accountants undertaking higher- risk work. Case studies (both fact-based and hypotheticals) are a good way of bringing the regulations to life and making them more comprehensible. Training should also be targeted towards the role that the individual performs in the AML/CFT process. This could include false documentation training for those undertaking identification and verification duties, or training regarding red flags for those undertaking client/transactional risk assessment.

123. In line with a RBA, particular attention should be given to risk factors or circumstances occurring in accountant's own practice. In addition, competent authorities, SRBs and representative bodies should work with educational institutions to ensure that the relevant curricula address ML/TF risks. The same training should also be made available for students taking courses to train to become accountants.

124. Firms must provide their employees with appropriate AML/CFT training. In ensuring compliance with this requirement, accountants may take account of any AML/CFT training included in entry requirements and continuing professional development requirements for their professional staff. They must also ensure appropriate training for any relevant staff without a professional qualification, at a level appropriate to the functions being undertaken by those staff, and the likelihood of their encountering suspicious activities.

125. The overall risk-based approach and the various methods available for training and education gives accountants flexibility regarding the frequency, delivery mechanisms and focus of such training. Accountants should review their own staff and available resources and implement training programs that provide appropriate AML/CFT information that is:

- a) tailored to the relevant staff responsibility (e.g. client contact or administration);
- b) at the appropriate level of detail (e.g. considering the nature of services provided by the accountants);
- c) at a frequency suitable to the risk level of the type of work undertaken by the accountants; and



- d) used to test to assess staff knowledge of the information provided.

#### *Higher-risk countries (R.19 and 23)*

126. Consistent with R.19, accountants should apply enhanced due diligence measures (also see paragraph 72 above), proportionate to the risks, to business relationships and transactions with clients from countries for which this is called for by the FATF.

## **Section IV – Guidance for supervisors**

127. R.28 requires that accountants are subject to adequate AML/CFT regulation and supervision. Supervisors and SRBs must ensure that accountants are implementing their obligations under R.1.

### **Risk-based approach to supervision**

128. A risk-based approach to AML/CFT means that measures taken to reduce ML/TF are proportionate to the risks. Supervisors and SRBs should supervise more effectively by allocating resource to areas of higher ML/TF risk. R.28 requires that accountants are subject to adequate AML/CFT regulation and supervision. While it is each country's responsibility to ensure there is an adequate national framework in place in relation to regulation and supervision of accountants, any relevant supervisors and SRBs should have a clear understanding of the ML/TF risks present in the relevant jurisdiction.

### *Supervisors and SRBs' role in supervision and monitoring*

129. According to R.28, countries can designate a competent authority or SRB to ensure that accountants are subject to effective oversight, provided that such an SRB can ensure that its members comply with their obligations to combat ML/TF.

130. A SRB is body representing a profession (e.g. accountants, legal professionals, notaries, other independent legal professionals or TCSPs) made up of member professionals, which has a role (either exclusive or in conjunction with other entities) in regulating the persons that are qualified to enter and who practise in the profession. A SRB also performs supervisory or monitoring functions (e.g. to enforce rules to ensure that high ethical and moral standards are maintained by those practising the profession).

131. Supervisors and SRBs should have appropriate powers to perform their supervisory functions (including powers to monitor and to impose effective, proportionate and dissuasive sanctions), and adequate financial, human and technical resources. Supervisors and SRBs should determine the frequency and intensity of their supervisory or monitoring actions on accountants on the basis of their understanding of the ML/TF risks, and taking into consideration the characteristics of the accountants, in particular their diversity and number.

132. Countries should ensure that supervisors and SRBs are as equipped as a competent authorities in identifying and sanctioning non-compliance by its members.

Countries should also ensure that SRBs are well-informed about the importance of AML/CFT supervision, including enforcement actions as needed.

133. Countries should also address the risk that AML/CFT supervision by SRBs could be hampered by conflicting objectives pertaining to the SRB's role in representing their members, while also being obligated to supervise them. If a SRB contains members of the supervised population, or represents those people, the relevant persons should not continue to take part in the monitoring/ supervision of their practice/firm to avoid conflicts of interest.

134. Supervisors and SRBs should clearly allocate responsibility for managing AML/CFT related activity, where they are also responsible for other regulatory areas

### *Understanding ML/TF risk*

135. The extent to which a national framework allows accountants to apply a RBA should also reflect the nature, diversity and maturity of the sector and its risk profile as well the ML/TF risks associated with individual accountants.

136. Access to information about ML/TF risks is essential for an effective risk-based approach. Countries are required to take appropriate steps to identify and assess ML/TF risks on an ongoing basis in order to (a) inform potential changes to the country's AML/CFT regime, including changes to laws, regulations and other measures; (b) assist in the allocation and prioritisation of AML/CFT resources by competent authorities; and (c) make information available for AML/CFT risk assessments conducted by accountants and the jurisdictions' national risk assessment. Countries should keep the risk assessments up-to-date and should have mechanisms to provide appropriate information on the results to competent authorities, SRBs and accountants. In situations where some accountants have limited capacity to identify ML/TF risks, countries should work with the sector to understand their risks.

137. Supervisors and SRBs should, as applicable, draw on a variety of sources to identify and assess ML/TF risks. These may include, but will not be limited to, the jurisdiction's national risk assessments, supranational risk assessments, domestic or international typologies, supervisory expertise and FIU feedback. The necessary information can also be obtained through appropriate information-sharing and collaboration among AML/CFT supervisors, when there are more than one for different sectors (legal professionals, accountants and TCSPs).

138. These sources can also be helpful in determining the extent to which an accountant is able to effectively manage ML/TF risk. Information-sharing and collaboration should take place among AML/CFT supervisors across all sectors (legal professionals, accountants and TCSPs).

139. Competent authorities may also consider undertaking a targeted sectoral risk assessment to get a better understanding of the specific environment in which accountants operate in the country and the nature of services provided by them.

140. Supervisors and SRBs should understand the level of inherent risk including the nature and complexity of services provided by the accountant. Supervisors and SRBs should also consider the type of services the accountant is providing as well as its size and business model (e.g. whether it is a sole practitioner), corporate

governance arrangements, financial and accounting information, delivery channels, client profiles, geographic location and countries of operation. Supervisors and SRBs should also consider the controls accountants have in place (e.g. the quality of the risk management policy, the functioning of the internal oversight functions and the quality of oversight of any outsourcing and subcontracting arrangements).

141. Supervisors and SRBs should seek to ensure their supervised populations are fully aware of, and compliant with, measures to identify and verify a client, the client's source of wealth and funds where required, along with measures designed to ensure transparency of beneficial ownership, as these are cross-cutting issues that affect several aspects of AML/CFT.

142. To further understand the vulnerabilities associated with beneficial ownership, with a particular focus on the involvement of professional intermediaries, supervisors should stay abreast of research papers and typologies published by international bodies.<sup>29</sup> Useful reference include the Joint FATF and Egmont Group Report on Concealment of Beneficial Ownership published in July 2018.

143. Supervisors and SRBs should review their assessment of accountants' ML/TF risk profiles periodically, including when circumstances change materially or relevant new threats emerge and appropriately communicate this assessment to the profession.

#### *Mitigating and managing ML/TF risk*

144. Supervisors and SRBs should take proportionate measures to mitigate and manage ML/TF risk. Supervisors and SRBs should determine the frequency and intensity of these measures based on their understanding of the inherent ML/TF risks. Supervisors and SRBs should consider the characteristics of accountants, particularly where they act as professional intermediaries, in particular their diversity and number. It is essential to have a clear understanding of the ML/TF risks: (a) present in the country; and (b) associated with the type of accountant and their clients, products and services.

145. Supervisors and SRBs should take account of the risk profile of accountants when assessing the adequacy of internal controls, policies and procedures.

146. Supervisors and SRBs should develop a means of identifying which accountants are at the greatest risk of being used by criminals. This involves considering the probability and impact of ML/TF risk.

147. Probability means the likelihood of ML/TF taking place as a consequence of the activity undertaken by accountants and the environment in which they operate. The risk can also increase or decrease depending on other factors:

- a) service and product risk (the likelihood that services or products can be used for ML/TF);
- b) client risk (the likelihood that clients' funds may have criminal origins);
- c) the nature of transactions (e.g. frequency, volume, counterparties);

<sup>29</sup> Such as the FATF, the OECD, the WB, the IMF and the UNODC

- d) geographical risk (whether the accountant, its clients or other offices trade in riskier locations); and
- e) other indicators of risk are based on a combination of objective factors and experience, such as the supervisor's wider work with the accountant as well as information on its compliance history, complaints about the accountant or about the quality of its internal controls, and intelligence from law enforcement agencies on suspected involvement in financial crimes (including unwitting facilitation). Other such factors may include information from government/law enforcement sources, whistle-blowers or negative news reports from credible media particularly those related to predicate offences for ML/TF or to financial crimes.

148. In adopting a RBA to supervision, supervisors may consider allocating supervised entities sharing similar characteristics and risk profiles into groupings for supervision purposes. Examples of characteristics and risk profiles could include the size of business, type of clients serviced and geographic areas of activities. The setting up of such groupings could allow supervisors to take a comprehensive view of the sector, as opposed to an approach where the supervisors concentrate on the individual risks posed by the individual firms. If the risk profile of an accountant within a grouping changes, supervisors may reassess the supervisory approach, which may include removing the accountant from the grouping.

149. Supervisors and SRBs should also consider the impact, i.e. the potential harm caused if ML/TF is facilitated by the accountant or group of accountants. A small number of accountants may cause a high level of harm. This can depend on:

- a) size (i.e. turnover), number and type of clients, number of premises, value of transactions etc.); and
- b) links or involvement with other businesses (which could affect the susceptibility to being involved in 'layering' activity, e.g. concealing the origin of the transaction with the purpose to legalise the asset).

150. The risk assessment should be updated by supervisors and SRBs on an ongoing basis. The result from the assessment will help determine the resources the supervisor will allocate to the supervision of accountants.

151. Supervisors or SRBs should consider whether accountants meet the ongoing requirements for continued participation in the profession as well as assessments of competence and of fitness and propriety. This will include whether the accountant meets expectations related to AML/CFT compliance. This will take place both when a supervised entity joins the profession, and on an ongoing basis thereafter.

152. If a jurisdiction chooses to classify an entire sector as higher risk, it should be possible to differentiate between categories of accountants based on factors such as their client base, countries they deal with and applicable AML/CFT controls etc.

153. Supervisors and SRBs should acknowledge that in a risk-based regime, not all accountants will adopt identical AML/CFT controls and that an isolated incident where the accountant is part of an illegal transaction unwittingly does not necessarily invalidate the integrity of the accountant's AML/CFT controls. At the same time, accountants should understand that a flexible RBA does not exempt them from applying effective AML/CFT controls.

154. Supervisors and SRBs should use their findings to review and update their ML/TF risk assessments and, where necessary, consider whether their approach to AML/CFT supervision and the existing AML/CFT rules and guidance remain adequate. Whenever appropriate, and in compliance with relevant confidentiality requirements, these findings should be communicated to accountants to enable them to enhance their RBA.

## **Supervision of the RBA**

### *Licensing or registration*

155. R.28 requires a country to ensure that accountants are subject to regulatory and supervisory measures to ensure compliance by the profession with AML/CFT requirements.

156. R.28 requires the supervisor or SRB to take the necessary measures to prevent criminals or their associates from being professionally accredited or holding or being the beneficial owner of a significant or controlling interest or holding a management function in an accountancy practice. This can be achieved through the evaluation of these persons through a “fit and proper” test.

157. A licensing or registration mechanism is one of the means to identify accountants to whom the regulatory and supervisory measures, including the “fit and proper” test should be applied. It also enables the identification of the number of accountants for the purposes of assessing and understanding the ML/TF risks for the country, and the action that should be taken to mitigate them in accordance with R.1.

158. Licensing or registration provides a supervisor or SRB with the means to fulfil a “gatekeeper” role over who can undertake the activities specified in R.22. Licensing or registration should ensure that upon qualification, accountants are subject to AML/CFT compliance monitoring.

159. The supervisor or SRB should actively identify individuals and businesses who should be supervised by using intelligence from other competent authorities (e.g. FIUs, company registry or tax authority), information from financial institutions and DNFBPs, complaints by the public, open source information from advertisements and business and commercial registries, or any other sources which indicate that there are unsupervised individuals or businesses providing the activities specified in R.22.

160. Licensing or registration frameworks should define the activities that are subject to licensing or registration, prohibit unlicensed or unregistered individuals or businesses providing these activities and set out measures for both refusing licences or registrations and for removing “bad actors”.

161. The terms “licensing” or “registration” are not interchangeable. Licensing regimes generally tend to operate over financial institutions and impose mandatory minimum requirements based upon Core Principles on issues such as capital, governance, and resourcing to manage and mitigate prudential, conduct as well as ML/TF risks on an on-going basis. Some jurisdictions have adopted similar licensing regimes for accountants, generally where accountants carry out trust and corporate services, to encompass aspects of prudential and conduct requirements in managing the higher level of ML/TF risks that have been identified in that sector.

162. A jurisdiction may have a registration framework over the entire DNFBP sector, including accountants or have a specific registration framework for each constituent of a DNFBP. Generally, a supervisor or SRB carries out the registration function.

163. The supervisor or SRB should ensure that requirements for licensing or registration and the process for applying are clear, objective, publicly available and consistently applied. Determination of the licence or registration should be objective and timely. A SRB could be responsible for both supervision and for representing the interests of its members. If so, the SRB should ensure that registration decisions are taken separately and independently from its activities regarding member representation.

#### *Fit and proper tests*

164. A fit and proper test provides a possible mechanism for a supervisor or SRB to take the necessary measures to prevent criminals or their associates from owning, controlling or holding a management function in an accountancy practice.

165. In accordance with R.28, the supervisor or SRB should establish the integrity of every beneficial owner, controller and individual holding a management function in an accountancy practice. However, the decisions on an individual's fitness and propriety may also be based upon a range of factors concerning the individual's competency, probity and judgement as well as integrity.

166. In some jurisdictions, a "fit and proper test" forms a fundamental part of determining whether to license or register the applicant and whether on an ongoing basis the licensee or registrant (including its owners and controllers, where applicable) remains fit and proper to continue in that role. The initial assessment of an individual's fitness and propriety is a combination of obtaining information from the individual and corroborating elements of that information against independent credible sources to determine whether the individual is fit and proper to hold that position.

167. The process for determining fitness and propriety generally requires the applicant to complete a questionnaire. The questionnaire could gather personal identification information, residential and employment history, and require disclosure by the applicant of any convictions or adverse judgements, including pending prosecutions and convictions relating to the applicant. Elements of this information should be corroborated to establish the bona fides of an individual. Such checks could include enquiries about the individual with law enforcement agencies and other supervisors, or screening the individual against independent electronic search databases. The personal data collected should be kept confidential.

168. The supervisor or SRB should also ensure on an ongoing basis that those holding or being the beneficial owner of significant or controlling interest in and individuals holding management functions are fit and proper. A fit and proper test should apply to new owners, controllers and individuals holding a management function. The supervisor or SRB should consider re-assessing the fitness and propriety of these individuals arising from any supervisory findings, receipt of information from other competent authorities; or open source information indicating significant adverse developments.

### *Guarding against “brass-plate” operations*

169. The supervisor or SRB should ensure that its licensing or registration requirements require the applicant to have a meaningful physical presence in the jurisdiction. This usually means that the applicant should have its place of business in the jurisdiction. Where the applicant is a legal person, those individuals who form its mind and management, should also be resident in the jurisdiction and be actively involved in the business. A business with only staff who do not possess the professional requirements of an accountant should not be licensed or registered.

170. A supervisor or SRB should consider the ownership and control structure of the applicant to determine that sufficient control over its operation will reside within the business, which it is considering licensing or registering. Factors to take account of could include consideration of where the beneficial owners and controllers reside, the number and type of management functions the applicant is proposing to have in the country, such as directors and managers, including compliance managers, and the calibre of the individuals who will be occupying those roles.

171. The supervisor or SRB should also consider whether the ownership and control structure of accountants unduly hinders its identification of the beneficial owners and controllers or presents obstacles to applying effective supervision.

### *Monitoring and supervision*

172. Supervisors and SRBs should take measures to effectively monitor accountants through on-site and off-site supervision. The nature of this monitoring will depend on the risk profiles prepared by the supervisor or SRB and the connected risk-based approach. Supervisors and SRBs may choose to adjust:

- a) the level of checks required to perform their licensing/registration function: where the ML/TF risk associated with the sector is low, the opportunities for ML/TF associated with a particular business activity may be limited, and approvals may be made on a review of basic documentation. Where the ML/TF risk associated with the sector is high, supervisors and SRBs may ask for additional information.
- b) the type of on-site or off-site AML/CFT supervision: supervisors and SRBs may determine the correct mix of on-site and off-site supervision of accountants. Off-site supervision may involve analysis of annual independent audits and other mandatory reports, identifying risky intermediaries (i.e. on the basis of the size of the firms, involvement in cross-border activities, or specific business sectors), automated scrutiny of registers to detect missing beneficial ownership information and identification of persons responsible for the filing. It may also include undertaking thematic reviews of the sector, making compulsory the periodic information returns from firms. Off-site supervision alone may not be appropriate in higher risk situations. On-site inspections may involve reviewing AML/CFT internal policies, controls and procedures, interviewing members of senior management, compliance officer other relevant and staff, considering gatekeeper’s own risk assessments, spot checking CDD documents and supporting evidence, looking at reporting of ML/TF suspicions in relation to clients and other matters, which may be



observed in the course of an onsite visit and, where appropriate, sample testing of reporting obligations.

- c) the frequency and nature of ongoing AML/CFT supervision: supervisors and SRBs should proactively adjust the frequency of AML/CFT supervision in line with the risks identified and combine periodic reviews and ad hoc AML/CFT supervision as issues emerge (e.g. as a result of whistleblowing, information from law enforcement, or other supervisory findings resulting from accountants' inclusion in thematic review samples).
  - d) the intensity of AML/CFT supervision: supervisors and SRBs should decide on the appropriate scope or level of assessment in line with the risks identified, with the aim of assessing the adequacy of accountants' policies and procedures that are designed to prevent them from being abused. Examples of more intensive supervision could include; detailed testing of systems and files to verify the implementation and adequacy of the accountant's risk assessment, CDD, reporting and record-keeping policies and processes, internal auditing, interviews with operational staff, senior management and the Board of directors and AML/CFT assessment in particular lines of business.
173. Supervisors and SRBs should use their findings to review and update their ML/TF risk assessments and, where necessary, consider whether their approach to AML/CFT supervision and the existing AML/CFT rules and guidance remain adequate. Whenever appropriate, and in compliance with relevant confidentiality requirements, these findings should be communicated to accountants to enable them to enhance their RBA.
174. Record keeping and quality assurance are important, so that supervisors can document and test the reasons for significant decisions relating to AML/CFT supervision. Supervisors should have an appropriate information retention policy and be able to easily retrieve information while complying with the relevant data protection legislation. Record keeping is crucial and fundamental to the supervisors' work. Undertaking adequate quality assurance is also fundamental to the supervisory process to ensure decision-making/sanctioning is consistent across the supervised population.

### Enforcement

175. R.28 requires supervisors or SRB to have adequate powers to perform their functions, including powers to monitor compliance by accountants. R.35 requires countries to have the power to impose sanctions, whether criminal, civil or administrative, on DNFPBs, to include accountants when providing the services outlined in R.22(d). Sanctions should be available for the directors and senior management of the firm when an accountant fails to comply with requirements.
176. Supervisors and SRBs should use proportionate actions, including a range of supervisory interventions and corrective actions to ensure that any identified deficiencies are addressed in a timely manner. Sanctions may range from informal or written warning, reprimand and censure to punitive measures (including disbarment and criminal prosecutions where appropriate) for more egregious non-compliance, as identified weaknesses can have wider consequences. Generally, systemic



breakdowns or significantly inadequate controls will result in more severe supervisory response.

177. Enforcement by supervisors and SRBs should be proportionate while having a deterrent effect. Supervisors and SRBs should have (or should delegate to those who have) sufficient resources to investigate and monitor non-compliance. Enforcement should aim to remove the benefits of non-compliance.

### *Guidance*

178. Supervisors and SRBs should communicate their regulatory expectations. This could be done through a consultative process after meaningful engagement with relevant stakeholders, including accountants. This guidance may be in the form of high-level requirements based on desired outcomes, risk-based rules, and information about how supervisors interpret relevant legislation or regulation, or more detailed guidance about how particular AML/CFT controls are best applied. Guidance issued to accountants should also discuss ML/TF risk within their sector and outline ML/TF indicators to help them identify suspicious transactions and activity. All such guidance should preferably be consulted on, where appropriate, and drafted in ways that are appropriate to the context of the role of supervisors and SRBs in the relevant jurisdiction.

179. Where supervisors' guidance remains high-level and principles-based, this may be supplemented by further guidance written by the accountancy profession, which may cover operational and practical issues, and be more detailed and explanatory in nature. Where supervisors cooperate to produce combined guidance across sectors, supervisors should ensure this guidance adequately addresses the diversity of roles that come within the guidance's remit, and that such guidance provides practical direction to all its intended recipients. The private sector guidance should be consistent with national legislation and with any guidelines issued by competent authorities with regard to the accountancy profession and be consistent with all other legal requirements and obligations.

180. Supervisors should consider communicating with other relevant domestic supervisory authorities to secure a coherent interpretation of the legal obligations and to minimise disparities across sectors (such as legal professionals, accountants and TCSPs). Multiple guidance should not create opportunities for regulatory arbitrage. Relevant supervisory authorities should consider preparing joint guidance in consultation with the relevant sectors, while recognising that in many jurisdictions accountants will consider that separate guidance targeted at their profession will be the most appropriate and effective form.

181. Information and guidance should be provided by supervisors in an up-to-date and accessible format. It could include sectoral guidance material, newsletters, internet-based material, oral updates on supervisory visits, meetings and annual reports.

### *Training*

182. Training is important for supervisory staff, and other relevant employees, to understand the accountancy profession and the various business models that exist. In particular, supervisors should ensure that staff are trained to assess the quality of ML/TF risk assessments and to consider the adequacy, proportionality, effectiveness

and efficiency of AML/CFT policies, procedures and internal controls. It is recommended that the training has a practical basis/dimension.

183. Training should allow supervisory staff to form sound judgments about the quality of the risk assessments made by accountants and the adequacy and proportionality of AML/CFT controls of accountants. It should also aim at achieving consistency in the supervisory approach at a national level, in cases where there are multiple competent supervisory authorities or when the national supervisory model is devolved or fragmented.

#### *Endorsements*

184. Supervisors should avoid mandating the use of AML systems, tools or software of any third party commercial providers to avoid conflicts of interest in the effective supervision of firms.

#### *Information exchange*

185. Information exchange between the public and private sector and within private sector (e.g. between financial institutions and accountants) is important to combat ML/TF. Information sharing and intelligence sharing arrangements between supervisors and public authorities (such as Financial Intelligence Units and law enforcement) should be robust, secure and subject to compliance with national legal requirements.

186. The type of information that could be shared between the public and private sectors include:

- a) ML/TF risk assessments;
- b) Typologies (i.e. case studies) of how money launderers or terrorist financiers have misused accountants;
- c) feedback on STRs and other relevant reports;
- d) targeted unclassified intelligence. In specific circumstances, and subject to appropriate safeguards such as confidentiality agreements, it may also be appropriate for authorities to share targeted confidential information with accountants as a class or individually; and
- e) countries, persons or organisations whose assets or transactions should be frozen pursuant to targeted financial sanctions as required by R.6.

187. Domestic co-operation and information exchange between FIU and supervisors of the accountancy profession and among competent authorities including law enforcement, intelligence, FIU, tax authorities, supervisors and SRBs is also vital for effective monitoring/supervision of the sector. Such co-operation and co-ordination may help avoid gaps and overlaps in supervision and ensure sharing of good practices and findings. Intelligence about active misconduct investigations and completed cases between supervisors and law enforcement agencies should also be encouraged. When sharing information, protocols and safeguards should be implemented in order to protect personal data.

188. Cross border information sharing of authorities and private sector with their international counterparts is of importance in the accountancy profession, taking account of the multi-jurisdictional reach of many accounting firms.

## **Supervision of Beneficial Ownership requirements and source of funds/wealth requirements**

189. The FATF Recommendations require competent authorities to have access to adequate, accurate and timely information on the beneficial ownership and control of legal persons (R.24). In addition, countries must take measures to prevent the misuse of legal arrangements for ML/TF, in particular ensuring that there is adequate, accurate and timely information on express trusts (R.25). Implementation of the FATF Recommendations on beneficial ownership has proven challenging. As a result, the FATF developed a Guidance on Transparency and Beneficial Ownership (2014) to assist countries in their implementation of R.24 and R.25, as well as R.1 as it relates to understanding the ML/TF risks of legal persons and legal arrangements. The FATF and Egmont Group also published the Report on Concealment of Beneficial Ownership in July 2018 which identified issues to help address the vulnerabilities associated with the concealment of beneficial ownership.

190. R.24 and R.25 require countries to have mechanisms to ensure that information provided to registries is accurate and updated on a timely basis and that beneficial ownership information is accurate and current. To determine the adequacy of a system for monitoring and ensuring compliance, countries should have regard to the risk of AML/CFT in given businesses (i.e. if there is a proven higher risk then higher monitoring measures should be taken). Accountants must, however, be cautious in blindly relying on the information contained in registries. It is important for there to be some form of ongoing monitoring during a relationship to detect unusual and potentially suspicious transactions as a result of a change in beneficial ownership as registries are unlikely to provide such information on a dynamic basis.

191. Those responsible for company formation and the creation of legal arrangements fulfil a key gatekeeper role to the wider financial community through the activities they undertake in the formation of legal persons and legal arrangements or in their management and administration.

192. As DNFBPs, accountants are required to apply CDD measures to beneficial owners of legal persons and legal arrangements to whom they are providing advice or formation services. In a number of countries an accountant may be required as part of the process of registering the legal person and will be responsible for providing basic and/or beneficial ownership information to the registry.

193. In their capacity as company directors, trustees or foundation officials etc. of these legal persons and legal arrangement, accountants often represent these legal persons and legal arrangements in their dealings with other financial institutions and DNFBPs that are providing banking or audit services to these types of client.

194. These financial institutions and other DNFBPs may request the CDD information collected and maintained by accountants, who because of their role as director or trustee, will be their principal point of contact with the legal person or legal arrangement. These financial institutions and other DNFBPs may never meet the beneficial owners of the legal person or legal arrangement.

195. Under R.28, countries are to ensure that accountants are subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements, which includes identifying the beneficial owner/s and taking reasonable measures to verify

them. R.24 and R.25, which deal with transparency of beneficial ownership of legal persons and legal arrangements, require countries to have mechanisms for ensuring that adequate, accurate and up-to-date information on these legal entities is available on a timely basis.

196. In accordance with R.28, accountants should be subject to risk-based supervision by a supervisor or SRB covering the beneficial ownership and record-keeping requirements of R.10 and R.11. The supervisor or SRB should have a supervisory framework, which can help in ascertaining that accurate and current basic and beneficial ownership information on legal person and legal arrangements is maintained and will be available on a timely basis to competent authorities.

197. The supervisor or SRB should analyse the adequacy of the procedures and the controls, which accountants have established to identify and record the beneficial owner. In addition, they should undertake sample testing of client records on a representative basis to gauge the effectiveness of the application of those measures and the accessibility of accurate beneficial ownership information.

198. During onsite and offsite inspections, the supervisor or SRB should examine the policies, procedures and controls that are in place for taking on new clients to establish what information and documentation is required where the client is a natural person or legal person or arrangement. The supervisor or SRB should verify the adequacy of these procedures and controls to identify beneficial owners to understand the ownership and control structure of these legal persons and arrangements and to ascertain the business activity. For example, self-declaration on beneficial ownership provided by the client without any other mechanism to verify the information will not be adequate in all cases.

199. Sample testing of records will assist the supervisor or SRB in determining whether controls are effective for the accurate identification of beneficial ownership, accurate disclosure of that information to relevant parties and for establishing if that information is readily available. The extent of testing will be dependent on risk but the records selected should reflect the profile of the client base and include both new and existing clients.

200. The supervisor or SRB should consider the measures the accountants have put in place for monitoring changes in the beneficial ownership of legal person and legal arrangements to whom they provide services to ensure that beneficial ownership information is accurate and current and to determine how timely updated filings are made, where relevant to a registry.

201. During examinations, the supervisor or SRB should consider whether to verify the beneficial ownership information available on the records of accountants with that held by the relevant registry, if any. The supervisor or SRB may also consider information from other competent authorities such as FIUs, public reports and information from other financial institutions or DNFBPs, to verify the efficacy of accountants' controls.

202. Accountants should be subject to risk-based supervision by a supervisor or SRB covering the requirements to identify and evidence the source of funds and source of wealth for higher risk clients to whom they provide services. The supervisor or SRB should have the supervisory framework, which can help in ascertaining that accurate and current information on sources of funds and wealth is properly

evidenced and available on a timely basis to competent authorities. The supervisor or SRB should analyse the adequacy of the procedures and controls that accountants have established to identify and record sources of wealth in arrangements.

### Nominee arrangements

203. A nominee director is a person who has been appointed to the Board of Directors of the legal person who represents the interests and acts in accordance with instructions issued by another person, usually the beneficial owner.

204. A nominee shareholder is a natural or legal person who is officially recorded in the register of members and shareholders of a company as the holder of a certain number of specified shares, which are held on behalf of another person who is the beneficial owner. The shares may be held on trust or through a custodial agreement.

205. In a number of countries, accountants act or arrange for other persons (either individuals or corporate) to act as directors. Accountants also act or arrange for other persons (either individuals or corporate) to act as a nominee shareholder for another person as part of their professional services. In accordance with R.24, one of the mechanisms to ensure that nominee shareholders and directors are not misused, is by subjecting these accountants to licensing and recording their status in company registries. Countries may rely on a combination of measures in this respect.

206. There are legitimate reasons for accountants to act as or provide directors to a legal person or act or provide nominee shareholders. These may include the settlement and safekeeping of shares in listed companies where post traded specialists act as nominee shareholders. However, nominee director and nominee shareholder arrangements can be misused to hide the identity of the true beneficial owner of the legal person. There may be individuals prepared to lend their name as a director or shareholder of a legal person on behalf of another without disclosing the identity of the person from whom they will take instructions or whom they represent. They are sometimes referred to as “strawmen”.

207. Nominee directors and nominee shareholders can create obstacles to identifying the true beneficial owner of a legal person, particularly where the status is not disclosed. This is because it will be the identity of the nominee that is disclosed in the corporate records of the legal person held by a registry and in the company records at its registered office. Company law in various countries does not recognise the status of a nominee director because in law it is the directors of the company who are liable for its activities and the directors have a duty to act in the best interest of the company.

208. The supervisor or SRB should be aware that undisclosed nominee arrangements may exist. They should consider whether undisclosed nominee arrangements would be identified and addressed during their onsite and offsite inspections and examination of the policies, procedures, controls and client records of the accountant, including the CDD process and ongoing monitoring by the accountant.

209. An undisclosed nominee arrangement may exist where there are the following (non-exhaustive) indicators:

- a) the profile of a director or shareholder is inconsistent with the activities of the company;
- b) the individual holds numerous appointments to unconnected companies;
- c) a director's or shareholder's source of wealth is inconsistent with the value and nature of the assets within the company;
- d) funds into and out of the company are sent to, or received from unidentified third party/ies;
- e) the directors or shareholders are accustomed to acting on instruction of another person; and
- f) requests or instructions are subject to minimal or no scrutiny and/or responded to extremely quickly without challenge by the individual/s purporting to act as the director/s.

## **Annex 1: Beneficial ownership information in relation to a trust or other legal arrangements to whom an accountant provides services**

1. Taking a RBA, the amount of information that should be obtained by an accountant will depend on whether an accountant is establishing or administering the trust, company or other legal entity or is acting as or providing a trustee or director of the trust, company or other legal entity. In these cases, an accountant will be required to understand the general purpose behind the structure and the source of funds in the structure in addition to being able to identify the beneficial owners and controlling persons. An accountant who is providing other services (e.g. acting as registered office) to a trust, company or other legal entity will be required to obtain sufficient information to enable it to be able to identify the beneficial owners and controlling persons of the trust, company or other legal entity.
2. An accountant that is not acting as trustee may, in appropriate circumstances, rely on a synopsis prepared by other accountants, legal professionals or TCSPs providing services to the trust or relevant extracts from the trust deed itself to enable the accountant to identify the settlor, trustees, protector (if any), beneficiaries or natural persons exercising effective control. This is in addition to the requirement, where appropriate, to obtain evidence to verify the identity of such persons as discussed below.

### *In relation to a trust*

3. An accountant should have policies and procedures in place to identify the following and verify their identity using reliable, independent source documents, data or information (provided that an accountant's policies should enable it to disregard source documents, data or information which are perceived to be unreliable):
  - i. the settlor;
  - ii. the protector;
  - iii. the trustee(s), where the accountant is not acting as trustee;
  - iv. the beneficiaries or class of beneficiaries; and
  - v. any other natural person actually exercising effective control over the trust.

### **Settlor**

- a) A settlor is generally any person (or persons) by whom the trust is made. A person is a settlor if he or she has provided (or has undertaken to provide) property or funds directly or indirectly for the trust. This requires there to be an element of bounty (i.e. the settlor must be intending to provide some form of benefit rather than being an independent third party transferring something to the trust for full consideration).
- b) A settlor may or may not be named in the trust deed. Accountants should have policies and procedures in place to identify and verify the identity of the real economic settlor.
- c) An accountant establishing on behalf of a client or administering a trust, company or other legal entity or otherwise acting as or providing a trustee or

director of a trust, company or other legal entity should have policies and procedures in place (using a RBA) to identify the source of funds in the trust, company or other legal entity.

- d) It may be more difficult (if not impossible) for older trusts to identify the source of funds, where contemporaneous evidence may no longer be available. Evidence of source of funds may include reliable independent source documents, data or information, share transfer forms, bank statements, deeds of gift or letter of wishes.
- e) Where assets have been transferred to the trust from another trust, it will be necessary to obtain this information for both transferee and transferor trust.

## **Beneficiaries**

- a) An accountant should have policies and procedures in place, adopting a RBA to enable it to form a reasonable belief that it knows the true identity of the beneficiaries of the trust, and taking reasonable measures to verify the identity of the beneficiaries, such that an accountant is satisfied that it knows who the beneficiaries are. This does not require an accountant to verify the identity of all beneficiaries using reliable, independent source documents, data or information but the accountant should at least identify and verify the identity of beneficiaries who have current fixed rights to distributions of income or capital or who actually receive distributions from the trust (e.g. a life tenant).
- b) Where the beneficiaries of the trust have no fixed rights to capital and income (e.g. discretionary beneficiaries), an accountant should obtain information to enable it to identify the named discretionary beneficiaries (e.g. as identified in the trust deed).
- c) Where beneficiaries are identified by reference to a class (e.g. children and issue of a person) or where beneficiaries are minors under the law governing the trust, although an accountant should satisfy itself that these are the intended beneficiaries (e.g. by reference to the trust deed) the accountant is not obliged to obtain additional information to identify the individual beneficiaries referred to in the class unless or until the trustees make a distribution to such beneficiary.
- d) In some trusts, named individuals only become beneficiaries on the happening of a particular contingency (e.g. on attaining a specific age or on the death of another beneficiary or the termination of the trust period). In this case, an accountant is not required to obtain additional information to identify such contingent beneficiaries unless or until the contingency is satisfied or until the trustees make a distribution to such beneficiary.
- e) An accountant who administers the trust or company or other legal entity owned by a trust or otherwise provides or acts as trustee or director to the trust, company or other legal entity should have procedures in place so that there is a requirement to update the information provided if named beneficiaries are added or removed from the class of beneficiaries, or beneficiaries receive distributions or benefits for the first time after the information has been provided, or there are other changes to the class of beneficiaries.



- f) An accountant is not obliged to obtain other information about beneficiaries other than to enable an accountant to satisfy itself that it knows who the beneficiaries are or identify whether any named beneficiary or beneficiary who has received a distribution from a trust is a PEP.

### **Natural person exercising effective control**

- a) An accountant providing services to the trust should have procedures in place to identify any natural person exercising effective control over the trust.
- b) For these purposes "control" means a power (whether exercisable alone or jointly with another person or with the consent of another person) under the trust instrument or by law to:
  - i. dispose of or invest (other than as an investment manager or adviser) trust property;
  - ii. make or approve trust distributions;
  - iii. vary or terminate the trust;
  - iv. add or remove a person as a beneficiary or to or from a class of beneficiaries and or;
  - v. appoint or remove trustees.
- c) An accountant who administers the trust or otherwise act as trustee must, in addition, also obtain information to satisfy itself that it knows the identity of any other individual who has power to give another individual "control" over the trust; by conferring on such individual powers as described in paragraph (b) above.

### **Corporate settlors and beneficiaries**

- 4. These examples are subject to the more general guidance on what information should be obtained by an accountant to enable it to identify settlors and beneficiaries. It is not intended to suggest that an accountant must obtain more information about a beneficiary that is an entity where it would not need to obtain such information if the beneficiary is an individual.
  - a) In certain cases, the settlor, beneficiary, protector or other person exercising effective control over the trust may be a company or other legal entity. In such a case, an accountant should have policies and procedures in place to enable it to identify (where appropriate) the beneficial owner or controlling person in relation to the entity.
  - b) In the case of a settlor that is a legal entity, an accountant should satisfy itself that it has sufficient information to understand the purpose behind the formation of the trust by the entity. For example, a company may establish a trust for the benefit of its employees or a legal entity may act as nominee for an individual settlor or on the instructions of an individual who has provided funds to the legal entity for this purpose. In the case of a legal entity acting as nominee for an individual settlor or on the instructions of an individual, an accountant should take steps to satisfy itself as to the economic settlor of the trust (i.e. the person who has provided funds to the legal entity to enable it to settle funds into the trust) and the controlling persons in relation to the legal entity at the time the assets were settled into trust. If the corporate settlor

retains powers over the trust (e.g. a power of revocation), an accountant should satisfy itself that it knows the current beneficial owners and controlling persons of the corporate settlor and understands the reason for the change in ownership or control.

- c) In the case of a beneficiary that is an entity (e.g. a charitable trust or company), an accountant should satisfy itself that it understands the reason behind the use of an entity as a beneficiary. If there is an individual beneficial owner of the entity, an accountant should satisfy itself that it has sufficient information to identify the individual beneficial owner.

### **Individual and Corporate trustee**

- a) Where an accountant is not itself acting as trustee, it is necessary for an accountant to obtain information to enable it to identify and verify the identity of the trustee (s) and, where the trustee is a corporate trustee, identify the corporate entity, obtain information on the identity of the beneficial owners of the trustee, and take reasonable measures to verify their identity.
- b) Where the trustee is a listed entity (or an entity forming part of a listed group) or an entity established and regulated to carry on trust business in a jurisdiction identified by credible sources as having appropriate AML/CFT laws, regulations and other measures, an accountant should obtain information to enable it to satisfy itself as to the identity of the directors or other controlling persons. An accountant can rely on external evidence, such as information in the public domain, to satisfy itself as to the beneficial owner of the regulated trustee (e.g. the web-site of the body that regulates the trustee and of the regulated trustee itself).
- c) It is not uncommon for families to set up trust companies to act for trusts for the benefit of that family. These are typically called private trust companies and may have a restricted trust licence that enables them to act as trustee for a limited class of trusts. Such private trust companies are often ultimately owned by a fully regulated trust company as trustee of another trust. In such a case, an accountant should satisfy itself that it understands how the private trust company operates and the identity of the directors of the private trust company and, where relevant, the owner of the private trust company. Where the private trust company is itself owned by a listed or regulated entity as described above, an accountant does not need to obtain detailed information to identify the directors or controlling persons of that entity that acts as shareholder of the private trust company.

### **Individual and Corporate protector**

- a) Where an accountant is not itself acting as a protector and a protector has been appointed, the accountant should obtain information to identify and verify the identity of the protector.
- b) Where the protector is a legal entity, an accountant should obtain sufficient information that it can satisfy itself who is the controlling person and beneficial owner of the protector, and take reasonable measure to verify their identity.

- c) Where the protector is a listed entity (or an entity forming part of a listed group) or an entity established and regulated to carry on trust business in a jurisdiction identified by credible sources as having appropriate AML/CFT laws, regulations and other measures, an accountant should obtain information to enable it to satisfy itself as to the identity of the directors or other controlling persons. An accountant can rely on external evidence, such as information in the public domain to satisfy itself as to the beneficial owner of the regulated protector (e.g. the web-site of the body that regulates the protector and of the regulated protector itself).

## Annex 2: Glossary of terminology

### Beneficial Owner

*Beneficial owner* refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

### Competent Authorities

*Competent authorities* refers to all public authorities with designated responsibilities for combating money laundering and/or terrorist financing. In particular, this includes the FIU; the authorities that have the function of investigating and/or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing/freezing and confiscating criminal assets; authorities receiving reports on cross-border transportation of currency and bearer negotiable instruments (BNIs); and authorities that have AML/CFT supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and DNFBPs with AML/CFT requirements. SRBs are not to be regarded as a competent authorities.

### Designated Non-Financial Businesses and Professions (DNFBPs)

*Designated non-financial businesses and professions means:*

- a) Casinos (which also includes internet and ship based casinos).
- b) Real estate agents.
- c) Dealers in precious metals.
- d) Dealers in precious stones.
- e) Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures.
- f) Trust and Company Service Providers refers to all persons or businesses that are not covered elsewhere under the Recommendations, and which as a business, provide any of the following services to third parties:
  - Acting as a formation agent of legal persons;
  - Acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
  - Providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
  - Acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement;

- Acting as (or arranging for another person to act as) a nominee shareholder for another person.

## **Express Trust**

*Express trust* refers to a trust clearly created by the settlor, usually in the form of a document e.g. a written deed of trust. They are to be contrasted with trusts which come into being through the operation of the law and which do not result from the clear intent or decision of a settlor to create a trust or similar legal arrangements (e.g. constructive trust).’

## **FATF Recommendations**

Refers to the FATF Forty Recommendations.

## **Legal Person**

*Legal person* refers to any entities other than natural persons that can establish a permanent client relationship with an accountant or otherwise own property. This can include bodies corporate, foundations, anstalt, partnerships, or associations and other relevantly similar entities.

## **Legal Professional**

In this Guidance, the term “*Legal professional*” refers to legal professionals, civil law notaries, common law notaries, and other independent legal professionals.

## **Politically Exposed Persons (PEPs)**

*Foreign PEPs* are individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. *Domestic PEPs* are individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Persons who are or have been entrusted with a prominent function by an international organisation refers to members of senior management, i.e. directors, deputy directors and members of the board or equivalent functions. The definition of PEPs is not intended to cover middle ranking or more junior individuals in the foregoing categories.

## **Red Flags**

Any fact or set of facts or circumstances which, when viewed on their own or in combination with other facts and circumstances, indicate a higher risk of illicit activity. A “*red flag*” may be used as a short hand for any indicator of risk which puts an investigating accountant on notice that further checks or other appropriate safeguarding actions will be required.

## **Self-regulatory bodies (SRB)**

A *SRB* is a body that represents a profession (e.g. legal professionals, notaries, other independent legal professionals or accountants), and which is made up of members from the profession, has a role in regulating the persons that are qualified to enter and who practise in the profession, and also performs certain supervisory or

monitoring type functions. Such bodies should enforce rules to ensure that high ethical and moral standards are maintained by those practising the profession.

### **Supervisors**

*Supervisors* refers to the designated competent authorities or non-public bodies with responsibilities aimed at ensuring compliance by financial institutions (“financial supervisors”) and/or DNFBPs with requirements to combat money laundering and terrorist financing. Non-public bodies (which could include certain types of SRBs) should have the power to supervise and sanction financial institutions or DNFBPs in relation to the AML/CFT requirements. These non-public bodies should also be empowered by law to exercise the functions they perform, and be supervised by a competent authority in relation to such functions.

## Annex 3: Supervisory practices for implementation of the RBA

### China

People's Bank of China ("PBC") Conducts Risk Assessment on Accounting Firms in Jiangsu Province. In November 2017, the PBC Suzhou Branch conducted Money Laundering Risk Assessment on nine accounting firms. The assessments revealed that, for the inherent risk of the accounting firms, there are risks of the Certified Public Accountants utilizing the professional nature of their occupation and confidentiality privilege to assist customers in money laundering; failing to identify illicit funds being injected into the corporate's normal business activities when providing services, and providing services to customers on the monitoring lists or from sensitive jurisdiction. In respect of risk control areas, deficiencies were noted among the accounting firms including the unsound internal control system, weak AML awareness of practitioners, lack of capability, unsatisfactory mechanisms for sanction screening and lack of practical cases of suspicious transaction reports. However, as substantial business practitioners and the target clients of the auditing services are mainly corporates (and mostly being the listed companies and foreign enterprises), the overall money laundering risk of accounting firms was not considered high.

### Malaysia

#### **AML/CFT Supervisory Practices of Accountants in Malaysia**

##### **A. Fit and Proper Requirements – Self-Regulatory Body (SRB)**

The accounting profession in Malaysia is regulated by the Malaysian Institute of Accountants (MIA), as the self-regulated body (SRB) under the Accountants Act (AA) 1967. Prior to their admission as MIA members and issuance of Practicing Certificates, they are subject to appropriate market entry controls in which they are required to fulfil the "fit and proper" requirements under the legislation.

##### **B. AML/CFT Risk-based Supervision – Bank Negara Malaysia (BNM)**

Under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA), BNM is the designated competent authority for the AML/CFT supervision of the Designated Non-Financial Businesses and Professions (DNFBPs) & Other Financial Institutions in Malaysia, including accountants.

BNM adopts a risk-based approach supervision on accountants, in which the differentiation is guided by the outcome of the National Risk Assessment (NRA) and the application of Risk-Based Supervisory Framework for DNFBPs and Other Financial Institutions (D'SuRF), as follows:

### i. National Risk Assessment (NRA) 2017

Malaysia's third iteration of the NRA in 2017 comprising assessment of ML/TF inherent risk and overall control effectiveness had stipulated the accountants' net ML and TF risks as "**MEDIUM HIGH**" and "**MEDIUM**" level, respectively, as exacerbated by the sector's marginal control, as follows:

ML		TF	
Inherent Risk	Medium	Inherent Risk	Low
Control	Marginal	Control	Marginal
Net Risk	Medium High	Net Risk	Medium

### ii. Risk-Based Supervisory Framework for DNFBPs and Other Financial Institutions (D'SuRF)

D'SuRF encapsulates end-to-end governance and supervisory process, risk-based application of supervisory tools. In line with the ML/TF rating of the sector and the application of D'SuRF, the frequency and intensity of monitoring on accountants are guided accordingly to include a range of supervisory tools, as follows:

- **On-site Examination**

Firms are selected based on a robust selection process under the D'SuRF, which is in line with the risk profile of the reporting institutions (RIs). The on-site examination is in-depth, with assessments covering the RIs' inherent risk and quality of risk management. In applying RBA, BNM imposes post-onsite follow-up measures for RIs with heightened risks. This includes requiring the RI to submit proposals to BNM on planned measures to rectify any supervisory issues and progress report until full rectification. The D'SuRF sets the deadline for both submissions.

- **Off-site Monitoring and Supervisory Outreach Activities**

Apart from on-site examinations, BNM employs a range of off-site monitoring and supervisory outreach activities, aimed to elevate awareness and guide the implementation of the AMLA requirements by the accountants. These off-site tools are also deployed according to the RBA, whereby the intensity and frequency for accountants is relatively higher compared to other sectors. Among the off-site monitoring, includes the submission of Data and Compliance Reports and internal audit reports. In addition, BNM and the relevant SRBs conduct periodic nationwide AML/CFT outreach and awareness programmes.

## Monaco

Monaco completed its first NRA (National Risk Assessment) in 2017 and the accountants were included in the scope (see public NRA report in [www.siccfm.mc/en/The-National-Risk-Assessment-NRA](http://www.siccfm.mc/en/The-National-Risk-Assessment-NRA)). The assessed risk



regarding accountants was rated ML (moderate low) so the accountants were not included in the priority professionals to be inspected on-site. However, since 2016, they are being inspected and about two third of the number of accountants has already been assessed. They are planned to have all been assessed by the end of 2021, the most prominent professional having already been inspected (including the Big four companies).

Considering the small number of accountants in Monaco, no real RBA was used for their supervision and these inspections are aimed to be comprehensive.

## Annex 4: Members of the RBA Drafting Group

FATF members and observers	Office	Country/Institution
Sarah Wheeler (Co-chair)	Office for Professional Body AML Supervision (OPBAS), FCA	UK
Sandra Garcia (Co-chair)	Department of Treasury	USA
Erik Kiefel	FinCen	
Helena Landstedt and Josefin Lind	County Administrative Board for Stockholm	Sweden
Charlene Davidson	Department of Finance	Canada
Viviana Garza Salazar	Central Bank of Mexico	Mexico
Fiona Crocker	Guernsey Financial Services Commission	Group of International Finance Centre Supervisors(GIFCS)
Ms Janice Tan	Accounting and Regulatory Authority	Singapore
Adi Comeriner Peled	Ministry of Justice	Israel
Richard Walker	Financial Crime and Regulatory Policy, Policy & Resources Committee	Guernsey
Selda van Goor	Central Bank of Netherlands	Netherlands
Natalie Limbasan	Legal Department	OECD
Member	Accountants Office	Institution
Michelle Giddings (Co-chair)	Professional Standards	Institute of Chartered Accountants of England & Wales
Amir Ghandar	Public Policy & Regulation	International Federation of Accountants
Member	Legal professionals and Notaries Office	Institution
Stephen Revell (Co-chair)	Freshfields Bruckhaus Deringer	International Bar Association
Keily Blair	Economic Crime, Regulatory Disputes department	PWC, UK
Mahmood Lone	Regulatory issues and complex cross-border disputes	Allen & Overy LLP, UK
Amy Bell	Law Society's Task Force on ML	Law Society, UK
William Clark	ABA's Task Force on Gatekeeper Regulation and the Profession	American Bar Association (ABA)
Didier de Montmollin	Founder	DGE Avocats, Switzerland
Ignacio Gomá Lanzón Alexander Winkler	CNUE's Anti-Money Laundering working group	Council of the Notariats of the European Union (CNUE)
	Notary office	Austria
Rupert Manhart	Anti-money laundering Committee	Council of Bars and Law Societies of Europe
Silvina Capello	UINL External consultant for AML/CFT issues	International Union of Notariats (UINL)

Member	TCSPs Office	Institution
John Riches (Co-chair) Samantha Morgan	RMW Law LLP	Society of Trust and Estate Practitioners (STEP)
Emily Deane	Technical Counsel	
Paul Hodgson	Butterfield Trust (Guernsey) Ltd	The Guernsey Association of Trustees
Michael Betley	Trust Corporation International	
Paula Reid	A&L Goodbody	A&L Goodbody, Ireland





## GUIDANCE FOR A RISK-BASED APPROACH ACCOUNTING PROFESSION

The risk-based approach (RBA) is central to the effective implementation of the revised FATF International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, which were adopted in 2012.

This guidance highlights the need for a sound assessment of the money laundering and terrorist financing risks that accountants face so that the policies, procedures and ongoing customer due diligence measures mitigate these risks.

The FATF developed this guidance with significant input from the profession itself, to ensure that it reflects the experience gained by public authorities and the private sector over the years.

[www.fatf-gafi.org](http://www.fatf-gafi.org) | June 2019



## **Appendix C**

*Chartered Professional Accountants of BC Bylaws – October 2020*

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# BYLAWS OF THE ORGANIZATION OF CHARTERED PROFESSIONAL ACCOUNTANTS OF BRITISH COLUMBIA

## PART 1 - DEFINITIONS

### Definitions

100 In these bylaws and the regulations, unless the context requires a contrary meaning:

**“ACAF member”** means an ACAF member of CPABC in the class of members established under Bylaw 503;

**“ACAF program”** means the Advanced Certificate in Accounting and Finance program or successor program established by CPABC under section 31(1) of the Act;

**“ACIA member”** means an ACIA member of CPABC in the class of members established under Bylaw 504;

**“ACIA program”** means the Advanced Certificate in Accounting program established by ICABC before the transition date under section 13(1) of the former CA Act, and continued by CPABC under section 31(1) of the Act for those students who were enrolled in the program immediately before the transition date;

**“Act”** means the *Chartered Professional Accountants Act*, S.B.C. 2015, c. 1;

**“appointed board member”** means a person appointed to the board under section 4(1)(b) or 73(4)(b) of the Act;

**“Auditor General’s office”** means

- (a) the office of the Auditor General of Canada in British Columbia, if
  - (i) the Auditor General of Canada is a CPA member or a member of a provincial CPA body or a provincial legacy body, and
  - (ii) that office is under the direction and supervision of a CPA member or members,
- (b) the office of the Auditor General of British Columbia, if
  - (i) the Auditor General of British Columbia is a CPA member, and
  - (ii) that office is under the direction and supervision of a CPA member or members, or
- (c) the office of the Auditor General for Local Government of British Columbia, if
  - (i) the Auditor General for Local Government of British Columbia is a CPA member, and
  - (ii) that office is under the direction and supervision of a CPA member or members;

**“authorized practising office”** means a practising office of a registered firm that is approved for public practice under Bylaw 904(1);

**“board”** means the board of directors of CPABC established under section 4 of the Act;

**“board chair”** means the chair of the board elected under section 6(1)(a) of the Act;

**“board vice chair”** means a vice chair of the board elected under section 6(1)(a) of the Act;

**“CGA-BC”** means the Certified General Accountants Association of British Columbia under the former CGA Act;

**“CGA-Canada”** means the Certified General Accountants Association of Canada;

**“CMABC”** means the Certified Management Accountants Society of British Columbia under the former CMA Act;

**“CPAB”** means the Canadian Public Accountability Board;

**“CPAB firm”** means a registered firm participating in CPAB’s Auditor Oversight Program;

**“CPABC”** means the Organization of Chartered Professional Accountants of British Columbia established under the Act;

**“CPA Canada”** means the Chartered Professional Accountants of Canada;

**“CPA Canada Handbook”** means the *CPA Canada Handbook* published by CPA Canada, as amended from time to time;

**“CPA member”** means a chartered professional accountant member of CPABC in the class of members established under section 36(a) of the Act;

**“CPA PEP”** means the CPA Professional Education Program or successor program established by CPABC under section 31(1) of the Act;

**“CPA PREP”** means the CPA Prerequisite Education Program that was established by CPABC under section 31(1) of the Act before September 6, 2016;

**“elected board member”** means a person elected to the board under section 4(1)(a) of the Act, or appointed to the board under section 4(5) or 73(4)(a) of the Act;

**“FOIPPA”** means the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165;

**“former CA Act”** means the *Accountants (Chartered) Act*, R.S.B.C. 1996, c. 3;

**“former CGA Act”** means the *Accountants (Certified General) Act*, R.S.B.C. 1996, c. 2;

**“former CMA Act”** means the *Accountants (Management) Act*, R.S.B.C. 1996, c. 4;

**“ICABC”** means the Institute of Chartered Accountants of British Columbia under the former CA Act;

**“in good standing”** means, in respect of a member of CPABC, that the member holds current membership that is not suspended and has not been cancelled under the Act;

**“international CPA education program”** means an educational program recognized and approved by the board that is delivered by CPA Canada outside of Canada and Bermuda for the education and training of chartered professional accountants;

**“legacy body”** means CGA-BC, ICABC or CMABC;

**“legacy CA education program”** means the educational program established by ICABC before the transition date for the education and training of chartered accountants, and continued by CPABC under section 31(1) of the Act for those students who were enrolled in the program immediately before the transition date;

**“legacy CA member”** means a CPA member of CPABC who was

- (a) a member of ICABC or a provincial CA body before the transition date,
- (b) admitted as a CPA member under Bylaw 501(3) based on successful completion of a legacy CA education program,
- (c) admitted as a CPA member under Bylaw 501(5) or (7) based on current or former membership in a provincial CA body, or current or former membership in a provincial CPA body as the equivalent of a legacy CA member, or
- (d) admitted as a CPA member under Bylaw 501(9) based on having attained a standard of education, training and experience substantially equivalent to the admission requirements for applicants under Bylaw 501(3) who have successfully completed a legacy CA education program;

**“legacy CGA education program”** means

- (a) the educational program established by CGA-BC before the transition date for the education and training of certified general accountants, and continued by CPABC under section 31(1) of the Act for those students who were enrolled in the program immediately before the transition date, or
- (b) an educational program delivered outside of Canada and Bermuda by CGA-Canada or its successor, that was recognized by CGA-BC before the transition date for the education and training of certified general accountants;

**“legacy CGA member”** means a CPA member of CPABC who was

- (a) a member of CGA-BC or a provincial CGA body before the transition date,
- (b) a member of CGA-Canada before April 1, 2015,
- (c) admitted as a CPA member under Bylaw 501(3) based on successful completion of a legacy CGA education program,
- (d) admitted as a CPA member under Bylaw 501(5) or (7) based on current or former membership in a provincial CGA body, or current or former membership in a provincial CPA body as the equivalent of a legacy CGA member, or

- (e) admitted as a CPA member under Bylaw 501(9) based on having attained a standard of education, training and experience substantially equivalent to the admission requirements for applicants under Bylaw 501(3) who have successfully completed a legacy CGA education program;

**“legacy CMA education program”** means the educational program established by CMABC before the transition date for the education and training of certified management accountants, and continued by CPABC under section 31(1) of the Act for those students who were enrolled in the program immediately before the transition date;

**“legacy CMA member”** means a CPA member of CPABC who was

- (a) a certified member of CMABC or a provincial CMA body before the transition date,
- (b) admitted as a CPA member under Bylaw 501(3) based on successful completion of a legacy CMA education program,
- (c) admitted as a CPA member under Bylaw 501(5) or (7) based on current or former membership in a provincial CMA body, or current or former membership in a provincial CPA body as the equivalent of a legacy CMA member, or
- (d) admitted as a CPA member under Bylaw 501(9) based on having attained a standard of education, training and experience substantially equivalent to the admission requirements for applicants under Bylaw 501(3) who have successfully completed a legacy CMA education program;

**“legacy education program”** means a legacy CA education program, a legacy CGA education program or a legacy CMA education program;

**“other governing body”** means a body responsible for admission, licensing, registration, investigation or discipline of members of any profession or occupation inside or outside Canada, other than a provincial CPA body or a provincial legacy body;

**“other regulated services”** means any services not constituting public accounting services that are included in the following:

- (a) providing an accounting service involving summarization, analysis, advice, counsel or interpretation, other than an accounting service that is part of but incidental to the provider's primary occupation which is not accounting;
- (b) providing a forensic accounting, financial investigation or financial litigation support service;
- (c) providing advice, counsel or interpretation with respect to taxation matters;
- (d) preparing a tax return or other statutory information filing;
- (e) any other services described in the regulations;

**“Partnership Act”** means the *Partnership Act*, R.S.B.C. 1996, c. 348;

**“practising office”** means an office of a firm from which any CPA member provides services to the public that are included in public practice, and includes an Auditor General's office;

**“pre-approved training office”** means

- (a) an authorized practising office, or
- (b) another office described in Bylaw 403(1)(b) to (d)

that is pre-approved for the education and training of students under Bylaw 403 or 409;

**“provincial CA body”** means a body of chartered accountants incorporated by an enactment corresponding to the Act or the former CA Act in

- (a) a province or territory of Canada, other than British Columbia, or
- (b) Bermuda;

**“provincial CGA body”** means a body of certified general accountants incorporated by an enactment corresponding to the Act or the former CGA Act in a province or territory of Canada, other than British Columbia;

**“provincial CMA body”** means a body of certified management accountants incorporated by an enactment corresponding to the Act or the former CMA Act in a province or territory of Canada, other than British Columbia;

**“provincial CPA body”** means a body of chartered professional accountants incorporated by an enactment corresponding to the Act in

- (a) a province or territory of Canada, other than British Columbia, or
- (b) Bermuda;

**“provincial legacy body”** means a provincial CGA body, a provincial CA body or a provincial CMA body;

**“public accounting services”** means any services included in the following:

- (a) performing an audit, review or other assurance engagement governed by standards of professional practice published by CPA Canada or corresponding standards established in a jurisdiction outside Canada, or issuing an auditor’s report, a review engagement report or another assurance report in accordance with such standards;
- (b) issuing any other certification, declaration, opinion or report with respect to the application of financial reporting and accounting standards published by CPA Canada or other Canadian standards published by CPA Canada, or corresponding standards established in a jurisdiction outside Canada;
- (c) performing a compilation engagement;

**“public practice”** means providing or offering to provide public accounting services or other regulated services to the public;

**“public representative”** means a person who is not a member or a student, or a member or a student of a provincial CPA body or provincial legacy body, and includes an appointed board member;

**“regulations”** means the bylaw regulations approved by the board under these bylaws and section 27(3)(b) of the Act;

**“reporting issuer”** means (except as provided in Rule 204 for the purposes of Rules 204.4 and 204.5) a reporting issuer as defined under the applicable securities legislation of a province or territory of Canada or, if there is no such definition in a jurisdiction, a comparable entity in that jurisdiction;

**“Rules of Professional Conduct”** or **“Rules”** means the bylaws of CPABC made by the board in accordance with Bylaw 1300 designated as the Rules of Professional Conduct, including the Preamble thereto;

**“transition date”** means the date of coming into force of the Act.



## **PART 2 - CPABC BOARD, GENERAL MEETINGS AND OFFICERS**

### **Composition of the Board**

- 200 (1) Subject to Bylaw 202.1, the board, by regulation, must
- (a) specify the total number of elected board member positions under section 4(1)(a) of the Act,
  - (b) specify the number of elected board members to be elected for three-year terms of office at each annual general meeting,
  - (c) establish electoral regions for the purpose of the election of elected board members, and
  - (d) specify the minimum number of elected board members to be elected from each electoral region.
- (2) At each annual general meeting, commencing in 2017, the members must elect
- (a) the number of elected board members prescribed under subsection (1)(b), for three-year terms of office expiring at the third annual general meeting thereafter unless extended under Bylaw 202.1, and
  - (b) any additional elected board members that may be required to fill any other vacancies in elected board member positions
    - (i) existing as of the date of delivery of the notice to members under Bylaw 203(3), or
    - (ii) that will result from an elected board member appointed under section 4(5) of the Act ceasing to hold office at the annual general meeting.
- (3) An elected board member elected to fill a vacancy under subsection (2)(b) is elected for the remainder of the term of office of the applicable position.

### **Eligibility for Election**

- 201 (1) To be eligible for election as an elected board member, a person must, at the time of nomination,
- (a) be a CPA member in good standing, and
  - (b) have the member's principal residence within the electoral region declared by the member in respect of the member's candidacy.
- (2) An incumbent elected board member who has not attended at least one-half of the board meetings during the member's term of office is not eligible for re-election for an immediately consecutive term of office, except with the permission of the board.
- (3) The board may, by regulation, establish maximum terms of office for elected board members.

## **Ceasing to Hold Office**

- 202 (1) An elected board member ceases to hold office as an elected board member
- (a) subject to Bylaw 202.1, on the expiry of the elected board member's term of office,
  - (b) on ceasing to be a CPA member in good standing,
  - (c) on ceasing to reside in British Columbia,
  - (d) on delivering a resignation in writing to the Secretary,
  - (e) on being removed from office under subsection (2), or
  - (f) as otherwise specified in the regulations.
- (2) The board may, by resolution passed by at least 2/3 of the board members voting on the resolution, remove an elected board member from office, after reasonable notice to the elected board member, if the board is satisfied that the elected board member has contravened the terms of a code of conduct established by the board for its members.

## **Extension of Term of Office of Board Vice Chair or Board Chair**

- 202.1 (1) Despite Bylaws 200(2)(a) and 202(1)(a) and any regulations made under Bylaw 200(1) or 201(3), if the board elects an elected board member under section 6(1)(a) of the Act to continue to serve as a board vice chair or the board chair after the expiry of the initial three-year term of office for which they were elected, that elected board member may continue to serve as an elected board member for an extended term of office of up to two additional years, until ceasing to hold office under subsection (2).
- (2) An elected board member whose term of office is extended under subsection (1) ceases to hold office as an elected board member
- (a) at the second annual general meeting after the end of the initial three-year term of office for which they were elected,
  - (b) on ceasing to hold office as a board vice chair or board chair, or
  - (c) in accordance with Bylaw 202(1)(b) to (f).
- (3) For greater certainty, an elected board member who is elected by the board to serve as a board vice chair during the first year after the expiry of the initial three-year term of office for which they were elected is eligible to be elected by the board to serve as the board chair during the second year after the expiry of the initial three-year term of office for which they were elected.
- (4) If the term of office of an elected board member is extended under subsection (1),
- (a) the position of that elected board member is not included in the number of elected board member positions specified by regulation under Bylaw 200(1)(a), during their extended term of office,

- (b) the extension of that elected board member's term of office does not reduce the number of elected board members to be elected for three-year terms of office at any annual general meeting under Bylaw 200(2)(a),
- (c) that elected board member is not included in the minimum number of elected board members to be elected from an electoral region as specified by regulation under Bylaw 200(1)(d), during their extended term of office, and
- (d) when that elected board member ceases to hold office under subsection (2), it does not result in a vacant elected board member position to be filled under section 4(5) of the Act or Bylaw 200(2)(b).

### **Annual General Meetings**

- 203 (1) CPABC must hold an annual general meeting during each fiscal year, on a date determined by the board within six months of the end of the previous completed fiscal year, and at a location determined by the board.
- (2) At least 75 days before the date of an annual general meeting, the President or Secretary must deliver a notice to all CPA members specifying that nominations of candidates for election as elected board members must be received by CPABC no later than 56 days before the date of the meeting.
- (3) At least 21 days before the date of an annual general meeting, the President or Secretary must deliver a notice of the meeting to all CPA members.
- (4) The following items must be delivered with the notice of the annual general meeting, or made available to all CPA members at least 21 days before the date of the meeting:
- (a) a form of proxy approved by the board;
  - (b) a copy of the financial statements for the last completed fiscal year and the auditor's report on them;
  - (c) any amendment to the bylaws or Rules of Professional Conduct requiring confirmation by the membership under section 28(1) of the Act;
  - (d) instructions for voting electronically on any amendment to the bylaws or Rules of Professional Conduct, or any other matter on which the board has determined that members may vote electronically;
  - (e) the ballot approved by the board for the election of the elected board members, and, if applicable, instructions for electronic delivery of ballots;
  - (f) notice of the general nature of any other business proposed to be transacted at the meeting.

### **Election Procedures**

- 204 (1) Every CPA member in good standing is eligible to vote in an election for elected board members.

- (2) The board may make regulations specifying procedures for the election of elected board members, including procedures for nominations, voting, ballots, including electronic delivery of ballots, and deciding votes.

### **Auditor**

- 205 (1) At each annual general meeting,
  - (a) the board must present the financial statements and auditor's report on them for the immediately preceding fiscal year, and
  - (b) the members must appoint a registered firm as auditor, to hold office until the close of the next annual general meeting.
- (2) If the auditor is not appointed at an annual general meeting, the auditor in office must continue as auditor until a successor is appointed.
- (3) The board may fill a casual vacancy in the office of auditor.
- (4) A registered firm must not be appointed as auditor unless
  - (a) every person holding a proprietary interest in the firm is independent of any committee of CPABC having responsibility in the areas of finance or audit, and
  - (b) no member of the board holds a proprietary interest in the firm.

### **Special General Meetings**

- 206 (1) The board
  - (a) may call a special general meeting whenever the board deems it expedient, and
  - (b) must call a special general meeting within a reasonable period of time after receiving a requisition for a special general meeting signed by at least 2% of CPA members in good standing.
- (2) At least 21 days before the date of a special general meeting, the President or Secretary must deliver a notice of the meeting to all CPA members, specifying the business to be brought before the meeting.
- (3) The following items must be delivered with the notice of the special general meeting, or made available to all CPA members at least 21 days before the date of the meeting:
  - (a) a form of proxy approved by the board;
  - (b) any amendment to the bylaws or Rules of Professional Conduct requiring confirmation by the membership under section 28(1) of the Act, which have been designated for consideration at the special general meeting;
  - (c) instructions for voting electronically on any amendment to the bylaws or Rules of Professional Conduct, or any other matter on which the board has determined that members may vote electronically.

- (4) No business other than that specified in the notice of the special general meeting may be considered at the meeting or at any adjournment thereof.

### **Procedures for General Meetings**

- 207
- (1) The quorum for the transaction of business at a general meeting is 25 CPA members in good standing who are present in person.
  - (2) Every CPA member who is in good standing as of the date of a general meeting is entitled to vote on each matter put to a vote at the meeting, if the CPA member
    - (a) is present in person,
    - (b) is represented by proxy, or
    - (c) has voted electronically, in respect of a vote on an amendment to the bylaws or Rules of Professional Conduct or any other matter on which the board has determined that members may vote electronically.
  - (3) Except as otherwise provided in the bylaws, a CPA member who is eligible under subsection (2) to vote at a general meeting is entitled to cast one vote on each matter put to a vote at the meeting, and each such matter must be decided by majority vote.
  - (4) A CPA member in good standing may appoint another CPA member in good standing as the member's proxy for a general meeting.
  - (5) If a member has appointed a proxy to vote on the member's behalf on a matter at a general meeting, and the member has not revoked that appointment of proxy in accordance with the regulations, the member must not vote in person at the general meeting on that matter.
  - (6) If a member has cast a vote electronically on a matter, and has not revoked that vote in accordance with the regulations,
    - (a) the member must not vote in person at the general meeting on that matter, and
    - (b) the member's proxy must not vote on the member's behalf at the general meeting on that matter.
  - (7) The accidental omission to deliver a notice or any other item under Bylaw 203 or 206 to, or the non-receipt of such a notice or item by, any person entitled to receive it does not invalidate the general meeting, any proceeding or vote in relation thereto, or any election of elected board members.
  - (8) A resolution passed at a general meeting must not invalidate any prior act of the board, and, except as provided in the Act, must not bind the board, any regulatory committee of CPABC, or any officer, employee or agent of CPABC in the exercise of its or their powers or in the performance of its or their duties under the Act or any enactment.
  - (9) The board may make regulations specifying:

- (a) the means by which the items referred to in Bylaw 203(4) or 206(3) may be made available to members;
- (b) procedures for appointment of proxies, including the deadline, place and manner for delivery and revocation of a notice of appointment of proxy;
- (c) procedures for voting electronically on matters referred to in subsection (2)(c), including the manner and deadline for voting electronically or for revoking a vote that has been cast electronically;
- (d) additional procedures for general meetings.

### **Special Vote**

- 208 (1) The board
- (a) may put any matter to a special vote of the members whenever the board deems it expedient, and
  - (b) must put a matter to a special vote of the members within a reasonable period of time after receiving a requisition for a special vote signed by at least 2% of CPA members in good standing.
- (2) Every CPA member in good standing is entitled to cast one vote in a special vote.
- (3) A special vote must not invalidate any prior act of the board, and must not bind the board, any regulatory committee of CPABC, or any officer, employee or agent of CPABC in the exercise of its or their powers or in the performance of its or their duties under the Act or any enactment.
- (4) The board may make regulations specifying additional procedures for special votes.

### **Procedures for Board Meetings**

- 209 The board may make regulations specifying procedure for board meetings, including the quorum for board meetings, and procedures for approval of resolutions in writing.

### **Officers**

- 210 (1) The board may provide for the remuneration of the officers elected or appointed under section 6 of the Act, and may make policies concerning their powers, duties and functions.

- (2) The President appointed under section 6(1)(b) of the Act
  - (a) is not required to be a member,
  - (b) is a non-voting member of the board, and
  - (c) is the Chief Executive Officer of CPABC and holds final responsibility for all administrative and operational matters for CPABC.
- (3) The Secretary appointed under section 6(1)(b) of the Act
  - (a) is not required to be a member,
  - (b) is a non-voting member of the board, and
  - (c) must perform such duties as the board may direct.
- (4) The Registrar appointed under section 6(3) of the Act
  - (a) is not required to be a member,
  - (b) subject to any directions or restrictions specified by the President, is authorized to exercise the powers and perform the duties of the board under sections 35(1) and (2), 40(1) and 42(2) of the Act,
  - (c) may exercise the powers and must perform the duties of or delegated to the Registrar under the bylaws and the regulations, and
  - (d) must perform such other duties as the President may direct.
- (5) The President may designate an officer, employee or agent of CPABC to exercise any power or perform any duty of the President, Secretary or Registrar.
- (6) Subject to any limitations directed by the President, the Registrar may designate an officer, employee or agent of CPABC to exercise any power or perform any duty of the Registrar.
- (7) An officer, employee or agent of CPABC referred to in subsection (5) or (6) has the same authority as the President, Secretary or Registrar, as the case may be, when the officer, employee or agent is acting on their behalf.

## **PART 3 - COMMITTEES**

### **Executive Committee**

- 300 (1) The Executive Committee is established, consisting of
- (a) the board chair, board vice chairs and treasurer elected under section 6(1)(a) of the Act, and
  - (b) any other board members appointed by the board.
- (2) The President and Secretary are non-voting members of the Executive Committee.
- (3) Subject to any directions or restrictions specified by the board, the Executive Committee is authorized to exercise all of the powers and perform all of the duties of the board under the Act and these bylaws, except the following powers which may only be exercised by the board itself:
- (a) the power of the board to make, amend or repeal bylaws under sections 9 to 26 and 27(1) and (3)(a) of the Act;
  - (b) the power of the board to make or amend the regulations under these bylaws and section 27(3)(b) of the Act;
  - (c) the power of the board to elect the board chair, a board vice chair or the treasurer under section 6(1)(a) of the Act;
  - (d) the power of the board to remove an elected board member from office under Bylaw 202(2).

### **Membership Committee**

- 301 (1) The Membership Committee is established, consisting of at least six CPA members appointed by the board.
- (2) The Membership Committee
- (a) is authorized to exercise the powers and perform the duties of the board under section 35(1) and (2) of the Act,
  - (b) may exercise the powers and must perform the duties specified in Parts 4, 5 and 6 of the bylaws, and the regulations thereunder, and
  - (c) must perform such other duties as the board may direct.
- (3) Subject to any limits or restrictions under the bylaws and regulations or otherwise specified by the board, the Membership Committee may delegate to the Registrar the exercise of any powers or the performance of any duties under section 35(1) and (2) of the Act, Parts 4, 5 and 6 of the bylaws, and the regulations thereunder.

### **Public Practice Committee**

- 302 (1) The Public Practice Committee is established, consisting of at least ten CPA members and up to two public representatives appointed by the board, none of whom are members of the Investigation Committee or the Disciplinary Committee.



- (2) The Public Practice Committee
  - (a) is authorized to exercise the powers and perform the duties of the board under sections 40(1) and (3) and 42(2) and (3) of the Act,
  - (b) is designated to act as a reviewer under section 51 of the Act,
  - (c) may exercise the powers and must perform the duties specified in Bylaw 1301, Parts 4, 7, 8, 9 and 10 of the bylaws, and the regulations thereunder, and
  - (d) must perform such other duties as the board may direct.
- (3) Subject to any limits or restrictions under the bylaws and regulations or otherwise specified by the board, the Public Practice Committee may delegate to the Registrar the exercise of any powers or the performance of any duties under sections 40(1) and 42(2) of the Act, Bylaw 1301, Parts 4, 7, 8, 9 and 10 of the bylaws, and the regulations thereunder.

### **Investigation Committee**

- 303 (1) The Investigation Committee is established, consisting of at least ten CPA members and at least three public representatives appointed by the board, none of whom are members of the Public Practice Committee or the Disciplinary Committee.
- (2) The Investigation Committee
  - (a) is designated to act as an investigator under section 51 of the Act,
  - (b) may exercise the powers and must perform the duties specified in Parts 11 and 12 of the bylaws, and
  - (c) must perform such other duties as the board may direct.

### **Disciplinary Committee**

- 304 (1) The Disciplinary Committee is established, consisting of at least ten CPA members and at least three public representatives appointed by the board, none of whom are members of another committee established under this Part.
- (2) The chair of the Disciplinary Committee must appoint a panel of the Committee to conduct
  - (a) any hearing under section 53 of the Act and Part 12 of the bylaws, and
  - (b) any binding opinion under Bylaw 1110.

### **Rulings Committee**

- 305 (1) The board may establish a Rulings Committee to provide rulings, at the request of a member, student, professional accounting corporation or registered firm, as to whether, in the opinion of the committee, an action or course of conduct proposed to be undertaken by the member, student, professional accounting corporation or registered firm would, if undertaken, contravene the Act, these bylaws or the Rules of Professional Conduct.

- (2) If the board establishes a Rulings Committee,
  - (a) the Investigation Committee must not issue a Statement of Complaint under Bylaw 1106(5)(b) pertaining to a course of conduct or action undertaken by a member, student, professional accounting corporation or registered firm in reliance on and in conformity with a ruling of the Rulings Committee that was requested by the member, student, professional accounting corporation or registered firm, unless the Investigation Committee is of the opinion that
    - (i) the course of conduct or action undertaken is different from that described in the request for a ruling, or
    - (ii) the member, student, professional accounting corporation or registered firm failed to fully set out and disclose in the request for the ruling all material facts and circumstances,
  - (b) rulings given by the Rulings Committee are solely for the benefit of and apply only to the member, student, professional accounting corporation or registered firm who requested the ruling, and do not bind the Investigation Committee, a panel of the Disciplinary Committee, or any other committee with respect to any other member, student, professional accounting corporation or registered firm, and
  - (c) the board may make regulations further providing for the composition of the Rulings Committee, and the functions, duties and powers of the committee.

### **Additional Committees**

- 306 (1) The board may, from time to time, establish other committees with such terms of reference as it deems appropriate.
- (2) If the board establishes a committee under subsection (1), it may make regulations respecting the composition of the committee, and the functions, duties and powers of the committee.

### **Board Directions**

- 307 (1) The board may give directions to any committee, other than the Disciplinary Committee, as it sees fit regarding the exercise or performance of any power, duty or function of the committee or panel of the committee under these bylaws or the regulations, or otherwise delegated to the committee or panel of the committee.
- (2) A committee or panel of the committee must comply with any direction of the board under subsection (1), and must not exercise or perform any power, duty or function in a manner contrary to a direction of the board.

### **Regulations**

- 308 The board may make regulations respecting
  - (a) the appointment of committee chairs and vice-chairs,
  - (b) non-voting membership for members of the Executive Committee on any other committee,

- (c) delegation of functions, duties and powers of the board to a committee,
- (d) establishment of panels of any committee, and delegation of functions, duties and powers of the committee to a panel,
- (e) quorum for meetings of committees or panels of committees, and
- (f) additional procedures for meetings of committees or panels of committees.

## **PART 4 - STUDENTS**

### **Applications for Enrollment**

- 400 (1) Subject to section 31(2) of the Act and any regulations made under Bylaw 401, a person may apply for enrollment as a student by delivering to the Registrar an application in the form required by the Registrar.
- (2) An application for enrollment as a student must be accompanied by
- (a) any applicable enrollment application fee required by the board, and
  - (b) any documents or information specified in the application form or otherwise required under the regulations.
- (3) Subject to subsection (3.1), the Registrar may enrol an applicant as a student who
- (a) satisfies the qualifications and prerequisites for an educational program in accountancy established by CPABC under section 31(1) of the Act,
  - (b) provides evidence satisfactory
    - (i) to the Registrar, or
    - (ii) if the Registrar refers the application to the Membership Committee, to the Membership Committeethat the applicant is of good character, and
  - (c) provides evidence satisfactory to the Registrar that the applicant is a Canadian citizen, a permanent resident of Canada, or otherwise lawfully permitted to work or study in Canada.
- (3.1) The Registrar may refer any application for enrollment as a student to the Membership Committee for the committee's review and determination of whether the applicant meets the good character requirement under subsection (3)(b), and must do so
- (a) before denying the application on the ground that the applicant does not meet the good character requirement, or
  - (b) if otherwise required under the regulations.
- (4) As of September 6, 2016, an individual enrolled in the CPA PREP program is deemed not to be a student of CPABC under the Act until the individual becomes enrolled under this section as a student in the CPA PEP program.

### **Arrangements with Educational Body**

- 401 The board may make regulations respecting the delegation of
- (a) the board's authority respecting the delivery of educational programs established under section 31(1) of the Act, and
  - (b) subject to Bylaw 400(3.1), the Registrar's authority under Bylaw 400 respecting the enrollment of students in an educational program referred to in paragraph (a)

to a post-secondary institution or other educational body referred to in section 31(2) of the Act.

### **CPA Practical Experience Requirements**

- 402 Students enrolled in the CPA PEP, and persons who are enrolled in or have successfully completed an international CPA education program or a legacy education program, may satisfy the practical experience requirements required by the board under Bylaw 501(1)(c)
- (a) while employed in a pre-approved training office,
  - (b) while employed in an office of an accounting firm or other organization in another province or territory of Canada or Bermuda that is pre-approved for the education and training of students by the provincial CPA body or a provincial legacy body in that jurisdiction, or
  - (c) in accordance with criteria approved by the board for experience verification.

### **Pre-approved Training Offices**

- 403 (1) A CPA member in good standing may apply for pre-approval for the education and training of students for
- (a) an authorized practising office of a registered firm in which the member holds a direct or indirect proprietary interest,
  - (b) an office in British Columbia of
    - (i) a corporation or other business organization, or a unit or division thereof, or
    - (ii) a department or division of the government of Canada or British Columbia, or a crown corporation, agency, board or commission established under an enactment of Canada or British Columbia,
  - (c) an office of an accounting firm outside of Canada and Bermuda in which the member holds a direct or indirect proprietary interest, or
  - (d) an office outside of Canada and Bermuda of
    - (i) a corporation or other business organization, or a unit or division thereof, or
    - (ii) a department, division, corporation, agency, board or commission of a foreign government
- by delivering to the Registrar an application in the form required by the Registrar.
- (2) An application for pre-approval for the education and training of students for an authorized practising office or another office referred to in subsection (1)(b) to (d) must be accompanied by
- (a) any applicable pre-approval fee required by the board, and
  - (b) any documents or information specified in the application form or otherwise required under the regulations.

- (3) Subject to subsections (4) to (6), the Public Practice Committee may pre-approve an authorized practising office or another office referred to in subsection (1)(b) to (d) for the education and training of students in accordance with criteria established by the board.
- (4) The Public Practice Committee may refuse to pre-approve an authorized practising office of a registered firm for the education and training of students if
  - (a) the firm is as described in section 42(3)(a) to (c) of the Act or Bylaw 903(a) to (c), or
  - (b) the committee considers that for any other reason it would not be in the public interest to pre-approve the office for the education and training of students.
- (5) The Public Practice Committee may only grant pre-approval for the education and training of students for an office of an organization referred to subsection (1)(b) to (d), other than an authorized practising office of a registered firm, if
  - (a) the applicant enters into an agreement with CPABC, in a form satisfactory to the board, to assume responsibility for the supervision and training of students employed by the organization,
  - (b) the organization enters into an agreement with CPABC, in a form satisfactory to the board,
    - (i) to comply with any requirements and standards established by CPABC pertaining to the education and training of students, and
    - (ii) to cooperate with any practice inspection in respect of a limited practice review referred to in Bylaw 1000(1)(b) and to comply with the requirements of Bylaw 1002(3) as if the organization were a member, student, professional accounting corporation or registered firm, and
  - (c) the Public Practice Committee is satisfied that the applicant and the organization are competent and fit to provide education and training to students employed by the organization.
- (6) The Public Practice Committee may refuse to pre-approve an office of an organization referred to subsection (1)(b) to (d) for the education and training of students if
  - (a) pre-approval for the education and training of students has previously been refused, cancelled or suspended for an office of the organization,
  - (b) an application by the applicant for a public practice licence has previously been refused, or the public practice licence of the applicant has previously been cancelled or suspended,
  - (c) CPABC or a legacy body has previously, through its disciplinary process, restricted the applicant's right to engage in public practice, or
  - (d) the committee considers that for any other reason it would not be in the public interest to pre-approve the office for the education and training of students.

- (7) On granting pre-approval for the education and training of students for an authorized practising office or another office referred to in subsection (1)(b) to (d), the Public Practice Committee must specify the maximum number of students that may be employed in the office under a pre-approved program for their education and training.
- (8) Every registered firm or other organization with an office that is pre-approved for the education and training of students, and every CPA member who is responsible for the supervision and training of students under subsection (5)(a), is responsible for giving practical experience and instruction to those students and ensuring that each student is afforded the opportunities necessary to enable the student to acquire the art, skill, science and knowledge of a chartered professional accountant.
- (9) Subject to any limitations specified in the regulations or otherwise directed by the board, the Registrar is authorized to exercise the powers and perform the duties of the Public Practice Committee under this section and Bylaw 404.

#### **Cancellation or Amendment of Pre-approval**

- 404 (1) The Public Practice Committee may, after giving a registered firm or other organization referred to in Bylaw 403(1)(b) to (d) an opportunity to make written submissions, cancel the pre-approval for the education and training of students for an office of the firm or other organization
- (a) if the firm or other organization ceases to comply with a requirement or condition under Bylaw 403, or
  - (b) the committee considers that for any other reason it is in the public interest to cancel the office's pre-approval for the education and training of students.
- (2) The Public Practice Committee may, after giving a registered firm or other organization referred to in Bylaw 403(1)(b) to (d) an opportunity to make written submissions,
- (a) decrease the maximum number of students that may be employed in an office of the firm or other organization under a pre-approved program for their education and training, or
  - (b) place other conditions or limitations on the employment of students by the firm or other organization under a pre-approved program for their education and training
- if the committee considers that for any reason it is in the public interest to do so.

#### **Prohibition on Practice**

- 405 (1) A student must not engage in public practice.
- (2) Subsection (1) does not prevent a student from providing services as an employee of a registered firm or other organization provided that the student complies with subsection (3) and any applicable requirements under section 47 of the Act.

- (3) A student must not provide services as an employee of an organization engaged in public practice that is not a registered firm or a pre-approved training office if the student or the student's spouse (or equivalent), parent, child or sibling holds a proprietary interest in the organization.

### **Deadline to Apply for Admission as a Member**

- 406 (1) Subject to subsection (2), if a student enrolled in the CPA PEP does not apply for admission as a CPA member within 12 months of successfully completing all applicable program, examination and evaluation requirements, as well as the practical experience requirements, the enrollment of the student is cancelled.
- (2) The Membership Committee may, on grounds it considers appropriate, extend the time for a student to apply for admission as a CPA member under subsection (1).

### **Contact Information**

- 407 (1) Every student must provide the Registrar with
- (a) their current municipality of residence,
  - (b) a current business or employment address, if applicable, and
  - (c) a current mailing address and a current e-mail address for delivery to the student of any regulatory communications by CPABC.
- (2) A student must immediately notify the Registrar, in writing, of any change in the information provided by the student under subsection (1).

### **Obligation to Report**

- 408 (1) A student must immediately notify the Registrar, in writing,
- (a) upon becoming a bankrupt, including when having made an assignment in bankruptcy or when a receiving order is granted against the student,
  - (b) upon taking the benefit, including the filing of a proposal, of statutory provisions for insolvent debtors,
  - (c) upon being found guilty or pleading guilty to a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction, or
  - (d) upon the suspension or cancellation of the student's enrollment as a student of a provincial CPA body or provincial legacy body.
- (2) The Registrar may make a report to the Investigation Committee regarding information received under subsection (1), if it appears to the Registrar that an investigation is warranted to determine whether grounds exist for disciplinary action against the student.

### **Transition**

- 409 Despite any other requirement in the bylaws, if, before the transition date, the Chief Executive Officer of CGA-BC, the Chief Executive Officer of ICABC or the Chief Executive Officer of CMABC has confirmed the eligibility of an office of a registered firm or other



organization referred to in Bylaw 403(1)(b) to (d) for pre-approval for the education and training of students, the office is deemed on the transition date to have been pre-approved for the education and training of students.

## **PART 5 - MEMBERSHIP**

### **Applications for Admission**

- 500 (1) A person may apply for membership in CPABC by delivering to the Registrar an application in the form required by the Registrar.
- (2) An application for admission as a member must be accompanied by
- (a) any applicable membership application fee required by the board, and
  - (b) any documents or information specified in the application form or otherwise required under the regulations.
- (3) Subject to subsection (3.1), the Membership Committee must admit an applicant to membership in CPABC if
- (a) the applicant provides evidence satisfactory to the committee that the applicant is
    - (i) of good character, and
    - (ii) a Canadian citizen, a permanent resident of Canada, or otherwise lawfully permitted to work in Canada, and
  - (b) the committee is satisfied that the applicant meets all other applicable requirements under section 35 of the Act and this Part.
- (3.1) An applicant under Bylaw 501(2) who was enrolled in an international CPA education program before October 1, 2020 is exempt from the requirement in subsection (3)(a)(ii) if the applicant's application is received by the Registrar on or before any applicable deadline specified in the regulations.
- (4) Subject to any limitations specified in the regulations or otherwise directed by the board, the Registrar is authorized to exercise the powers and perform the duties of the Membership Committee under this Part.

### **CPA Membership**

- 501 (1) In addition to the requirements in section 35(1)(a) to (c) of the Act, an applicant under section 35(1) of the Act must meet the following further requirements for admission as a CPA member under section 35(1)(d) of the Act:
- (a) enrollment as a student of CPABC;
  - (b) successful completion of the CPA PEP, including all applicable program, examination and evaluation requirements;
  - (c) satisfaction of the practical experience requirements required by the board;
  - (d) any other applicable requirements specified in the regulations.
- (2) Despite subsection (1), an applicant who has successfully completed an international CPA education program, including all applicable program, examination and evaluation requirements, may be admitted as a CPA member if the applicant

- (a) satisfies the requirements under subsection (1)(c) and (d), and
  - (b) applies for admission as a CPA member within 12 months of successfully completing all applicable program, examination and evaluation requirements of the international CPA education program, as well as the practical experience requirement.
- (3) Despite subsection (1), an applicant who has successfully completed a legacy education program, including all applicable program, examination and evaluation requirements, and any other applicable admission requirements of the legacy body, on or before any applicable deadline specified in the regulations, may be admitted as a CPA member if the applicant
  - (a) satisfies the requirements under subsection (1)(c) and (d) on or before any applicable deadline specified in the regulations, and
  - (b) applies for admission as a CPA member within 12 months of successfully completing all applicable program, examination and evaluation requirements of the legacy education program and any other applicable admission requirements of the legacy body, as well as the practical experience requirement.
- (4) Despite subsection (1), an applicant with substantial senior professional experience satisfying criteria established by the board may be admitted as a CPA member if the Membership Committee is satisfied that the applicant has acquired knowledge, skill and competency that are substantially equivalent to the knowledge, skill and competency of an applicant satisfying the admission requirements for students under subsection (1).
- (5) Despite subsection (1), a former CPA member, former member of CGA-BC, former member of ICABC or former certified member of CMABC may be admitted as a CPA member if the Membership Committee is satisfied that the applicant has maintained the requisite knowledge, skill and competency to qualify for readmission.
- (6) Despite subsection (1), an applicant who was a member of CGA-Canada any time before April 1, 2015, but who is not a former member of CGA-BC or a current or former member of a provincial CGA body, may be admitted as a CPA member if
  - (a) the applicant satisfies any applicable requirements for admission as a member of CGA-BC that were established by CGA-BC prior to the transition date, and
  - (b) the Membership Committee is satisfied that the applicant has maintained the requisite knowledge, skill and competency to qualify for admission as a member of CPABC.
- (7) Subject to section 35(2) of the Act and despite subsection (1), a member in good standing of a provincial CPA body or a provincial legacy body may be admitted as a CPA member if the Membership Committee is satisfied that the applicant has attained a standard of education, training and experience substantially equivalent to the admission requirements for students under subsection (1) or for applicants who have successfully completed a legacy education program under subsection (3).

- (8) Despite subsection (1), a member of a professional body outside of Canada or Bermuda having the same or similar objects, standards of education, training and experience requirements as CPABC may be admitted as a CPA member if
- (a) the professional body in which the applicant holds membership is recognized by the board for the purpose of admission under this subsection,
  - (b) the applicant was engaged in the practice of accounting in the jurisdiction in which that professional body is located for a two-year period, or a shorter period considered satisfactory by the Membership Committee, immediately before the applicant was granted membership in that professional body,
  - (c) the Membership Committee is satisfied that the applicant has attained a standard of education, training and experience substantially equivalent to the admission requirements for students under subsection (1), and
  - (d) the applicant satisfies any other applicable conditions or requirements for admission as a CPA member under any applicable mutual recognition agreement, reciprocal membership agreement, memorandum of understanding or similar agreement between CPABC and that professional body.
- (9) Despite subsection (1), a member of a professional body outside of Canada or Bermuda having the same or similar objects, standards of education, training and experience requirements as a legacy body may be admitted as a CPA member if
- (a) the professional body in which the applicant holds membership is recognized by the board for the purpose of admission under this subsection,
  - (b) the applicant was engaged in the practice of accounting in the jurisdiction in which that professional body is located for a two-year period, or a shorter period considered satisfactory by the Membership Committee, immediately before the applicant was granted membership in that professional body,
  - (c) the Membership Committee is satisfied that the applicant has attained a standard of education, training and experience substantially equivalent to the admission requirements for applicants who have successfully completed a legacy education program under subsection (3),
  - (d) the applicant satisfies any other applicable conditions or requirements for admission as a CPA member under any applicable mutual recognition agreement, reciprocal membership agreement, memorandum of understanding or similar agreement between CPABC and that professional body, and
  - (e) the applicant applies for admission as a CPA member on or before any applicable deadline specified in the regulations.
- (10) The Membership Committee may, on grounds it considers appropriate, extend the time for an applicant to apply for admission as a CPA member under subsection (2)(b) or (3)(b).

### **Technologist Membership**

- 502 (1) A former technologist member of CPABC or CMABC may be admitted as a technologist member if the Membership Committee is satisfied that the applicant has maintained the requisite knowledge, skill and competency to qualify for readmission.
- (2) A technologist member in good standing of the Chartered Professional Accountants of Yukon may be admitted as a technologist member.
- (3) The board may make regulations providing for the admission of new applicants as technologist members, and specifying requirements for the admission of such applicants.

### **ACAF Membership**

- 503 (1) The board may, by regulation, establish a class of ACAF members under section 36(d) of the Act.
- (2) For the purposes of section 35(1)(d) of the Act, if the board establishes a class of ACAF members, the requirements for an applicant to be admitted as an ACAF member are
- (a) successful completion of the ACAF program, including all applicable program, examination and evaluation requirements, and
  - (b) any other applicable requirements specified in the regulations.
- (3) Despite subsection (1), if the board establishes a class of ACAF members,
- (a) a former ACAF member may be admitted as an ACAF member if the Membership Committee is satisfied that the applicant has maintained the requisite knowledge, skill and competency to qualify for readmission, and
  - (b) the board may make regulations authorizing the Membership Committee to admit a technologist member or an ACIA member as an ACAF member, based on the applicant's successful completion of a bridging program established by CPABC under section 31(1) of the Act for that purpose.

### **ACIA Membership**

- 504 (1) The board may, by regulation, establish a class of ACIA members under section 36(d) of the Act.
- (2) For the purposes of section 35(1)(d) of the Act, if the board establishes a class of ACIA members, the requirements for an applicant to be admitted as an ACIA member are
- (a) successful completion of the ACIA program, including all applicable program, examination and evaluation requirements, and
  - (b) any other applicable requirements specified in the regulations.

- (3) Despite subsection (1), if the board establishes a class of ACIA members, a former ACIA member may be admitted as an ACIA member if the Membership Committee is satisfied that the applicant has maintained the requisite knowledge, skill and competency to qualify for readmission.

## **Fellows**

- 505 (1) The board may make regulations respecting
- (a) the election of CPA members as fellows,
  - (b) the recognition of the fellowship status of a CPA member who is elected or admitted as a fellow by a provincial CPA body or a provincial legacy body, and
  - (c) the revocation of a CPA member's status as a fellow.
- (2) A CPA member in good standing who, immediately before the transition date, is
- (a) recognized by CGA-BC as a fellow, as a result of having been elected or admitted as a fellow by CGA-Canada,
  - (b) a fellow of ICABC, or recognized by ICABC as a fellow as a result of having been elected or admitted as a fellow by a provincial CA body, or
  - (c) recognized by CMABC as a fellow, as a result of having been elected or admitted as a fellow by the Society of Management Accountants of Canada
- is deemed to have been elected as a fellow of CPABC.

## **Legacy Designations**

- 506 (1) A legacy CGA member may only use or display the designation "Chartered Professional Accountant" or the initials "CPA" signifying that designation together with and followed by the designation "Certified General Accountant" or the initials "CGA".
- (2) A legacy CA member may only use or display the designation "Chartered Professional Accountant" or the initials "CPA" signifying that designation together with and followed by the designation "Chartered Accountant" or the initials "CA".
- (3) A legacy CMA member may only use or display the designation "Chartered Professional Accountant" or the initials "CPA" signifying that designation together with and followed by the designation "Certified Management Accountant" or the initials "CMA".
- (4) A legacy CGA member who is a fellow may only use or display the designation "Fellow of the Chartered Professional Accountants" or the initials "FCPA" signifying that designation together with and followed by the designation "Fellow of the Certified General Accountants" or the initials "FCGA".
- (5) A legacy CA member who is a fellow may only use or display the designation "Fellow of the Chartered Professional Accountants" or the initials "FCPA" signifying that designation together with and followed by the designation "Fellow of the Chartered Accountants" or the initials "FCA".

- (6) A legacy CMA member who is a fellow may only use or display the designation “Fellow of the Chartered Professional Accountants” or the initials “FCPA” signifying that designation together with and followed by the designation “Fellow of the Certified Management Accountants” or the initials “FCMA”.
- (7) In addition to the uses required above, a CPA member in good standing who has been granted authorization and is currently authorized in a non-Canadian jurisdiction to use an accounting designation that corresponds to a legacy designation may use that non-Canadian accounting designation or the corresponding initials to signify it, if
  - (a) the non-Canadian accounting designation or initials are used or displayed together with and follow the designation “Chartered Professional Accountant” or the initials “CPA” and any additional designation or initials the CPA member is required to use or display under paragraphs (1) to (6), and
  - (b) the use or display is accompanied by the name of the jurisdiction where the CPA member has been granted authorization to use the non-Canadian accounting designation.
- (8) A member must not use or display a legacy designation or initials to signify a legacy designation except in accordance with this section.
- (9) A registered firm
  - (a) may use or display the designation “Chartered Professional Accountant” or the initials “CPA” signifying that designation, without any accompanying designation or initials, if the firm is permitted to do so under section 44(6) and (7) of the Act, and
  - (b) must not use or display a legacy designation, or initials to signify a legacy designation.
- (10) On the tenth anniversary of the transition date or an earlier date specified in the regulations, this section is amended
  - (a) by striking out “only” in subsections (1), (2), (3), (4), (5) and (6), and
  - (b) by repealing this subsection.

### **Certificate of Membership**

- 507 (1) CPABC must issue a certificate of membership to each individual admitted as a member of CPABC, specifying
- (a) the individual’s class of membership, and
  - (b) if applicable, whether the individual is a legacy CGA member, a legacy CA member or a legacy CMA member.
- (2) CPABC must issue a certificate of fellowship to each CPA member who is elected as a fellow or whose fellowship status is otherwise recognized under Bylaw 505.

- (3) A certificate of membership or certificate of fellowship issued under this section remains the property of CPABC, and must be returned to CPABC at the Registrar's request if the member is suspended or ceases to be a member in the applicable class of membership or a fellow, as the case may be, for any reason other than death.

### **Contact Information**

- 508 (1) Every member must provide the Registrar with
- (a) their current municipality of residence,
  - (b) a current business or employment address, and
  - (c) a current mailing address and, subject to subsection (3), a current e-mail address for delivery to the member of any regulatory communications by CPABC.
- (2) A member must immediately notify the Registrar, in writing, of any change in the information provided by the member under subsection (1).
- (3) The Registrar may exempt a category of members or, on application by a member, an individual member from the requirement under subsection (1)(c) to provide a current e-mail address for delivery of regulatory communications, provided that no member who holds a public practice licence under Part 7 is eligible for an exemption under this subsection.

### **Suspension of Membership**

- 509 (1) During any period of suspension of membership, a member
- (a) ceases to be in good standing,
  - (b) must not use or display any designation or initials referred to in section 44 of the Act,
  - (c) must not display the member's certificate of membership or fellowship (if the certificate is not returned to CPABC under Bylaw 507(3)),
  - (d) must not engage in public practice except in accordance with any terms or conditions approved by the Public Practice Committee,
  - (e) must not hold any office in CPABC, including membership on any committee or panel, and
  - (f) is not entitled to attend or vote at any general meeting of CPABC, or to vote in an election for elected board members or in a special vote.
- (2) A suspended member must continue to comply with all applicable obligations under the Act, these bylaws and the Rules of Professional Conduct, including payment, when due, of any fees, dues, assessments, fines or other debts payable to CPABC.
- (3) No member or former member is entitled to any refund of any fee, dues, assessment, fine or other debt paid to CPABC solely on the basis that it was paid during or in relation to a period of suspension.



### **Request to Cancel Membership**

- 510 (1) The Registrar must cancel the membership of a member on receipt of a written request by the member, in the form required by the Registrar.
- (2) Upon the cancellation of the membership of a member under subsection (1), the Membership Committee may impose
- (a) conditions on the former member's readmission to membership, and
  - (b) restrictions or conditions on other members', professional accounting corporations' and registered firms' employment by or association with the former member.

### **Obligation to Report**

- 511 (1) A member must immediately notify the Registrar, in writing,
- (a) upon becoming a bankrupt, including when having made an assignment in bankruptcy or when a receiving order is granted against the member,
  - (b) upon taking the benefit, including the filing of a proposal, of statutory provisions for insolvent debtors,
  - (c) upon being found guilty or pleading guilty to a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction, or
  - (d) upon the suspension or cancellation of the member's membership in a provincial CPA body or provincial legacy body.
- (2) The Registrar may make a report to the Investigation Committee regarding information received under subsection (1), if it appears to the Registrar that an investigation is warranted to determine whether grounds exist for disciplinary action against the member.

## **PART 6 - CONTINUING PROFESSIONAL DEVELOPMENT**

### **Continuing Professional Development Program**

- 600 (1) The board, by regulation, must establish a Continuing Professional Development Program, prescribing compulsory continuing education requirements for members.
- (2) Every member must deliver an annual compliance report to CPABC by the deadline specified in the regulations, certifying the member's compliance with the applicable requirements of the Continuing Professional Development Program.
- (3) The Membership Committee or, if authorized by the Membership Committee, the Registrar may exempt a category of members or, on application by a member, an individual member, from any or all of the requirements of the Continuing Professional Development Program.

### **Late Completion of Professional Development**

- 601 A member who fails to deliver an annual compliance report, or fails to comply with the applicable requirements of the Continuing Professional Development Program, by the deadline prescribed under Bylaw 600(2), is deemed to be in compliance with the requirements of the Continuing Professional Development Program if the member delivers an annual compliance report and satisfies any applicable outstanding requirements of the Continuing Professional Development Program by the further deadline specified in the regulations.

### **Failure to Complete Professional Development**

- 602 (1) Subject to subsections (2) and (4), if a member fails to deliver an annual compliance report, or fails to comply with the applicable requirements of the Continuing Professional Development Program, by the further deadline prescribed under Bylaw 601, the membership of the member is suspended until the member
- (a) delivers an annual compliance report,
  - (b) satisfies any applicable outstanding requirements of the Continuing Professional Development Program, and
  - (c) pays any administrative fee prescribed by the board.
- (2) At least 30 days before a suspension under subsection (1) can take effect, CPABC must deliver to the member notice of
- (a) the date on which the suspension will take effect,
  - (b) the reason for the suspension, and
  - (c) the means by which the member may apply to the Membership Committee for an order under subsection (4) and the deadline for making such an application before the suspension is to take effect.
- (3) Subject to subsection (4), if a member whose membership is suspended under subsection (1) does not satisfy the requirements in subsection (1)(a) to (c) within

90 days of the date the suspension takes effect, the membership of the member is cancelled.

- (4) If there are special circumstances, the Membership Committee may, in its discretion, order that
  - (a) the membership of a member not be suspended under subsection (1),
  - (b) a suspension under subsection (1) be delayed for a specified period of time,
  - (c) the membership of a member not be cancelled under subsection (3), or
  - (d) a cancellation under subsection (3) be delayed for a specified period of time.

### **Reports to Investigation Committee**

- 603 The Membership Committee may make a report to the Investigation Committee regarding a member's failure to deliver an annual compliance report under this Part, or a member's failure to comply with applicable requirements of the Continuing Professional Development Program, if it appears to the Membership Committee that an investigation is warranted to determine whether grounds exist for disciplinary action against the member.

## **PART 7 - LICENSURE FOR PUBLIC PRACTICE**

### **Public Practice by CPA Members**

- 700 (1) A CPA member may only engage in public practice in accordance with this section.
- (2) A CPA member must not provide a service to the public in British Columbia that is included in public practice unless the member
- (a) holds current licensure under this Part authorizing the member to provide that service, or
  - (b) is exempt from the requirement for licensure according to criteria specified in the regulations.
- (3) A CPA member must not engage in public practice in British Columbia on behalf of any
- (a) partnership,
  - (b) corporation,
  - (c) sole proprietorship, or
  - (d) other organization
- in which any CPA member, or the spouse (or equivalent), parent, child or sibling of any CPA member, holds a proprietary interest, except as provided in subsection (4) or otherwise authorized by the board.
- (4) Subject to subsection (2), a CPA member may engage in public practice at or in association with
- (a) an authorized practising office of a registered firm, or
  - (b) a practising office in another province or territory of Canada or Bermuda, of a registered firm.
- (5) A CPA member must comply with the standards referred to in Bylaw 1003 in the provision of any public accounting services or other regulated services, including the performance of an audit or other assurance engagement.

### **Public Practice by Technologist Members**

- 701 (1) A technologist member must not provide other regulated services to the public in British Columbia unless the member holds current licensure under this Part authorizing the member to provide the services.
- (2) A technologist member is not eligible for issuance or renewal of an Audit Licence, Review Licence or Compilation Licence unless section 83 of the Act applies to the technologist member.
- (3) A technologist member must not provide a public accounting service to the public in British Columbia unless
- (a) section 83 of the Act applies to the technologist member,

- (b) the technologist member had authorization to provide the service under the former CMA Act immediately before the transition date, and
- (c) the technologist member holds current licensure under this Part authorizing the member to provide that service.

### **Restriction on Public Practice by ACAF and ACIA Members**

- 702 If the board establishes a class of ACAF members or ACIA members, an ACAF member or ACIA member
- (a) must not provide a public accounting service to the public, and is not eligible for issuance of an Audit Licence, Review Licence or Compilation Licence, and
  - (b) must not provide other regulated services to the public unless the ACAF member or ACIA member holds a current Other Regulated Services Licence under this Part authorizing the ACAF member or ACIA member to provide those services.

### **Categories of Licensure**

- 703 (1) The following categories of public practice licences are established:
- (a) Audit Licence;
  - (b) Review Licence;
  - (c) Compilation Licence;
  - (d) Other Regulated Services Licence.
- (2) The board may, by regulation, establish
- (a) additional categories of public practice licences, or
  - (b) subcategories of public practice licences established under subsection (1).
- (3) Any reference in these bylaws to a category of public practice licences includes a subcategory of licences established under subsection (2)(b).

### **Applications for Licensure**

- 704 (1) A member in good standing may apply
- (a) for issuance or renewal of a public practice licence in a category of licences established under Bylaw 703, or
  - (b) to amend the category of the member's public practice licence
- by delivering to the Registrar an application in the form required by the Registrar.
- (2) An application for issuance or renewal of a public practice licence, or to amend the category of a public practice licence, must be accompanied by
- (a) any applicable licence application, renewal or amendment fee required by the board, and
  - (b) any documents or information specified in the application form or otherwise required under the regulations.

- (3) The Public Practice Committee must issue a public practice licence to an applicant under subsection (1), or grant an application to amend the category of the applicant's public practice licence, if
  - (a) the applicant has successfully completed any education, evaluation, examination and practical experience requirements required by the board for the applicable category of licence,
  - (b) the committee is satisfied that the applicant is competent and fit to provide the services that holders of the applicable category of licence are authorized to provide, and
  - (c) the applicant meets any other applicable requirements specified in these bylaws or in the regulations.
- (4) The Public Practice Committee must issue a public practice licence to an applicant under subsection (1) who is also a member in good standing of a provincial CPA body or a provincial legacy body, if
  - (a) the applicant currently holds equivalent licensure or authorization from that provincial CPA body or provincial legacy body to provide the services that holders of the applicable category of licence are authorized to provide, and
  - (b) the applicant meets any other applicable requirements specified in these bylaws or in the regulations.
- (5) The Public Practice Committee may issue a public practice licence to an applicant under subsection (1) who is also a member of a professional body outside of Canada or Bermuda having the same or similar objects, standards of education, training and experience requirements as CPABC if
  - (a) the committee is satisfied that the applicant has attained a standard of knowledge, skill and competency equivalent to the requirements for licensure under subsection (3)(a),
  - (b) the committee is satisfied that the applicant is competent and fit to provide the services that holders of the applicable category of licence are authorized to provide, and
  - (c) the applicant meets any other applicable requirements specified in these bylaws or in the regulations.
- (6) The Public Practice Committee must renew a public practice licence to an applicant under subsection (1), or reinstate the public practice licence of a member in good standing who previously held the applicable category of licence, if
  - (a) the committee is satisfied that the applicant has maintained the requisite knowledge, skill and competency to provide the services that holders of the applicable category of licence are authorized to provide, and
  - (b) the applicant meets any other applicable requirements specified in these bylaws or in the regulations.
- (7) The Public Practice Committee may
  - (a) require an applicant under subsection (1) to complete any examinations or upgrading of knowledge, skill or competency that the committee considers

- necessary to satisfy the committee that the applicant meets the requirements in subsection (3)(b), (5)(b) or (6)(a), within the period of time specified by the committee,
- (b) issue or renew a public practice licence provisionally, and impose conditions on the provision of services by the applicant, pending the applicant's successful completion of any examinations or upgrading required under paragraph (a), or
  - (c) issue public practice licence in a different category than that requested by the applicant, or amend the category of the public practice licence of an applicant for renewal of the licence, if the committee is not satisfied that the applicant is competent and fit to provide the services that holders of the requested category of licence are authorized to provide.
- (8) Subject to any limitations specified in the regulations or otherwise directed by the board, the Registrar is authorized to exercise the powers and perform the duties of the Public Practice Committee under this Part.
  - (9) Subject to Bylaws 705 and 708, a public practice licence issued or renewed under this section is valid until the annual renewal date specified in the regulations, and is subject to renewal on that date.

### **Review and Cancellation of Licensure**

- 705
- (1) The Public Practice Committee may review a member's public practice licensure upon receipt of information indicating that the member has not, for a period of five years or more, provided the services that holders of the member's category of licence are authorized to provide.
  - (2) Subject to subsection (3), the Public Practice Committee may cancel or amend the category of a member's public practice licence following a review under subsection (1) if it appears to the committee that the member has not maintained the requisite knowledge, skill and competency to provide the services that holders of the applicable category of licence are authorized to provide.
  - (3) Before cancelling or amending the category of a member's public practice licence under subsection (2), the Public Practice Committee must
    - (a) give the member a reasonable opportunity to make written submissions, and
    - (b) consider any relevant continuing professional development completed by the member, and any evidence arising from the member's most recent practice review or otherwise provided by the member regarding the member's continuing competency to provide the applicable services.
  - (4) The Public Practice Committee may, after giving the member an opportunity to make written submissions, cancel the public practice licence of a member who ceases to carry professional liability insurance coverage sufficient to satisfy the requirements prescribed under Bylaw 1301.

## Regulations

- 706 The board may make regulations respecting
- (a) which public accounting services or other regulated services the holders of a category of public practice licence are authorized to provide, and
  - (b) standards, limits or conditions applicable to the provision of public accounting services or other regulated services by holders of a category of public practice licence.

## Contact Information and Practising Office Information

- 707
- (1) Every member holding a public practice licence must provide the Registrar with written notification of every authorized practising office or other office in British Columbia at or in association with which the member is engaged in public practice.
  - (2) Every member holding a public practice licence must provide the Registrar with the current street address for every authorized practising office or other office in British Columbia at or in association with which the member is engaged in public practice, in addition to the information provided by the member under Bylaw 508(1).
  - (3) A member holding a public practice licence must immediately notify the Registrar, in writing,
    - (a) if the member becomes engaged in public practice at or in association with a new authorized practising office or other office in British Columbia, or ceases to be engaged in public practice at or in association with an authorized practising office or other office in British Columbia, and
    - (b) of any change in the information provided by the member under subsection (2).

## Transition

- 708
- (1) In this section:
    - “**first renewal date**” means the first renewal date specified under subsection (3);
    - “**legacy member**” means a legacy CGA member, legacy CA member, legacy CMA member or technologist member.
  - (2) Despite any other requirement in the bylaws, if, before the transition date, the Chief Executive Officer of CGA-BC, the Chief Executive Officer of ICABC or the Chief Executive Officer of CMABC has confirmed the eligibility of a legacy member for licensure in a category of public practice licence established under Bylaw 703, the legacy member is deemed on the transition date to have been issued a public practice licence in that category.
  - (3) A public practice licence deemed to be held by a legacy member under subsection (2) is deemed to be valid until the first renewal date specified in the regulations, and is subject to renewal on that date.



- (4) The board may make regulations requiring one or more categories of legacy members who are deemed to hold a public practice licence under subsection (2) to pay a special public practice extension fee by a specified date prior to the first renewal date.
- (5) Despite Bylaws 700(2) and 701(1) and subsections (2) and (3), a legacy member who was entitled immediately before the transition date to provide a service to the public that is included in public practice
  - (a) may provide that service until the first renewal date without current licensure under this Part authorizing the member to provide that service, subject to the other applicable requirements in Bylaws 700 and 701, and
  - (b) must obtain such licensure to be authorized to continue to provide that service on or after the first renewal date.

## PART 8 - PROFESSIONAL ACCOUNTING CORPORATIONS

### Applications for Professional Accounting Corporation Permits

- 800 (1) A CPA member in good standing may apply for issuance or renewal of a professional accounting corporation permit for a corporation in which the applicant is a voting shareholder, by delivering to the Registrar an application in the form required by the Registrar.
- (2) An application for issuance of a professional accounting corporation permit must be accompanied by
- (a) any applicable permit application fee required by the board,
  - (b) a certificate of solicitor in the form required by the Registrar, and
  - (c) any other documents or information specified in the application form or otherwise required under the regulations.
- (3) An application for renewal of a professional accounting corporation permit must be accompanied by
- (a) any applicable permit renewal fee required by the board, and
  - (b) any documents or information specified in the application form or otherwise required under the regulations.
- (4) Subject to section 40(3) of the Act, the Public Practice Committee must issue or renew a permit to the applicant's corporation if the committee is satisfied that the corporation meets the requirements in section 40(1) of the Act and any other applicable requirements specified in this Part.
- (5) Subject to any limitations specified in the regulations or otherwise directed by the board, the Registrar is authorized to exercise the powers and perform the duties of the Public Practice Committee under this Part.
- (6) Subject to Bylaw 802,
- (a) a professional accounting corporation permit deemed to be held by a corporation under section 79(1) of the Act is deemed to be valid until the first renewal date specified in the regulations, and is subject to renewal on that date, and
  - (b) a professional accounting corporation permit issued or renewed under this section is valid until the annual renewal date specified in the regulations, and is subject to renewal on that date.

### Additional Requirement for Issuance of Permit

- 801 (1) In this section, and in any regulations made under subsection (3):
- “**CGA-BC Form A**” means Form A, “Application to Consent to Form a Corporation to Engage in the Practice of Public Accounting”, that was established by CGA-BC before the transition date;

**“legacy CGA corporation”** means a corporation

- (a) in respect of which a member of CGA-BC provided undertakings to CGA-BC before the transition date in the form CGA-BC required at that time under CGA-BC Form A, and
  - (b) that was deemed on the transition date to hold a professional accounting corporation permit under section 79(1)(a) of the Act.
- (2) For the purposes of section 40(1)(g) of the Act, to satisfy the requirements for issuance or renewal of a permit, the notice of articles or articles of the corporation and any holding company must, except as otherwise provided by regulation under subsection (3), include provisions
- (a) reflecting the restrictions on share rights, and on the ownership, transfer and disposition of shares, under sections 39, 40 and 41 of the Act, and
  - (b) requiring that voting shares of the corporation must not be allotted, issued, transferred or assigned, either absolutely or by way of pledge, hypothecation or charge, to any person other than a member, a holding company, or the personal representatives of a deceased owner of voting shares of the corporation.
- (3) The board may make regulations exempting one or more categories of professional accounting corporations that were deemed to hold a professional accounting corporation permit under section 79(1) of the Act from the requirements for renewal of a permit under subsection (2), provided that the professional accounting corporation was in compliance with all applicable requirements that were established by the applicable legacy body immediately before the transition date, and continues to comply with those requirements.
- (4) If the board makes regulations under subsection (3) exempting legacy CGA corporations from the requirements for renewal of a permit under subsection (2), every member who owns, directly or indirectly, any shares of a legacy CGA corporation is deemed to have provided an undertaking to CPABC to comply with
- (a) the restrictions on share rights, and on the ownership, transfer and disposition of shares, under section 39, 40 and 41 of the Act, and
  - (b) the requirement that voting shares of the corporation must not be allotted, issued, transferred or assigned, either absolutely or by way of pledge, hypothecation or charge, to any person other than a member.

### **Cancellation of Permit**

- 802 The Public Practice Committee may, after giving the corporation an opportunity to make written submissions, cancel a permit issued to a professional accounting corporation if the corporation ceases to comply with a requirement or condition under section 40(1) of the Act.

### **Notice of Change in Corporate Information**

- 803 A professional accounting corporation

- (a) must immediately notify the Registrar, in writing, of any change to the information contained in the corporation's most recent application for issuance or renewal of its permit, and
- (b) must deliver to the Registrar a new certificate of solicitor if required by the Registrar.

### **Contact Information**

- 804 (1) Every professional accounting corporation must provide the Registrar with a current mailing address and a current e-mail address for delivery to the corporation of any regulatory communications by CPABC.
- (2) A professional accounting corporation must immediately notify the Registrar, in writing, of any change in the information provided by the corporation under subsection (1).

### **Obligation to Report**

- 805 (1) A professional accounting corporation must immediately notify the Registrar, in writing,
- (a) upon becoming a bankrupt, including when having made an assignment in bankruptcy or when a receiving order is granted against the corporation,
  - (b) upon taking the benefit, including the filing of a proposal, of statutory provisions for insolvent debtors,
  - (c) upon being found guilty or pleading guilty to a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction, or
  - (d) upon the suspension or cancellation of a permit, licensure or any other authorization issued to the corporation by a provincial CPA body or provincial legacy body.
- (2) The Registrar may make a report to the Investigation Committee regarding information received under subsection (1), if it appears to the Registrar that an investigation is warranted to determine whether grounds exist for disciplinary action against the professional accounting corporation.

### **Transition**

- 806 The board may make regulations requiring one or more categories of professional accounting corporations that are deemed to hold a professional accounting corporation permit under section 79(1) of the Act to pay a special permit extension fee by a specified date prior to the first renewal date specified under Bylaw 800(6)(a).

## **PART 9 - REGISTERED FIRMS**

### **Applications for Registration of Firms**

- 900 (1) A CPA member referred to in section 42(2) of the Act or Bylaw 901(2) may apply for registration or renewal of registration of a firm, by delivering to the Registrar an application in the form required by the Registrar.
- (2) An application for registration or renewal of registration of a firm must be accompanied by
- (a) any applicable registration or renewal fee required by the board, including any applicable fees for authorization or renewal of authorization of any practising office of the firm, and
  - (b) any documents or information specified in the application form or otherwise required under the regulations.
- (3) Subject to section 42(3) of the Act, the Public Practice Committee must register or renew the registration of a firm if the committee is satisfied that the firm meets the requirements specified in this Part.
- (4) Subject to any limitations specified in the regulations or otherwise directed by the board, the Registrar is authorized to exercise the powers and perform the duties of the Public Practice Committee under this Part.
- (5) Subject to Bylaws 905 and 909, registration issued or renewed to a firm is valid until the annual renewal date specified in the regulations, and is subject to renewal on that date.

### **Auditor General's Office**

- 901 (1) For the purposes of section 42(1)(d) of the Act, the Public Practice Committee may accept an Auditor General's office for registration as a firm.
- (2) Despite section 42(2)(a) of the Act, an application to register or renew the registration of an Auditor General's office may be made by a CPA member in good standing responsible for the direction and supervision of the office.

### **Requirements for Registration**

- 902 Subject to section 42 of the Act, a firm is eligible for registration or renewal of registration if
- (a) the firm operates or seeks authorization to operate one or more practising offices in British Columbia that are authorized or eligible for authorization under Bylaw 904, or
  - (b) the firm is recognized and approved for public practice by a provincial CPA body or provincial legacy body, and does not operate or seek to operate a practising office in British Columbia.

## **Discretion to Refuse Registration**

- 903 In addition to the grounds specified in section 42(3)(a) to (c) of the Act, the Public Practice Committee may refuse to register or renew the registration of a firm if
- (a) authorization has previously been refused for a practising office of the firm, or a practising office of the firm previously had its authorization cancelled or suspended,
  - (b) a legacy body, provincial CPA body or provincial legacy body has previously cancelled or suspended the membership of a shareholder, partner or proprietor of the firm, or a shareholder of a holding company that owns shares in the firm,
  - (c) CPABC or a legacy body, provincial CPA body or provincial legacy body has previously, through its disciplinary process, restricted the right to engage in public practice of a shareholder, partner or proprietor of the firm, or a shareholder of a holding company that owns shares in the firm, or
  - (d) the committee considers that for any other reason it would not be in the public interest to issue or renew the registration of a firm.

## **Authorization of Practising Offices**

- 904 (1) In registering or renewing the registration of a firm, or on application by a CPA member referred to in section 42(2) of the Act or Bylaw 901(2) to amend the firm's registration, the Public Practice Committee or, subject to any limitations specified in the regulations or otherwise directed by the board, the Registrar
- (a) may authorize any practising office of the firm in British Columbia that meets the requirements specified in the regulations for the provision of public accounting services or other regulated services to the public, and
  - (b) may specify any terms or conditions that the Public Practice Committee considers appropriate respecting the provision of public accounting services or other regulated services to the public at or in association with an authorized practising office of the firm.
- (2) An application under subsection (1) to amend a firm's registration must be accompanied by
- (a) any applicable amendment fee required by the board, including any applicable fees for authorization of any practising office of the firm, and
  - (b) any documents or information specified in the application form or otherwise required under the regulations.
- (3) The Public Practice Committee may refuse to authorize a practising office of a firm on the grounds specified in section 42(3)(a) to (c) of the Act or Bylaw 903(a) to (c), or if the committee considers that for any other reason it would not be in the public interest to authorize the practising office.

## **Cancellation of Registration**

- 905 The Public Practice Committee may, after giving the firm an opportunity to make written submissions, cancel the registration of a firm that

- (a) ceases to comply with a requirement or condition under section 42 of the Act or Bylaw 902, or
- (b) ceases to carry professional liability insurance coverage sufficient to satisfy the requirements prescribed under Bylaw 1301 for all CPA members engaged in public practice at or in association with the firm or any authorized practising office of the firm.

### **Contact Information**

- 906 (1) Every registered firm must provide the Registrar with
- (a) a current mailing address and a current e-mail address for delivery to the firm of any regulatory communications by CPABC, and
  - (b) the current street address for every authorized practising office of the firm.
- (2) A registered firm must immediately notify the Registrar, in writing, of any change in the information provided by the firm under subsection (1).

### **Limited Liability Partnerships**

- 907 (1) Subject to any other requirements under the Act and bylaws, CPA members are authorized to provide accounting services to the public through a limited liability partnership that holds current registration as a firm under section 42 of the Act.
- (2) An application must not be made to register a partnership as a limited liability partnership under Part 6 of the *Partnership Act* unless
- (a) a CPA member in good standing who is a partner of the partnership delivers an application to the Registrar in the form required by the Registrar for issuance of a statement of approval of LLP registration, and
  - (b) the partnership receives a statement of approval of LLP registration from the Registrar.
- (3) An application for issuance of a statement of approval of LLP registration must be accompanied by
- (a) any applicable LLP approval fee required by the board, and
  - (b) any documents or information specified in the application form or otherwise required under the regulations.
- (4) The Registrar must issue a statement of approval of LLP registration to a partnership that satisfies all applicable conditions and requirements specified in the regulations.

### **Obligation to Report**

- 908 (1) A registered firm must immediately notify the Registrar, in writing,
- (a) upon becoming a bankrupt, including when having made an assignment in bankruptcy or when a receiving order is granted against the firm,

- (b) upon taking the benefit, including the filing of a proposal, of statutory provisions for insolvent debtors,
  - (c) upon being found guilty or pleading guilty to a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction, or
  - (d) upon the suspension or cancellation of registration, licensure or any other authorization issued to the firm by a provincial CPA body or provincial legacy body.
- (2) The Registrar may make a report to the Investigation Committee regarding information received under subsection (1), if it appears to the Registrar that an investigation is warranted to determine whether grounds exist for disciplinary action against the registered firm.

### **Transition**

- 909 (1) Despite any other requirement in the bylaws, if, before the transition date, the Chief Executive Officer of CGA-BC, the Chief Executive Officer of ICABC or the Chief Executive Officer of CMABC has confirmed the eligibility of a firm for registration under section 42(2) of the Act, the firm is deemed on the transition date to have been registered under section 42(2) of the Act.
- (2) Registration deemed to have been granted to a firm under subsection (1) is deemed to be valid until the first renewal date specified in the regulations, and is subject to renewal on that date.
- (3) The board may make regulations requiring one or more categories of firms that are deemed to hold registration under subsection (1) to pay a special registration extension fee by a specified date prior to the first renewal date specified under subsection (2).



## **PART 10 - PRACTICE REVIEWS**

### **Practice Review Program**

- 1000 (1) To promote and maintain the knowledge, skill and proficiency of members, and their competency and fitness for the education and training of students, the Public Practice Committee is responsible for establishing and administering, in accordance with this Part and any directions given by the board,
- (a) a program of practice reviews involving the inspection of professional practices of members and registered firms for the purpose of identifying and having them remedy deficiencies in their practice, competence or conduct, including their supervision and training of students, and
  - (b) a program of limited practice reviews involving the inspection of professional practices of members described in subsection (4), for the limited purpose of identifying and having them remedy deficiencies in their supervision and training of students and their competence and fitness for providing education and training to students.
- (2) A registered firm is subject to the program of practice reviews referred to in subsection (1)(a) unless its practice is confined to non-reviewable services, as determined in accordance with criteria established by the board.
- (3) A member is subject to the program of practice reviews referred to in subsection (1)(a) if the member
- (a) holds a public practice licence under Part 7, and
  - (b) is not exempt from the program of practice reviews according to criteria specified in the regulations.
- (4) A member, other than a member described in subsection (3), is subject to the program of limited practice reviews referred to in subsection (1)(b) if the member
- (a) has entered into an agreement with CPABC under Bylaw 403(5)(a) to assume responsibility for the training of one or more students employed by an organization other than a registered firm, or
  - (b) has applied under Bylaw 403(1)(b) to (d) for pre-approval for the education and training of students for an office of an organization other than a registered firm.

### **Practice Review Officers**

- 1001 The Registrar must designate CPA members in good standing as practice review officers for the conduct of practice reviews under section 51 of the Act.

### **Practice Inspections**

- 1002 (1) Subject to the direction of the Public Practice Committee and any restrictions specified by the board, a practice review officer may inspect the practice of a member or registered firm for the purpose of a practice review or limited practice review referred to in Bylaw 1000(1).

- (2) For the purpose of conducting a practice inspection under subsection (1), a practice review officer may
  - (a) make a request to a member, student, professional accounting corporation or registered firm under section 51(5) of the Act,
  - (b) interview a member or student,
  - (c) upon reasonable notice and during regular business hours, enter a practising office of a registered firm,
  - (d) examine or take copies of books, documents or working papers, including client files, in the possession, custody or control of a CPA member or registered firm that are relevant to the practice review, and
  - (e) if the practice inspection is in respect of a limited practice review referred to in Bylaw 1000(1)(b),
    - (i) upon reasonable notice and at a time agreed upon with the member, enter an office of the organization referred to in Bylaw 1000(4) where the member is or proposes to be responsible for the training of students, and
    - (ii) examine or take copies of books, documents or working papers in the possession, custody or control of the organization referred to in Bylaw 1000(4) that are relevant to the limited practice review.
- (3) Members, students, professional accounting corporations and registered firms, and organizations that have entered into an agreement with CPABC under Bylaw 403(5)(b)(ii),
  - (a) must not obstruct a practice review officer in the exercise of powers under the Act or these bylaws,
  - (b) must answer a request by a practice review officer for information relevant to a practice inspection,
  - (c) must allow a practice review officer to enter their office under subsection (2)(c) or (e)(i),
  - (d) must allow a practice review officer to examine and take copies of books, documents or working papers under subsection (2)(d) or (e)(ii), and
  - (e) must in all other respects cooperate with a practice inspection, in a timely manner.

## **Professional Standards**

- 1003 In a practice review, the professional practice of a CPA member or registered firm must be assessed with reference to generally accepted standards of practice of the profession, including
- (a) the standards of professional practice set out in the *CPA Canada Handbook*,
  - (b) the standards of professional conduct established in the Rules of Professional Conduct, and

- (c) such other standards of professional practice, including standards for providing education and training to students, as may be specified in the regulations or otherwise established by the board.

### **Report by Practice Review Officer**

- 1004
- (1) Following a practice inspection under Bylaw 1002, a practice review officer must prepare a draft practice review report setting out the practice review officer's findings, including any deficiencies identified, and any recommendations for remedial action by the member or registered firm.
  - (2) In the course of preparing a draft practice review report under subsection (1), the practice review officer may consult
    - (a) with the member or registered firm, and
    - (b) to promote consistency, with the Registrar, other practice review officers, or other appropriate personnel of CPABC.
  - (3) The Registrar must deliver the draft practice review report prepared under subsection (1) to the member or registered firm.
  - (4) In respect of a limited practice review referred to in Bylaw 1000(1)(b), the Registrar must also deliver the draft practice review report to the organization referred to in Bylaw 1000(4).
  - (5) If a draft practice review report identifies any deficiencies in the practice of the member or registered firm, the member or registered firm may, within 14 days of delivery of the draft report to the member or registered firm under subsection (3), deliver to the Registrar any written comments on the draft report that the member or registered firm believes should be considered by the Public Practice Committee.
  - (6) The Registrar may extend the time for the member or registered firm to comment on a draft practice review report under subsection (5).
  - (7) After receiving any comments from the member or registered firm under subsection (5), or the expiry of time for the member or registered firm to provide comments, the Registrar must
    - (a) subject to subsection (8), deliver the draft practice review report and any comments provided by the member or registered firm to the Public Practice Committee, or
    - (b) act under subsection (9).
  - (8) A draft practice review report and any related documents or correspondence delivered to the Public Practice Committee may be anonymized in accordance with board policy.
  - (9) If the Registrar is authorized under Bylaw 1005(7) to exercise the powers and perform the duties of the Public Practice Committee in respect of a draft practice review report, the Registrar may proceed to review and consider the draft report, make a determination and any recommendations, and issue a final practice review

report in accordance with Bylaw 1005, as if the draft report were delivered to the Public Practice Committee under subsection (7)(a).

### **Review by Public Practice Committee**

- 1005 (1) If a draft practice review report delivered to the Public Practice Committee under Bylaw 1004(7)(a) identifies any deficiencies in the practice of a member or registered firm, the committee
- (a) must review and consider the draft practice review report, together with any written comments on the report provided by the member or registered firm 1004(5) and any other relevant documents or correspondence identified by the Registrar, and
  - (b) subject to Bylaw 1000(1)(b), must make a determination as to whether the professional practice of the member or registered firm complies with the professional standards described in Bylaw 1003.
- (2) If the Public Practice Committee determines that the professional practice of a member or registered firm does not comply with the professional standards described in Bylaw 1003, the committee may recommend that the member or registered firm take corrective or remedial action, which may include one or more of the following recommendations:
- (a) that the member, or a member or members holding a proprietary interest in the registered firm, take one or more courses of instruction specified by the committee;
  - (b) that the member or registered firm be subject to a follow-up review;
  - (c) that the practice of the member or registered firm be restricted;
  - (d) that the category of the member's public practice licence be amended;
  - (e) that another member approved by the committee supervise the practice of the member or registered firm, or some part of it;
  - (f) that pre-approval for the education and training of students previously granted to the member or registered firm, or to the office where the member is or proposes to be responsible for the training of students, be restricted, suspended or rescinded;
  - (g) that another member assume responsibility previously assumed by the member for the training of students;
  - (h) that approval for the education and training of students not be granted to the member or registered firm, or to the office where the member proposes to be responsible for the training of students;
  - (i) other corrective or remedial action that the committee considers appropriate.
- (3) The Public Practice Committee must issue a final practice review report setting out the committee's determination and any recommendations.

- (4) The Public Practice Committee or, if directed by the committee, a practice review officer must deliver the final practice review report to the member or registered firm.
- (5) Subject to subsection (6), within 45 days of delivery of the determination and recommendations of the Public Practice Committee to a member or registered firm, the member or registered firm must notify the committee or practice review officer that the member or registered firm
  - (a) accepts and agrees to comply with the committee's recommendations,
  - (b) declines to comply with some or all of the committee's recommendations, or
  - (c) requests that the committee's determination and recommendations be referred for a binding opinion under Bylaw 1009.
- (6) The Public Practice Committee or practice review officer may extend the time for a member or registered firm to provide the notification required under subsection (5).
- (7) Subject to any limitations specified by the Public Practice Committee, the Registrar is authorized to exercise the powers and perform the duties of the Public Practice Committee under this section and Bylaw 1006.

### **Reports to Investigation Committee**

- 1006 (1) The Public Practice Committee may make a report, or may direct the applicable practice review officer to make a report, to the Investigation Committee if
- (a) it appears to the committee that a member or registered firm has failed to maintain professional standards, has committed professional misconduct, or is incompetent, and that such failure, misconduct or incompetence is sufficiently serious to warrant disciplinary action,
  - (b) a member or registered firm declines to comply with some or all of the recommendations of the Public Practice Committee, or fails to provide the notification required under Bylaw 1005(5),
  - (c) a member or registered firm fails to comply with a recommendation of the committee after having accepted that recommendation under Bylaw 1005(5)(a) or 1009(6),
  - (d) it appears to the committee that a member has breached Bylaw 700, or
  - (e) it appears to the committee that a member has breached the terms of an agreement with CPABC respecting the supervision and training of students.
- (2) A report under subsection (1) may include
- (a) practice review reports and files,
  - (b) working paper files, books, documents or other material, and

- (c) information about the affairs of a member or registered firm, the clients of a member or registered firm, or an organization referred to in Bylaw 1000(4).

## **Practice Reviews of CPAB Firms**

### **1007 (1) The Registrar**

- (a) may notify CPAB of CPABC's inspection program and schedule for CPAB firms and their practising offices, including the names of CPAB firms scheduled for inspection, and, if determined, the names of applicable reporting issuer files, year end, and members responsible for such engagements, and
  - (b) must notify CPAB before or upon the commencement of a practice inspection of a CPAB firm or a CPA member practising at or in association with a practising office of a CPAB firm.
- (2) For the purposes of a practice inspection referred to in subsection (1)(b), a practice review officer may, if permitted by CPAB, review, examine and take copies of any reports, working papers or other documents provided by CPAB relating to the inspection by CPAB of a practising office of the CPAB firm under its Auditor Oversight Program.
- (3) The Registrar must deliver a copy to CPAB of any portions of a draft practice review report issued under Bylaw 1004(1), following a practice inspection referred to in subsection (1)(b), that relate to the audit of reporting issuers or the quality controls of the CPAB firm or member.
- (4) If, based on the review of reports, working papers or other documents provided by CPAB relating to the inspection by CPAB of a practising office of a CPAB firm, it is the opinion of a practice review officer that there are deficiencies in the professional practice of the CPAB firm that CPAB may not have sufficiently addressed through its Auditor Oversight Program
- (a) the practice review officer may, subject to the direction of the Public Practice Committee, prepare a draft report identifying the relevant deficiencies, and setting out any recommendations for remedial action to be undertaken by the CPAB firm under the Auditor Oversight Program, and
  - (b) Bylaws 1004, 1005 and 1006 apply to the report under paragraph (a) as if it were a draft practice review report prepared following a practice inspection.
- (5) Subject to any restrictions established by the board, the Registrar may disclose any of the following to CPAB:
- (a) information or records described in Bylaw 1006(2) in respect of an inspection of the professional practice of a CPAB firm or a member practising at or in association with a practising office of a CPAB firm, to the extent that such information or records relate to the audit of reporting issuers or the quality controls of the CPAB firm or member

- (i) during an inspection, if disclosure is made for the purpose of cooperation or coordinating with an inspection by CPAB of the professional practice of the CPAB firm or member, including an inspection by CPAB of an office of the CPAB firm outside British Columbia, or
    - (ii) after the inspection;
  - (b) any portions of a final practice review report, including the determination and any recommendations of the Public Practice Committee under Bylaw 1005, with respect to a CPAB firm or a member practising at or in association with a practising office of a CPAB firm, to the extent that such determination and recommendations relate to the audit of reporting issuers or the quality controls of the CPAB firm or member;
  - (c) any opinion rendered by a referee or referees under Bylaw 1009 regarding a determination and recommendations referred to in paragraph (b), to the extent that such opinion relates to the audit of reporting issuers or the quality controls of the CPAB firm or member;
  - (d) information contained in a report made to the Investigation Committee under Bylaw 1006(1) with respect to a CPAB firm or a member practising at or in association with a practising office of a CPAB firm, to the extent that such information relates to the audit of reporting issuers or the quality controls of the CPAB firm or member.
- (6) A practice review officer of CPABC who conducts a practice inspection referred to in subsection (1)(b) is not an agent or representative of CPAB, and does not act for or on behalf of CPAB.

### **Disclosure to Training Office**

- 1008 In respect of a limited practice review referred to in Bylaw 1000(1)(b), the Public Practice Committee or, if authorized by the committee, a practice review officer may disclose any of the following to the organization referred to in Bylaw 1000(4):
- (a) the draft practice review report issued under Bylaw 1004(1);
  - (b) the final practice review report, including any determination and any recommendations of the Public Practice Committee, under Bylaw 1005.

### **Binding Opinions**

- 1009 (1) A request by a member or registered firm for a binding opinion under Bylaw 1005(5)(c) must be in the form required by the Registrar, and accompanied by
- (a) any applicable binding opinion fee required by the board,
  - (b) a detailed and comprehensive statement as to why the member or registered firm disagrees with the determination and recommendations of the Public Practice Committee, and
  - (c) the member's written agreement to be bound by and act in accordance with any opinion rendered.

- (2) Upon receipt of a request by a member or registered firm for a binding opinion under Bylaw 1005(5)(c), the Registrar must appoint one or more referees to conduct the binding opinion.
- (3) A referee appointed under subsection (2)
  - (a) must be a CPA member in good standing, and
  - (b) must be a member of the Disciplinary Committee, or have experience in the practice review program.
- (4) The referee or referees appointed to conduct a binding opinion
  - (a) must conduct the reference as expeditiously and informally as is reasonably practicable,
  - (b) must not conduct an investigation or a hearing,
  - (c) must request that the member or registered firm and the Public Practice Committee provide any written comments that they believe should be considered by the referee or referees, and
  - (d) must, at the request of the member or registered firm or a representative of the Public Practice Committee, meet separately with them to receive any comments they wish to provide orally.
- (5) After considering any written or oral comments of the member or registered firm and the Public Practice Committee under subsection (4)(c) and (d), the referee or referees must render an opinion as soon as practicable, without reasons or explanation,
  - (a) that the determination and recommendations of the Public Practice Committee are appropriate,
  - (b) that the referee or referees agree with the position of the member or registered firm with respect to the determination and recommendations of the Public Practice Committee, or
  - (c) that the determination and recommendations of the Public Practice Committee should be varied, in which case the referee or referees must state what determination and recommendations they consider appropriate.
- (6) The member or registered firm and the Public Practice Committee are bound by and must act in accordance with the opinion issued by the referee or referees under subsection (5), and the member or registered firm is deemed to have accepted and agreed to comply with any recommendations that the opinion states are appropriate.
- (7) The binding opinion fee paid by the member or registered firm under subsection (1)(a)
  - (a) must be refunded to the member or registered firm if the referee or referees render an opinion under subsection (5)(b), and
  - (b) may be refunded to the member or registered firm, at the discretion of the referee or referees, if the referee or referees render an opinion under subsection (5)(c).



## **Transition**

- 1010 The Practice Review Committee of CGA-BC, the Practice Review and Licensing Committee of ICABC or the Practice Review Committee of CMABC must follow the procedures that were established by the applicable legacy body before the transition date, so far as those procedures are consistent with the Act, in respect of any practice review that is referred back to one of those committee under section 80(2)(d) of the Act.

## PART 11 - INVESTIGATIONS

### Definitions

1100 In this Part:

**“assigned member”** means a CPA member designated under Bylaw 1103(3) or 1104(1) from among the members of the committee in respect of a complaint or report;

**“binding opinion panel”** means a panel of the Disciplinary Committee appointed to conduct a binding opinion under Bylaw 1110;

**“independent reviewer”** means an independent reviewer retained under Bylaw 1107(1) to conduct an independent review of a determination made by the Investigation Committee under Bylaw 1106(1)(a);

**“investigator”** means an investigator designated by the Registrar under Bylaw 1102(1);

**“public representative”** means a member of the Investigation Committee who is a public representative;

**“respondent”** means a member, former member, student, professional accounting corporation, former professional accounting corporation, registered firm or former registered firm subject to an investigation under section 51(3) of the Act.

### Mandate of Investigation Committee

- 1101 (1) The Investigation Committee is responsible for the conduct of investigations under section 51 of the Act with respect to complaints or other matters referred to the committee under Bylaw 1103(6).
- (2) The Investigation Committee may initiate an investigation under section 51 of the Act on its own motion, if the committee has reason to believe that grounds may exist for disciplinary action against a member, former member, student, professional accounting corporation, former professional accounting corporation, registered firm or former registered firm under section 53 of the Act.

### Investigators

- 1102 (1) The Registrar must designate CPA members in good standing or other persons with relevant expertise as investigators for the conduct of investigations under section 51 of the Act.
- (2) Subject to the provisions of this Part and any other limitations directed by the Investigation Committee, an investigator may undertake any aspect of an investigation under section 51 of the Act.

### Complaints

- 1103 (1) Any person may deliver a complaint, in writing, to the Registrar alleging one or more matters referred to in section 53(2) of the Act with respect to a member,

former member, student, professional accounting corporation, former professional accounting corporation, registered firm or former registered firm.

- (2) The Registrar may decline to accept a complaint if
  - (a) it is plain and obvious that the complaint does not allege any matter within the jurisdiction of the Investigation Committee, or
  - (b) section 53(3) of the Act applies to the complaint.
- (3) Unless the Registrar declines to accept a complaint under subsection (2), the Registrar must refer the complaint to a CPA member designated by the chair of the Investigation Committee from among the members of the committee for preliminary screening.
- (4) Subject to subsection (5), the assigned member may decline to accept the complaint if
  - (a) the complaint is trivial, frivolous, vexatious or made in bad faith, or constitutes an abuse of process,
  - (b) the complaint does not allege facts that, if proven, would constitute a matter referred to in section 53(2) of the Act, or
  - (c) it is the opinion of the assigned member that an investigation would not otherwise serve the public interest.
- (5) A decision by the assigned member under subsection (4) requires the approval of two public representatives.
- (6) Unless the Registrar declines to accept a complaint under subsection (2) or the assigned member declines to accept the complaint under subsection (4), the Registrar must refer the complaint to the Investigation Committee for investigation under section 51 of the Act.

### **Reports to Investigation Committee**

- 1104 (1) The Registrar must refer a report made to the Investigation Committee under Bylaw 408(2), 511(2), 603, 805(2), 908(2), 1006 or 1300(3) to a CPA member designated by the chair of the Investigation Committee from among the members of the committee for preliminary screening.
- (2) Bylaw 1103(4) to (6) apply to a report referred to in subsection (1) as if it were a complaint.

### **Termination of Investigation**

- 1105 (1) Subject to subsection (2), the assigned member may discontinue an investigation initiated under section 51 of the Act if it becomes apparent in the course of the investigation that the available evidence will not be capable of supporting any finding under section 53(2) of the Act with respect to the respondent.
- (2) A decision by the assigned member under subsection (1) requires the approval of two public representatives.

## Review by Investigation Committee

- 1106 (1) Subject to subsections (2) and (3), following the completion of an investigation, the Investigation Committee must make a determination that
- (a) no grounds exist for a disciplinary action against the respondent under section 53 of the Act, or
  - (b) grounds exist for a disciplinary action against the respondent with respect to one or more matters referred to in section 53(2) of the Act.
- (2) A determination by the Investigation Committee under subsection (1)(a) must be supported by at least two public representatives.
- (3) The Investigation Committee is deemed to have made a determination under subsection (1)(b) if
- (a) at least three public representatives are in attendance at a meeting of the committee, and
  - (b) fewer than two public representatives vote in favour of a determination under subsection (1)(a).
- (4) If the Investigation Committee makes a determination under subsection (1)(a), the committee must refer the determination to an independent reviewer for confirmation under Bylaw 1107.
- (5) Subject to subsection (6), if the Investigation Committee makes a determination under subsection (1)(b), it must, having regard to the seriousness of the matter, either
- (a) make a recommendation that the respondent do one or more of the following:
    - (i) accept a reprimand;
    - (ii) complete one or more courses of instruction specified by the committee;
    - (iii) pay a fine to CPABC not exceeding the applicable amount specified in section 53(4)(f) of the Act;
    - (iv) pay all or part of the expenses reasonably incurred by CPABC in respect of the investigation, including actual fees paid or payable to investigators, legal counsel or witnesses;
    - (v) take such corrective or remedial action as the committee considers appropriate; or
  - (b) issue a Statement of Complaint, stating the grounds for a disciplinary action against the respondent, including brief particulars of the respondent's conduct or practice or other facts alleged to constitute one or more matters referred to in section 53(2) of the Act.
- (6) A recommendation under subsection (5)(a) must be supported by at least two public representatives.

- (7) If the Investigation Committee makes a recommendation under subsection (5)(a), the committee must either
  - (a) request, as a condition of the recommendation, that the respondent agree to publication on CPABC's website of a notice concerning the committee's determination and recommendation, or such other publication or disclosure as the committee may consider to be in the public interest, or
  - (b) with the support of at least two public representatives, decline to make a request under paragraph (a).
- (8) The Investigation Committee must deliver its determination and any recommendation, including any request under subsection (7)(a), to the respondent.
- (9) Subject to subsection (10), within 30 days of delivery of the Investigation Committee's determination and recommendation to the respondent, the respondent must notify the committee that the respondent
  - (a) accepts the determination and recommendation, including any request under subsection (7)(a),
  - (b) declines to accept the determination and recommendation, or
  - (c) requests that the determination and recommendation be referred for binding opinion under Bylaw 1110.
- (10) The Investigation Committee may extend the time for the respondent to provide the notification required under subsection (9).
- (11) If the respondent accepts a determination and recommendation under subsection (9)(a), the respondent is bound by and must comply with the recommendation.
- (12) If the respondent
  - (a) fails to provide the notification required under subsection (9),
  - (b) declines to accept a determination and recommendation under subsection (9)(b), or
  - (c) fails to comply with a recommendation, after having accepted a determination and recommendation under subsection (9)(a),
 the Investigation Committee may issue a Statement of Complaint as described in subsection (5)(b).
- (13) If the Investigation Committee issues a Statement of Complaint under subsection (5)(b) or (12), the committee must deliver the Statement of Complaint to the respondent and to the chair of the Disciplinary Committee.

#### **Independent Review of No Grounds Determination**

- 1107 (1) The Registrar must retain one or more members of the Law Society of British Columbia to conduct independent reviews of determinations made by the Investigation Committee under Bylaw 1106(1)(a).

- (2) If a determination under Bylaw 1106(1)(a) is referred to an independent reviewer under Bylaw 1106(4), the independent reviewer must review any investigation report and any other materials that were considered by the Investigation Committee, to consider the reasonableness of the determination.
- (3) An independent review under this section is a review on the record.
- (4) On completion of a review under this section, the independent reviewer must
  - (a) confirm the determination under Bylaw 1106(1)(a), if the independent reviewer concludes that the determination was reasonable, or
  - (b) subject to subsection (5), send the matter back to the Investigation Committee for reconsideration, on the basis that the determination under Bylaw 1106(1)(a) was not reasonable.
- (5) The independent reviewer must give the respondent an opportunity to provide written submissions commenting on the reasonableness of the Investigation Committee's determination, and responding to any concerns identified by the independent reviewer, before making a decision under subsection (4)(b) to send a matter back to the Investigation Committee for reconsideration.
- (6) If the independent reviewer decides under subsection (4)(b) to send a matter back to the Investigation Committee for reconsideration,
  - (a) the independent reviewer will give reasons for their decision, and
  - (b) the Investigation Committee will reconsider the matter under Bylaw 1106, having regard to the reasons given by the independent reviewer.

## **Publication**

- 1108 (1) If a respondent accepts a request under Bylaw 1106(7)(a) as a condition of accepting a recommendation under Bylaw 1106(9)(a), the Registrar must publish a notice concerning the committee's determination and recommendation on CPABC's website or as otherwise specified in the request.
- (2) If a respondent accepts a determination and recommendation that are not conditional on a request under Bylaw 1106(7)(a), the Registrar must publish an anonymous summary of the determination and recommendation, that does not disclose the respondent's identity, on CPABC's website.
- (3) The board may make regulations requiring or authorizing the Registrar
  - (a) to publish a notice or category of notices required under subsection (1) or (2) on a section of CPABC's website
    - (i) that is publicly accessible, or
    - (ii) for which access is restricted to members, or
  - (b) to remove a notice or category of notices required under subsection (1) or (2) from the website after a specified period of time or after specified conditions are met.

## Requests for Binding Opinion

- 1109 (1) A request by a respondent for a binding opinion under Bylaw 1106(9)(c) must be in the form required by the Registrar, and accompanied by
- (a) any applicable binding opinion fee required by the board,
  - (b) a detailed and comprehensive statement as to why the respondent disagrees with the determination and recommendation of the Investigation Committee, and
  - (c) the respondent's written agreement
    - (i) to be bound by and act in accordance with any opinion rendered, and
    - (ii) that the opinion must not be challenged, reviewed or appealed.
- (2) The Investigation Committee may deny a request for a binding opinion on any reasonable ground.
- (3) If the Investigation Committee denies a request for a binding opinion under subsection (2),
- (a) the committee must notify the respondent,
  - (b) the binding opinion fee paid by the respondent under subsection (1)(a) must be refunded, and
  - (c) within 10 days of receiving the committee's notification under paragraph (a), the respondent must notify the committee that the respondent
    - (i) accepts the determination and recommendation, including any request under Bylaw 1106(7)(a), or
    - (ii) declines to accept the determination and recommendation.
- (4) If the respondent accepts the determination and recommendation under subsection (3)(c)(i), Bylaws 1106(11) and (12) and 1108 apply as if the respondent had accepted the determination and recommendation under Bylaw 1106(9)(a).
- (5) If the respondent
- (a) fails to provide the notification required under subsection (3)(c), or
  - (b) declines to accept the determination and recommendation under subsection (3)(c)(ii),
- Bylaw 1106(12) applies as if the respondent had failed to provide the notification required under Bylaw 1106(9) or declined to accept the determination and recommendation under Bylaw 1106(9)(b).
- (6) If the Investigation Committee grants a request to refer a determination and recommendation for a binding opinion, the committee must
- (a) notify the respondent, and

- (b) deliver the request to the chair of the Disciplinary Committee, accompanied by
  - (i) a copy of the investigation report and any other materials that were considered by the Investigation Committee, and
  - (ii) the Investigation Committee's determination and recommendation.

## **Binding Opinions**

- 1110 (1) On receipt of a request for a binding opinion under Bylaw 1109(6), the chair of the Disciplinary Committee must appoint a panel of the Disciplinary Committee to conduct the binding opinion.
- (2) The binding opinion panel
- (a) must conduct the reference as expeditiously and informally as reasonably practicable,
  - (b) must not conduct an investigation or a hearing,
  - (c) must fix a schedule for the exchange and delivery of written comments and information by the respondent and the Investigation Committee, and
  - (d) must, at the request of the respondent or a representative of the Investigation Committee, meet jointly or (with the agreement of the respondent and the Investigation Committee) separately with them to receive any comments they wish to provide orally.
- (3) The written comments and information of the respondent and the Investigation Committee under subsection (2)(c) may include
- (a) records of previous disciplinary decisions or determinations made by a committee of CPABC or a legacy body, or other relevant court or administrative decisions, and
  - (b) any reports, documents or information pertaining to the matter that the respondent or the Investigation Committee believe should be considered by the binding opinion panel.
- (4) After considering the materials delivered by the Investigation Committee under Bylaw 1109(6) and any additional written comments and information provided by the respondent and the Investigation Committee under subsection (2)(c) and (d), the binding opinion panel must render an opinion as soon as practicable, without reasons or explanation,
- (a) that the determination and recommendation of the Investigation Committee are appropriate,
  - (b) that the binding opinion panel agrees with the position of the respondent with respect to the determination and recommendation of the Investigation Committee,
  - (c) that the determination and recommendation of the Investigation Committee should be varied, in which case the binding opinion panel must state what determination and recommendation it considers appropriate,



- (d) that it is not appropriate to resolve the matter by binding opinion, having regard to the importance or nature of the issues involved, the extent of disagreement as to the facts, or for any other reason, or
  - (e) that the matter should be referred back to the Investigation Committee to reconsider its determination and recommendation, having regard to any new information provided to the binding opinion panel by the respondent that was not available to, or not considered by, the Investigation Committee at the time it made the determination and recommendation.
- (5) If the binding opinion panel renders an opinion under subsection (4)(a), (b) or (c),
  - (a) the respondent and the Investigation Committee are bound by and must act in accordance with the opinion,
  - (b) the opinion is final and binding, and must not be challenged, reviewed or appealed,
  - (c) the respondent is deemed to have accepted the determination and recommendation that the opinion states are appropriate, and
  - (d) Bylaws 1106(11) and (12) and 1108 apply as if the respondent had accepted the determination and recommendation under Bylaw 1106(9)(a).
- (6) If the binding opinion panel renders an opinion under subsection (4)(b) concluding that no grounds exist for a disciplinary action against the respondent under section 53 of the Act,
  - (a) the binding opinion fee paid by the respondent under Bylaw 1109(1)(a) must be refunded, and
  - (b) Bylaw 1107 does not apply.
- (7) If the binding opinion panel renders an opinion under subsection (4)(d), the respondent must, within 30 days of receiving notification of the opinion, notify the Investigation Committee that the respondent
  - (a) accepts the determination and recommendation originally made by the Investigation Committee, including any request under Bylaw 1106(7)(a), or
  - (b) declines to accept the determination and recommendation.
- (8) If the respondent accepts the determination and recommendation under subsection (7)(a), Bylaws 1106(11) and (12) and 1108 apply as if the respondent had accepted the determination and recommendation under Bylaw 1106(9)(a).
- (9) If the respondent
  - (a) fails to provide the notification required under subsection (7), or
  - (b) declines to accept the determination and recommendation under subsection (7)(b),Bylaw 1106(12) applies as if the respondent had failed to provide the notification required under Bylaw 1106(9) or declined to accept the determination and recommendation under Bylaw 1106(9)(b).

- (10) If the binding opinion panel renders an opinion under subsection (4)(e), the Investigation Committee will reconsider the matter under Bylaw 1106 having regard to the new information provided by the respondent.

### **Resolution by Agreement**

- 1111 (1) Despite any other provision in this Part, at any time before the respondent's acceptance of a determination and recommendation of the Investigation Committee or the issuance of a Statement of Complaint by the committee the respondent may give the board a written proposal to resolve some or all matters that are the subject of an investigation by agreeing to do one or more of the following:
- (a) accept a reprimand;
  - (b) complete one or more courses of instruction specified in the proposal;
  - (c) pay a fine to CPABC specified in the proposal, not exceeding the applicable amount specified in section 53(4)(f) of the Act;
  - (d) take corrective or remedial action specified in the proposal;
  - (e) comply with conditions specified in the proposal on the continuance of the membership or public practice licensure of the member, the enrollment of the student, the permit of the professional accounting corporation or the registration of the registered firm, as the case may be;
  - (f) voluntarily suspend, with or without conditions, the membership or public practice licensure of the member, the enrollment of the student, the permit of the professional accounting corporation or the registration of the registered firm, as the case may be;
  - (g) voluntarily relinquish the membership or public practice licensure of the member, the enrollment of the student, the permit of the professional accounting corporation or the registration of the registered firm, as the case may be;
  - (h) undertake not to apply for reinstatement of the respondent's membership, public practice licensure, enrollment as a student, professional accounting corporation permit, or registration as a firm, as the case may be, for a specified period of time or until specified conditions are met;
  - (i) pay costs to CPABC, based on the tariff prescribed under Bylaw 1208;
  - (j) consent to publication of a notice concerning the proposed resolution agreement on CPABC's website or as otherwise specified in the proposal.
- (2) The board may accept a proposal made under subsection (1) by entering into a resolution agreement with the respondent.
- (3) If the board enters into a resolution agreement with the respondent under subsection (2),
- (a) the respondent is bound by and must comply with the resolution agreement, and

- (b) the Investigation Committee must not issue a Statement of Complaint with respect to any matter resolved by the resolution agreement, unless the respondent fails to comply with the resolution agreement.
- (4) The board may delegate to the Investigation Committee the exercise of its powers and the performance of its duties in respect of a proposal under this section.

### **Transition**

1112 The Ethics Committee of CGA-BC, the Professional Conduct Enquiry Committee of ICABC or the Professional Conduct Enquiry Committee of CMABC must follow the procedures that were established by the applicable legacy body before the transition date, so far as those procedures are consistent with the Act, in respect of any investigation that is referred back to one of those committees under section 80(3)(d) of the Act.

## **PART 12 - DISCIPLINE**

### **Definitions**

1200 In this Part:

“**panel**” means a panel of the Disciplinary Committee appointed under Bylaw 1201 to conduct a hearing under section 53 of the Act;

“**respondent**” has the same meaning as in section 50(1) of the Act.

### **Appointment of Hearing Panel**

1201 On receipt of a Statement of Complaint issued by the Investigation Committee under Bylaw 1106(13), the chair of the Disciplinary Committee must appoint a panel of the Disciplinary Committee to conduct a hearing under section 53 of the Act.

### **Notice of Hearing**

- 1202 (1) A panel appointed under Bylaw 1201 must
- (a) fix the date, time and place for the hearing, and
  - (b) give at least ten days’ notice of the hearing to the respondent and such other persons as the panel sees fit.
- (2) The panel may, after providing notice of the hearing to the respondent but not more than 28 days before the date fixed to commence the hearing, direct the Registrar to publish a notice of the hearing on CPABC’s website.
- (3) A notice under subsection (2) may identify the respondent, but must not disclose the grounds or allegations on which the Statement of Complaint is based.

### **Amendment to Statement of Complaint**

- 1203 (1) Subject to subsection (2), the panel may, at any time, permit the Investigation Committee to amend the Statement of Complaint.
- (2) If the panel permits the Investigation Committee to amend the Statement of Complaint,
- (a) the Investigation Committee must promptly notify the respondent of the amendment, and
  - (b) the panel must grant a request by the respondent for an adjournment of the hearing, if fairness so requires.

### **Legal Counsel**

- 1204 (1) The Registrar may retain a member of the Law Society of British Columbia to prosecute the Statement of Complaint on behalf of CPABC at a hearing under section 53 of the Act.

- (2) The respondent may appear with legal counsel at a hearing under section 53 of the Act.
- (3) The panel may retain a member of the Law Society of British Columbia to act as independent legal counsel to the panel, who may conduct the proceedings of the panel and participate in its deliberations and the drafting of its decision, order and reasons but must not have a vote.

### **Resolution by Agreement**

- 1205 (1) At any time before the conclusion of a hearing under section 53 of the Act, the respondent may give the board a written proposal to resolve some or all matters that are the subject of a Statement of Complaint by agreeing to do one or more of the following:
- (a) accept a reprimand;
  - (b) complete one or more courses of instruction specified in the proposal;
  - (c) pay a fine to CPABC specified in the proposal, not exceeding the applicable amount specified in section 53(4)(f) of the Act;
  - (d) take corrective or remedial action specified in the proposal;
  - (e) comply with conditions specified in the proposal on the continuance of the membership or public practice licensure of the member, the enrollment of the student, the permit of the professional accounting corporation or the registration of the registered firm, as the case may be;
  - (f) voluntarily suspend, with or without conditions, the membership or public practice licensure of the member, the enrollment of the student, the permit of the professional accounting corporation or the registration of the registered firm, as the case may be;
  - (g) voluntarily relinquish the membership or public practice licensure of the member, the enrollment of the student, the permit of the professional accounting corporation or the registration of the registered firm, as the case may be;
  - (h) undertake not to apply for reinstatement of the respondent's membership, public practice licensure, enrollment as a student, professional accounting corporation permit, or registration as a firm, as the case may be, for a specified period of time or until specified conditions are met;
  - (i) pay costs to CPABC, based on the tariff prescribed under Bylaw 1208;
  - (j) consent to publication of a notice concerning the proposed resolution agreement on CPABC's website or as otherwise specified in the proposal.
- (2) The board may accept a proposal made under subsection (1) by entering into a resolution agreement with the respondent.
  - (3) If the board enters into a resolution agreement with the respondent under subsection (2),
    - (a) the respondent is bound by and must comply with the resolution agreement, and

- (b) the panel must not proceed or continue with a hearing with respect to any matter resolved by the resolution agreement, unless the respondent fails to comply with the resolution agreement.
- (4) The board may delegate to the Investigation Committee the exercise of its powers and the performance of its duties in respect of a proposal under this section.

## **Hearing**

- 1206 (1) A hearing under section 53 of the Act must be in public unless the panel, at the request of the respondent, CPABC or a witness or on its own motion, determines that it is in the interests of justice
- (a) to hold all or any part of the hearing in private, or
  - (b) to exclude any person from attending the hearing
- to avoid unwarranted disclosure of confidential information or for any other reason.
- (2) At a hearing under section 53 of the Act,
- (a) the testimony of witnesses must be taken on oath or affirmation, which may be administered by any member of the panel, and
  - (b) CPABC and the respondent have the right to cross-examine witnesses and to call evidence in reply.
- (3) The panel is not bound by the legal rules of evidence and may allow the introduction of any information or evidence it considers relevant to the matter before it and appropriate in the circumstances.
- (4) The panel may grant an adjournment of the hearing or make any other direction it considers appropriate if it is satisfied that this is necessary to ensure that the legitimate interests of the respondent or CPABC will not be unduly prejudiced.
- (5) If the respondent does not attend, the panel may
- (a) proceed with the hearing in the respondent's absence on proof of delivery of notice of the hearing to the respondent, and
  - (b) without further notice to the respondent, take any action that it is authorized to take under section 53 of the Act.
- (6) The panel must cause the hearing to be recorded, and the respondent is entitled to obtain, at their own expense, a transcript of the hearing.
- (7) Subject to the Act and bylaws, the panel may adopt additional procedures for the conduct of the hearing.

## **Notice of Decision and Order**

- 1207 (1) After a hearing, the panel must give reasons for
- (a) its decision under section 53(2) of the Act, and
  - (b) any order made by the panel under section 53(4) of the Act.

- (2) The panel must deliver its decision, order and reasons to
  - (a) the board,
  - (b) the respondent,
  - (c) the chair of the Investigation Committee,
  - (d) the chair of the Public Practice Committee, if
    - (i) the hearing involved any matter that was the subject of a report by the Public Practice Committee under Bylaw 1006, or
    - (ii) the decision or order affect the ability of the respondent to engage in public practice,
  - (e) every provincial CPA body and provincial legacy body, and
  - (f) CPAB, if the respondent is a CPAB firm or a member practising at or in association with a CPAB firm.
- (3) Subject to any directions given by the panel, the Registrar
  - (a) must publish a notice of the panel's decision and order on CPABC's website or as otherwise specified by the panel, and
  - (b) may provide a copy of the decision, order and reasons, or a summary thereof, to any person upon request.

### **Tariff of Costs**

1208 The board may make regulations prescribing a tariff of costs under section 24 of the Act.

### **Transition**

1209 A panel of the Discipline Committee of CGA-BC, the Discipline Tribunal of ICABC or the Discipline Tribunal of CMABC must follow the procedures that were established by the applicable legacy body before the transition date, so far as those procedures are consistent with the Act, in respect of any inquiry that is continued under section 81(2)(b) as a hearing under the Act.

## **PART 13 - GENERAL**

### **Rules of Professional Conduct**

- 1300 (1) The board must make bylaws establishing standards of professional conduct for members, students, professional accounting corporations and registered firms, which are designated as the Rules of Professional Conduct.
- (2) Every member, student, professional accounting corporation and registered firm must comply with the standards of professional conduct established in the Rules of Professional Conduct.
- (3) The Registrar may make a report to the Investigation Committee regarding
- (a) information received in a report by a member, student, professional accounting corporation or registered firm under Rule 101.2 or 102,
  - (b) information received in a report about a member, student, professional accounting corporation or registered firm under Rule 211, or
  - (c) other information received by CPABC concerning any act or omission of a member, student, professional accounting corporation or registered firm that may contravene the Rules of Professional Conduct
- if it appears to the Registrar that an investigation is warranted to determine whether grounds exist for disciplinary action against the member, student, professional accounting corporation or registered firm.

### **Professional Liability Insurance**

- 1301 (1) The board may make regulations
- (a) requiring
    - (i) members who hold a public practice licence, and
    - (ii) registered firmsto carry a minimum level of professional liability insurance coverage in a form that is satisfactory to CPABC, and
  - (b) exempting members or registered firms that satisfy specified conditions from the requirements prescribed under paragraph (a).
- (2) The Public Practice Committee or, if authorized by the Public Practice Committee, the Registrar may exempt a category of members or registered firms or, on application by a member or registered firm, a particular member or registered firm, from the requirements prescribed under subsection (1)(a).

### **Non-Payment of Fees**

- 1302 (1) If a member, student, professional accounting corporation or registered firm fails to pay any fee, dues or assessment required by the board under section 38(a) or (b) of the Act by the date such payment is due to CPABC under section 38(c) of the Act, the Registrar may deliver a notice to the member, student, professional accounting corporation or registered firm requiring the member, student



professional accounting corporation or registered firm to pay the fee, dues or assessment, and any additional administrative fee prescribed by the board, within 30 days or by a later date specified in the notice.

- (2) If the member, student, professional accounting corporation or registered firm fails to pay any amounts required under subsection (1) when due, the Registrar may, after giving the member, student, professional accounting corporation or registered firm an opportunity to make written submissions, suspend or cancel the membership or public practice licensure of the member, the enrollment of the student, the permit of the professional accounting corporation, or the registration of the registered firm.
- (3) The Registrar may extend the time for a member, student, professional accounting corporation or registered firm to pay any amounts required under subsection (1).

### **Delivery**

- 1303 (1) A requirement in these bylaws to deliver a notice or communication to a member, student, professional accounting corporation or registered firm may be satisfied
- (a) by personally delivering the notice or communication to
    - (i) the member or student, or
    - (ii) a member holding a proprietary interest in the professional accounting corporation or registered firm,
  - (b) by mailing the notice or communication to the most recent mailing address provided by the member, student, professional accounting corporation or registered firm under Bylaw 407, 508, 804 or 906, or
  - (c) by transmitting the notice or communication to the most recent e-mail address provided by the member, student, professional accounting corporation or registered firm under Bylaw 407, 508, 804 or 906.
- (2) Delivery of a notice or communication in accordance with subsection (1) is deemed to be effected
- (a) if personally delivered, on the day of delivery,
  - (b) if mailed, on the third day after the date of mailing, excluding weekends and holidays, or
  - (c) if transmitted by e-mail, on the day of transmission.

### **Seal**

- 1304 (1) A seal for CPABC must be approved by the board.
- (2) The seal of CPABC must be affixed, by those persons designated by the board, to such documents as may be directed by resolution of the board or by resolution approved at a general meeting.

## Administration of *FOIPPA*

- 1305 (1) The Registrar is the “head” of CPABC for the purposes of *FOIPPA*.
- (2) The Registrar may authorize another officer, employee or agent of CPABC to exercise any power or perform any duty of the Registrar under *FOIPPA*.
- (3) Subject to section 75 of *FOIPPA*, an applicant who requests access to a CPABC record under section 5 of *FOIPPA* must pay the applicable fees set out in Schedule 1 of the *Freedom of Information and Protection of Privacy Regulation*, B.C. Reg. 155/2012.

## Notification and Disclosure

- 1306 (1) Subject to any limitations specified by the board, the Registrar may notify all members, provincial CPA bodies and provincial legacy bodies, other governing bodies, or the public, in such manner as the Registrar sees fit, of
- (a) the suspension or cancellation of the membership or public practice licensure of a member, the enrollment of a student, the permit of a professional accounting corporation, the registration of a registered firm or the authorization of an authorized practising office of a registered firm, or
- (b) the imposition of a restriction on the right of a member or registered firm to engage in public practice.
- (2) Subject to any limitations specified by the board, the Registrar may disclose to a provincial CPA body, a provincial legacy body or an other governing body
- (a) facts, information or records relating to a matter referred to in subsection (1)(a) or (b),
- (b) facts, information or records pertaining to an ongoing or completed investigation under Part 11 or a hearing under section 53 of the Act, or
- (c) other facts, information or records obtained or provided under the Act or these bylaws, or under the former CA Act, the former CGA Act or the former CMA Act or the former bylaws thereunder
- for a purpose authorized under section 33.1(1)(l) of *FOIPPA*.
- (3) The Registrar must notify CPAB of
- (a) the suspension or cancellation of
- (i) the membership or public practice licensure of a member practising at or in association with a CPAB firm, or
- (ii) the registration of a CPAB firm or the authorization of an authorized practising office of a CPAB firm, or
- (b) the imposition of a restriction on the right of a CPAB firm or a member practising at or in association with a CPAB firm to engage in public practice.
- (4) Subject to any limitations specified by the board, the Registrar may disclose to CPAB facts, information or records relating to a matter referred to in subsection (3),

or otherwise pertaining to an ongoing or completed investigation under Part 11 or a hearing under section 53 of the Act, in respect of a CPAB firm or a member practising at or in association with a CPAB firm.

- (5) Subject to any limitations specified by the board, the Registrar may disclose to the Canadian Association for Insolvency and Restructuring Professionals any facts, information or records pertaining to an ongoing or completed investigation under Part 11 or a hearing under section 53 of the Act in respect of a member or former member who is also a member of that Association.
- (6) Despite any other provision in these bylaws, the board may authorize the Registrar to disclose to a specified recipient, or to the public, specified facts, information or records obtained or provided under the Act or these bylaws, or under the former CA Act, the former CGA Act or the former CMA Act or the former bylaws thereunder, if the board is satisfied that such disclosure is
  - (a) in the public interest, and
  - (b) not contrary to *FOIPPA*.

#### **Inquiries about Membership, Licensure or Registration Status**

- 1307 (1) The Registrar may disclose the following information in response to an inquiry by any person about an individual's membership or licensure status:
- (a) whether the individual is a current or former member;
  - (b) whether the individual is a current or former legacy CGA member, legacy CA member or legacy CMA member;
  - (c) if the individual is a current or former member,
    - (i) the individual's class of membership,
    - (ii) the date of the individual's initial admission as a member of CPABC or a legacy body, and
    - (iii) if applicable, the dates of every cancellation, suspension and reinstatement of the individual's membership in CPABC or a legacy body;
  - (d) whether the individual currently or formerly held a public practice licence;
  - (e) if the individual currently or formerly held a public practice licence,
    - (i) the category of the individual's practice licence,
    - (ii) the date of the initial issuance of a public practice licence to the member, and
    - (iii) if applicable, the dates of every cancellation, suspension, reinstatement, and change in category of the individual's public practice licence;
  - (f) if the individual is a current member, any business contact information provided by the member to the Registrar, including
    - (i) the current business or employment address provided by the member under Bylaw 508(1)(b),

- (ii) any current business mailing address and business e-mail address provided by the member under Bylaw 508(1)(c),
  - (iii) if the individual holds a public practice licence, the current street address provided by the member under Bylaw 707(2) for every authorized practising office or other office in British Columbia at or in association with which the member is engaged in public practice, and
  - (iv) any other “contact information” provided by the member as defined under *FOIPPA*.
- (2) The Registrar may disclose the following information in response to an inquiry by any person about the status of the permit of a corporation:
  - (a) whether the corporation is a current or former professional accounting corporation;
  - (b) if the corporation is a current or former professional accounting corporation,
    - (i) the date of the initial issuance of a permit to the corporation, and
    - (ii) if applicable, the dates of every cancellation, suspension and reinstatement of the permit of the corporation;
  - (c) if the corporation is a current professional accounting corporation, the current mailing address and current e-mail address provided by the corporation under Bylaw 804(1).
- (3) The Registrar may disclose the following information in response to an inquiry by any person about a firm’s registration status:
  - (a) whether the firm is a current or former registered firm;
  - (b) whether an office of the firm is a current or former authorized practising office;
  - (c) if the firm is a current or former registered firm,
    - (i) the date of the initial issuance of registration to the firm, and
    - (ii) if applicable, the dates of every cancellation, suspension and reinstatement of the registration of the firm;
  - (d) if an office of the firm is a current or former authorized practising office
    - (i) the date of the initial issuance of authorization to the office, and
    - (ii) if applicable, the dates of every cancellation, suspension and reinstatement of the authorization of the office;
  - (e) if the firm is a current registered firm,
    - (i) the current mailing address and current e-mail address provided by the firm under Bylaw 906(1)(a), and
    - (ii) the current street address provided by the firm under Bylaw 906(1)(b) for every current authorized practising office of the firm.

- (4) The Registrar may make some or all of the information described in subsections (1) to (3) available to the public by publishing it in a directory on CPABC's website.
- (5) The Registrar may refuse to disclose information described in this section for the reasons described in section 49(2)(a) or (b) of the Act.

## **Appendix D**

*Chartered Professional Accountants of BC Bylaw Regulations – October 2020*

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**BYLAW REGULATIONS OF THE ORGANIZATION OF  
CHARTERED PROFESSIONAL ACCOUNTANTS OF BRITISH COLUMBIA**

**PART 2 - CPABC BOARD, GENERAL MEETINGS AND OFFICERS**

**Number of Elected Board Members**

- 200/1      Subject to Bylaw 202.1,
- (a)      the number of elected board member positions under section 4(1)(a) of the Act is 15, and
  - (b)      the number of elected board members to be elected for three-year terms of office at each annual general meeting is 5.

**Electoral Regions**

- 200/2      (1)      The following electoral regions are established for the purpose of the election of elected board members:
- (a)      Vancouver Island, consisting of the counties of Victoria and Nanaimo;
  - (b)      Lower Mainland, consisting of the counties of Vancouver and Westminister;
  - (c)      Interior, consisting of the county of Kootenay and those portions of the counties of Yale and Cariboo that are south of the 51<sup>st</sup> parallel;
  - (d)      North, consisting of the county of Prince Rupert and those portions of the counties of Yale and Cariboo that are north of the 51<sup>st</sup> parallel.
- (2)      The minimum number of elected board members to be elected from each electoral region, excluding an elected board member whose term of office is extended under Bylaw 202.1, is as follows:
- (a)      Vancouver Island - 1;
  - (b)      Lower Mainland - 1;
  - (c)      Interior - 1;
  - (d)      North - 1.

**Term Limit**

- 201/1      (1)      An elected board member who is elected to two consecutive three-year terms of office is not eligible for re-election for a third immediately consecutive term of office, unless they have has been elected by the board under section 6(1)(a) of the Act to serve as the board chair or a board vice chair.
- (2)      A member of the interim board who is appointed under section 73(4)(a) of the Act is eligible for election for one three-year term of office immediately following the member's term as an interim board member, and is not eligible for election to a second immediately consecutive term of office unless they have been

elected by the board under section 6(1)(a) of the Act to serve as the board chair or a board vice chair.

### **Ceasing to Hold Office**

- 202/1 An elected board member ceases to hold office on
- (a) becoming bankrupt, making an assignment in bankruptcy, or otherwise being declared bankrupt,
  - (b) being declared by a judge under the *Patients Property Act* to be incapable of managing their affairs or incapable of managing themselves, or
  - (c) issuance of a certificate of incapability in respect of the elected board member under the *Adult Guardianship Act*.

### **Nomination of Candidates**

- 204/1 The nomination of a candidate for election as an elected board member is valid only if
- (a) it is in writing, signed by at least two CPA members in good standing,
  - (b) the candidate is eligible for election under Bylaw 201, and consents in writing to the nomination, and
  - (c) the nomination and consent are received by CPABC within the time required under Bylaw 203(2).

### **Election Ballots**

- 204/2
- (1) Elected board members must be elected by ballots, whether the members voting are present in person or by proxy at, or absent from, the annual general meeting.
  - (2) The ballots for an election of elected board members must be in a form approved by the board, and must
    - (a) list the names of the candidates,
    - (b) identify the electoral region declared by each candidate under Bylaw 201(1)(b),
    - (c) state the number of elected board members to be elected at the annual general meeting under Bylaw 200(2), and the minimum number to be elected from any electoral region to bring the total number of elected board members from that region up to the minimum required under Regulation 200/2(2), and
    - (d) include instructions for completing the ballot and delivering it to CPABC, including electronic delivery if authorized by the board.

### **Voting Procedures**

- 204/3
- (1) Every CPA member who is eligible to vote under Bylaw 204 may vote for
    - (a) any candidate, regardless of electoral region, and

- (b) any number of candidates, up to the total number to be elected under Bylaw 200(2).
- (2) Ballots must be received by the Secretary, or delivered to CPABC electronically if and as authorized by the board, before 5:00 p.m. on the fifth business day before the annual general meeting.
- (3) In each annual election, elected board members must be elected as follows:
  - (a) first, if it is necessary to elect one or more candidates from an electoral region to bring the total number of elected board members from the region up to the minimum number specified in Regulation 200/2(2), then the candidate or candidates from the region who received the most votes must be elected for three-year terms of office under Bylaw 200(2)(a), to bring the total number of elected board members for the region up to the required minimum;
  - (b) second, subject to subsection (5), the remaining candidates with the most votes, from any electoral region, must be elected to any remaining positions to be filled
    - (i) first, for any remaining three-year terms of office to be filled under Bylaw 200(2)(a),
    - (ii) second, to fill any vacant position with two years remaining under Bylaw 200(2)(b), and
    - (iii) third, to fill any vacant position with one year remaining under Bylaw 200(2)(b).
- (4) If more than one candidate receives the same number of votes, the Registrar must select the successful candidate by random draw.
- (5) If not enough candidates are nominated from an electoral region to bring the total number of elected board members from the region up to the minimum number specified in Regulation 200/2(2), the other members of the board must, after the election, appoint a member who is eligible for election from that region to fill any resulting vacancy.
- (6) An elected board member appointed under subsection (5) is deemed to be elected for a three-year term of office under Bylaw 200(2)(a).

### **Chair of General Meetings**

- 207/1 (1) The board chair must preside as chair at all general meetings.
- (2) In the absence of the board chair, a board vice chair must preside as chair at a general meeting, and, in the absence of the board chair and board vice chairs, a CPA member in good standing must be elected to chair the meeting by majority vote of the CPA members attending the general meeting in person and entitled to vote.

## **Adjournment of General Meetings**

- 207/2 A general meeting may be adjourned by majority vote of the CPA members attending the general meeting in person and entitled to vote.

## **General Meeting Materials**

- 207/3 The President or Secretary may make any or all of the items referred to in Bylaw 203(4) or 206(3) available to members electronically on CPABC's website, by notifying members and specifying other information required for members to access those items in the notice of meeting under Bylaw 203(3) or 206(2).

## **Proxies**

- 207/4 (1) An appointment of proxy must be in a form approved by the board, and must be
- (a) signed by the member and received by the Secretary before 5:00 p.m. on the fifth business day before the general meeting,
  - (b) delivered to CPABC electronically, if and as authorized by the board, before 5:00 p.m. on the fifth business day before the meeting, or
  - (c) signed by the member and personally delivered to the chair of the meeting before the commencement of the meeting.
- (2) An appointment of proxy may only be revoked
- (a) by notice in writing signed by the member and received by the Secretary before 5:00 p.m. on the fifth business day before the general meeting,
  - (b) delivered to CPABC electronically, if and as authorized by the board, before 5:00 p.m. on the fifth business day before the meeting, or
  - (c) by notice in writing signed by the member and personally delivered to the chair of the meeting before the commencement of the meeting.

## **Electronic Voting**

- 207/5 (1) A member may vote electronically on a matter referred to in Bylaw 207(2)(c), by registering that vote electronically on CPABC's website, in a manner and form approved by the board, before 5:00 p.m. on the fifth business day before the general meeting.
- (2) A vote registered by a member electronically under subsection (1) may only be revoked
- (a) by notice in writing signed by the member and received by the Secretary before 5:00 p.m. on the fifth business day before the general meeting,
  - (b) by registering the revocation electronically on CPABC's website, in a manner and form approved by the board, before 5:00 p.m. on the fifth business day before the meeting, or

- (c) by notice in writing signed by the member and personally delivered to the chair of the meeting before the commencement of the meeting.

### **Special Vote**

- 208/1 (1) Every matter that is put to a special vote must be decided by a majority of votes cast.
- (2) Voting in a special vote may be conducted by any means approved by the board, which may include voting by mail or electronically.

### **Chair of Board Meetings**

- 209/1 (1) The board chair
  - (a) must convene at least four meetings of the board in each fiscal year, and
  - (b) must preside as chair at all board meetings.
- (2) If the board chair is absent or unable to act, a board vice chair may exercise the powers and must perform the duties of the board chair.

### **Quorum**

- 209/2 Quorum for the transaction of business at a meeting of the board is a majority of the board.

### **Board Meeting Procedures**

- 209/3 (1) The board may meet and conduct business in person, or by video, telephone conference, web casting, or an equivalent medium.
- (2) The board may meet in the absence of the public, or it may exclude any person who is not a board member from a meeting or any part of a meeting,
  - (a) for the purpose of considering or discussing any matter of a confidential or privileged nature,
  - (b) for the purpose of protecting the privacy of any individual whose personal information is being considered or discussed, or
  - (c) for any other reason that the board considers necessary or appropriate.
- (3) Every board member is entitled to cast one vote on each matter put to a vote at a meeting of the board, and, in the case of a tie, the chair of the meeting shall have a second or casting vote.
- (4) The board may approve a system of rules or procedures for meetings to supplement the rules and procedures established under the Act, the bylaws and these regulations.

## **Resolutions in Writing**

- 209/4
- (1) A resolution approved by a majority of all board members in writing, including by mail, facsimile or e-mail, is valid and binding and of the same effect as if such resolution had been duly passed at a meeting of the board.
  - (2) A resolution approved under subsection (1) must be verified and made a part of the minutes of the next meeting of the board.

## **PART 3 - COMMITTEES**

### **Committee Chairs and Vice Chairs**

- 308/1
- (1) Except as otherwise provided in the bylaws or the regulations, the board
    - (a) must appoint the chair, or co-chairs, of each committee, and
    - (b) may appoint one or more vice chairs of the committee.
  - (2) Unless the context otherwise requires, a reference in this Part to the chair of a committee includes a co-chair of the committee.
  - (3) If the chair of a committee is absent or unable to act, a vice chair of the committee may exercise the powers and must perform the duties of the chair of the committee.
  - (4) If the chair and any vice chairs are absent or unable to act, an acting chair may be designated by the committee from among the committee members present, who may exercise the powers and must perform the duties of the chair of the committee.

### **Investigation Committee Panels**

- 308/2
- (1) Subject to subsection (2), the Investigation Committee may meet in panels consisting of at least three CPA members and at least two public representatives appointed by the chair of the committee.
  - (2) The majority of the members of a panel appointed under subsection (1) must be CPA members.
  - (3) The chair of the Investigation Committee must designate the chair of a panel appointed under subsection (1), and may designate a vice chair of the panel.

### **Disciplinary Committee Panels**

- 308/3
- (1) For the purpose of conducting hearings under section 53 of the Act, the Disciplinary Committee must meet in panels appointed by the chair of the committee, consisting of
    - (a) two CPA members and one public representative, or
    - (b) four CPA members and one public representative.
  - (2) For the purpose of conducting binding opinions under Bylaw 1110, the Disciplinary Committee must meet in panels appointed by the chair of the committee under Bylaw 1110(1) consisting of two CPA members and one public representative.
  - (3) The chair of the Disciplinary Committee must designate the chair of a panel appointed under subsection (1) or (2), and may designate a vice chair of the panel.



- (4) The chair of the Disciplinary Committee may appoint a CPA member as an alternate to a panel appointed under subsection (1), who must attend all meetings of the panel, but must not vote except as provided in subsection (5).
- (5) Subject to subsection (6), if a CPA member of a panel of the Disciplinary Committee withdraws from or becomes unable to continue to act as a member of the panel, the alternate must replace that CPA member as a member of the panel.
- (6) The alternate to a panel of the committee must cease to act as alternate, and ceases to be eligible to replace a CPA member as a member of the panel under subsection (5), if the alternate fails to attend a meeting of the panel.

### **Quorum**

- 308/4
- (1) Quorum for the transaction of business at a meeting of the Executive Committee is a majority of the committee.
  - (2) Quorum for the transaction of business at a meeting of the Membership Committee is three members of the committee.
  - (3) Quorum for the transaction of business at a meeting of the Public Practice Committee is five members of the committee.
  - (4) Quorum for the transaction of business at a meeting of the Investigation Committee or a panel of the Investigation Committee is five members of the committee or panel, which must include at least two public representatives.
  - (5) Quorum for the transaction of business at a meeting of a panel of the Disciplinary Committee is the entire panel.
  - (6) Quorum for the transaction of business at a meeting of the full Disciplinary Committee is five members of the committee, which must include at least one public representative.

### **Committee Procedures**

- 308/5
- (1) Meetings of a committee or panel must be convened by the chair of the committee or panel or, upon notice, by the President or the Secretary.
  - (2) A committee or panel may meet and conduct business in person, or by video, telephone conference, web casting, or an equivalent medium.
  - (3) A committee or panel may meet in the absence of the public, or it may exclude any person who is not a member of the committee or panel from a meeting or any part of a meeting,
    - (a) for the purpose of considering or discussing any matter of a confidential or privileged nature,
    - (b) for the purpose of protecting the privacy of any individual whose personal information is being considered or discussed, or

- (c) for any other reason that the committee or panel considers necessary or appropriate.
- (4) Except as otherwise provided in the bylaws or regulations, every committee or panel member is entitled to cast one vote on each matter put to a vote at a meeting of the committee or panel, and, in the case of a tie, the chair of the meeting shall have a second or casting vote.
- (5) A committee may approve a system of rules or procedures for its meetings, or meetings of panels of the committee, to supplement the rules and procedures established under the Act, the bylaws and these regulations.

### **Resolutions in Writing**

- 308/6
- (1) A resolution approved by a majority of all members of a committee or panel in writing, including by mail, facsimile or e-mail, is valid and binding and of the same effect as if such resolution had been duly passed at a meeting of the committee or panel.
  - (2) A resolution approved under subsection (1) must be verified and made a part of the minutes of the next meeting of the committee or panel.

## **PART 4 - STUDENTS**

### **Referral of Enrollment Applications to Membership Committee**

- 400/1 The Registrar must refer an application for enrollment as a student to the Membership Committee for the committee's review and determination of whether the applicant meets the good character requirement under Bylaw 400(3)(b) if
- (a) the applicant is a former student applying for re-enrollment whose previous enrollment was cancelled under section 53(4)(c) of the Act,
  - (b) a finding or determination has otherwise previously been made by a committee of CPABC, a legacy body, provincial CPA body or a provincial legacy body that the applicant was incompetent or unfit to practise, committed professional misconduct, or contravened the Act, bylaws or Rules of Professional Conduct or corresponding legislation, bylaws or rules, or
  - (c) the applicant has been convicted of a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction.

### **CPA Western School of Business**

- 401/1
- (1) Delivery of the CPA PEP program, including the training of students, the conduct and delivery of examinations, the establishment and collection of fees, dues and assessments payable by applicants for enrollment as a student and by students, and the exercise of any other functions of the board under section 30 and 32 of the Act in respect thereof, is delegated to the CPA Western School of Business in accordance with arrangements made between CPABC and the CPA Western School of Business under section 31(2) of the Act.
  - (2) Subject to subsection (3), the CPA Western School of Business is authorized to exercise the authority of the Registrar under Bylaw 400 with respect to the processing of applications for enrollment of students in the CPA PEP program.
  - (3) If there is any reason to question whether an applicant for enrollment as a student meets the good character requirement under Bylaw 400(3)(b), in accordance with any criteria or guidelines established by CPABC, the CPA Western School of Business must refer the application to CPABC for the Registrar or Membership Committee to review and determine whether the applicant meets the good character requirement in accordance with Bylaw 400(3)(b) and (3.1).

### **Limitations on Registrar's Authority**

- 403/1
- (1) The Registrar must not exercise the authority of the Public Practice Committee to pre-approve an office for the education and training of students if any of the conditions specified in Bylaw 403(4) or (6) apply.
  - (2) The Registrar must refer any application described in subsection (1), and may refer any other application for pre-approval or renewal of pre-approval of an office for the education and training of students, to the Public Practice Committee for its review.

## PART 5 - MEMBERSHIP

### Limitations on Registrar's Authority

- 500/1
- (1) Subject to subsection (3), the Registrar must not exercise the authority of the Membership Committee to admit a person to membership in CPABC if
    - (a) the applicant is a former member applying for readmission, other than an applicant who is currently a member in good standing of a provincial CPA body or a provincial legacy body,
    - (b) the applicant's application is under Bylaw 501(4) or (6),
    - (c) the applicant is a student who was re-enrolled as a student after the student's enrolment was cancelled
      - (i) under section 53(4)(c) of the Act, or
      - (ii) under Bylaw 406,
    - (d) a finding or determination has otherwise previously been made by a committee of CPABC, a legacy body, a provincial CPA body or a provincial legacy body that the applicant was incompetent or unfit to practise, committed professional misconduct, engaged in conduct unbecoming a member, or contravened the Act, bylaws or Rules of Professional Conduct or corresponding legislation, bylaws or rules, or
    - (e) the applicant has been convicted of a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction.
  - (2) Subject to subsection (3), the Registrar must refer any application described in subsection (1), and may refer any other application for admission as a member, to the Membership Committee for its review.
  - (3) The Registrar is not required to refer an application described in subsection (1)(c)(i), (d) or (e) to the Membership Committee for its review under subsection (2), and may exercise the authority of the Membership Committee to admit the applicant as a CPA member, if
    - (a) the applicant is currently enrolled as a student and applying for admission as a CPA member under Bylaw 501(1),
    - (b) the Membership Committee previously
      - (i) determined that the applicant met the good character requirement under Bylaw 400(3)(b)(ii), or
      - (ii) made a preliminary determination that the applicant would meet the good character requirement under section 35(1)(b) and Bylaw 500(3)(a) upon application for admission to membership, based on the information available to the Membership Committee at the time of that preliminary determination,
    - (c) the Registrar is satisfied that there is no additional information the Membership Committee did not consider when it made the determination or preliminary determination referred to in paragraph (b)(i) or (ii) that gives rise to any reason to question whether the

- applicant currently meets the good character requirement under section 35(1)(b) of the Act and Bylaw 500(3)(a), and
- (d) the Registrar is satisfied that the applicant meets all other applicable requirements for admission as a CPA member under Bylaw 501(1).

**Application Deadline for Applicants from International CPA Education Programs to be Eligible for Exemption from Bylaw 500(3)(a)(ii)**

- 500/2 To be eligible under Bylaw 500(3.1) for an exemption from the requirement in Bylaw 500(3)(a)(ii) for applicants to provide satisfactory evidence that they are a Canadian citizen, a permanent resident of Canada, or otherwise lawfully permitted to work in Canada, an applicant's application for admission as a CPA member under Bylaw 501(2) must be received by the Registrar on or before September 30, 2028.

**CPA Membership**

- 501/1 In addition to the requirements in section 35(1)(a) to (c) of the Act and section 501(1)(a) to (c) of the bylaws, an applicant under section 35(1) of the Act must successfully complete professional development coursework required by the board before being admitted as a CPA member.

**Deadlines for Legacy Applicants**

- 501/2
- (1) An applicant applying for admission as a CPA member under Bylaw 501(3) on the basis of successful completion of a legacy CGA education program
    - (a) must successfully complete all applicable program, examination and evaluation requirements on or before December 31, 2015,
    - (b) must successfully complete the practical experience requirement
      - (i) on or before August 31, 2018, or
      - (ii) if the applicant completes the practical experience requirements required by the board for applicants under Bylaw 501(1), on or before June 30, 2020, and
    - (c) must successfully complete CGA-BC's degree requirement on or before December 31, 2020.
  - (2) An applicant applying for admission as a CPA member under Bylaw 501(3) on the basis of successful completion of a legacy CA education program
    - (a) must successfully complete all applicable program, examination and evaluation requirements on or before August 31, 2015, and
    - (b) must successfully complete the practical experience requirement
      - (i) on or before August 31, 2018, or
      - (ii) if the applicant completes the practical experience requirements required by the board for applicants under Bylaw 501(1), on or before June 30, 2020.

- (3) An applicant applying for admission as a CPA member under Bylaw 501(3) on the basis of successful completion of a legacy CMA education program
  - (a) must successfully complete all applicable program, examination and evaluation requirements on or before October 31, 2015, and
  - (b) must successfully complete the practical experience requirement
    - (i) on or before August 31, 2018, or
    - (ii) if the applicant completes the practical experience requirements required by the board for applicants under Bylaw 501(1), on or before June 30, 2020.

### **Election of Fellows**

- 505/1 (1) The board may elect CPA members in good standing as fellows in recognition of distinguished service to the profession, or for bringing distinction to the profession.
- (2) Each year, the board must seek nominations for the election of fellows from among the CPA members in good standing.
- (3) A CPA member is not eligible for nomination for election as a fellow under subsection (2) if
  - (a) the CPA member has been unsuccessfully nominated for election as a fellow three times during the previous seven years (excluding any nominations made in 2017 or earlier), or
  - (b) the CPA member's fellowship status has previously been revoked under subsection (6) or (7).
- (4) The Registrar must, at the request of a CPA member in good standing, admit the CPA member as a fellow if
  - (a) the CPA member is a member in good standing of a provincial CPA body or provincial legacy body,
  - (b) the CPA member has been elected or admitted as a fellow of the provincial CPA body or provincial legacy body referred to in paragraph (a),
  - (c) the CPA member provides evidence satisfactory to the Registrar of that election or admission, and
  - (d) the CPA member's fellowship status has not previously been revoked under subsection (6) or (7).
- (5) If a former CPA member was a fellow at the time they ceased to be a member and is readmitted as a CPA member under Bylaw 501(5), the Registrar must reinstate their fellowship status unless that status has previously been revoked under subsection (6) or (7).

- (6) A CPA member's status as a fellow is revoked immediately if
- (a) the membership of the CPA member is suspended or cancelled under section 53(4)(b) or (c) of the Act,
  - (b) the CPA member voluntarily suspends or relinquishes their membership under Bylaw 1111(1)(f) or (g) or 1205(1)(f) or (g),
  - (c) the CPA member enters into any other agreement under Bylaw 1111 or 1205 under which the CPA member agrees to revocation of their fellowship status,
  - (d) the CPA member accepts a determination and recommendation of the Investigation Committee under Bylaw 1106 under which the CPA member agrees to revocation of their fellowship status, or
  - (e) the membership of the CPA member is otherwise cancelled at the member's request or for any other reason
    - (i) while an investigation of the CPA member's conduct is pending under section 51 of the Act and Part 11 of the bylaws, or
    - (ii) while a hearing into the CPA member's competence, fitness to practise or professional conduct is pending under section 53 of the Act and Part 12 of the bylaws.
- (7) The board may revoke a CPA member's status as a fellow if
- (a) an order is made against the CPA member under section 53(4) of the Act that does not result in the immediate revocation of the CPA member's fellowship status under subsection (6)(a),
  - (b) the membership of the CPA member is suspended or cancelled for a reason that does not result in the immediate revocation of the CPA member's fellowship status under subsection (6),
  - (c) the CPA member becomes a bankrupt, including having made an assignment in bankruptcy or a receiving order being granted against the CPA member,
  - (d) the CPA member takes the benefit, including the filing of a proposal, of statutory provisions for insolvent debtors,
  - (e) the CPA member is found guilty or pleads guilty to a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction, or
  - (f) the CPA member's membership in, or fellowship status with, a provincial CPA body or provincial legacy body is suspended or cancelled.

## PART 6 - CONTINUING PROFESSIONAL DEVELOPMENT

### Definitions

600/1 In this Part:

**“carryover verifiable qualifying hours”** means verifiable qualifying hours completed before February 13, 2019 in a pre-admission professional development course specified by the board as being eligible to be carried over to the calendar year of a member's admission;

**“ethics hours”** means verifiable qualifying hours in professional ethics satisfying criteria approved by the Membership Committee;

**“legacy requirements”** means, in respect of a legacy member, all applicable continuing professional development requirements previously established by the legacy member's legacy body that were in effect immediately before the transition date;

**“qualifying hours”** means hours of learning activities satisfying criteria approved by the Membership Committee, and includes qualifying hours completed by a legacy member before the transition date;

**“verifiable qualifying hours”** means qualifying hours for which there is satisfactory evidence to objectively verify participation in the learning activity, as determined in accordance with criteria approved by the Membership Committee.

### Continuing Professional Development Program: Basic Requirements

- 600/2
- (1) Every member must comply with the basic requirements of CPABC's Continuing Professional Development Program, as prescribed in this section, unless exempted from some or all of those requirements under Bylaw 600(3).
  - (2) Subject to subsections (3) to (5), every member must complete
    - (a) a minimum of 20 qualifying hours of continuing professional development in each calendar year, including at least 10 verifiable qualifying hours, and
    - (b) a minimum of 120 qualifying hours of continuing professional development during each rolling three-calendar year period, including at least 60 verifiable qualifying hours, of which at least 4 are ethics hours.
  - (3) A student or other applicant who is admitted as a member
    - (a) must satisfy the requirement in subsection (2)(a) commencing with the calendar year of the member's admission, and
    - (b) is only required to satisfy the requirement in subsection (2)(b) commencing with the three-calendar year period that commences with the calendar year of the member's admission.



- (4) For the purposes of subsections (2) and (3), carryover verifiable qualifying hours completed before the calendar year of a member's admission are deemed to have been completed during the calendar year of the member's admission.
- (5) A technologist member
  - (a) is not required to satisfy the requirements in Regulation 600/2(2)(a) for the 2015 or 2016 calendar year, and
  - (b) is not required to satisfy the requirements in Regulation 600/2(2)(b) for the three-calendar year periods from 2013 to 2015, from 2014 to 2016, or from 2015 to 2017, or from 2016 to 2018.

**Continuing Professional Development Program: Post-Admission Requirement for Foreign Qualified Members**

- 600/3
- (1) The following members must comply with the additional post-admission requirement prescribed in subsection (2), unless exempted from that requirement under subsection (5) or Bylaw 600(3):
    - (a) a member who is admitted as a CPA member under Bylaw 501(8) or (9) on the basis of membership in a professional body outside of Canada and Bermuda that is specified by the board for the purposes of this subsection;
    - (b) a member who is admitted as a CPA member under Bylaw 501(7) on the basis of membership in a provincial CPA body or provincial legacy body and who
      - (i) was initially admitted as a member of a provincial CPA body or provincial legacy body on the basis of membership in a professional body outside of Canada and Bermuda that is specified by the board for the purposes of this subsection, and
      - (ii) has not already satisfied the requirement prescribed in subsection (2).
  - (2) A member described in subsection (1) must complete any coursework that may be required by the Membership Committee in accordance with subsection (3) within two years of the date of their initial admission as
    - (a) a CPA member, or
    - (b) a member of a provincial CPA body or provincial legacy body.
  - (3) The coursework required under subsection (2) may include coursework in any of the following areas:
    - (a) an introduction to the Canadian profession of chartered professional accountancy;
    - (b) Canadian tax;
    - (c) Canadian law relevant to chartered professional accountancy;

- (d) other matters relevant to the practice and profession of chartered professional accountancy in Canada.
- (4) Hours of coursework completed under subsection (2) may be counted as qualifying hours under Regulation 600/2 for the applicable calendar year or three-calendar year period in which they are completed.
- (5) A member described in subsection (1) who successfully completes the CPA Reciprocity Examination established by CPA Canada within the time required to complete the coursework described in subsection (2) is exempt from the requirement to complete that coursework if the member
  - (a) was admitted as a CPA member under Bylaw 501(8) or (9) on the basis of membership in a professional body outside of Canada and Bermuda that is specified by the board for the purposes of this subsection, or
  - (b) was admitted as a CPA member under Bylaw 501(7) on the basis of membership in a provincial CPA body or provincial legacy body, and was initially admitted as a member of a provincial CPA body or provincial legacy body on the basis of membership in a professional body outside of Canada and Bermuda that is specified by the board for the purposes of this subsection.

**Continuing Professional Development Program: Post-Admission Requirement for Legacy CGA Members**

- 600/4
- (1) The following legacy CGA members must comply with the additional post-admission requirement prescribed in subsection (2), unless exempted from that requirement under Bylaw 600(3):
    - (a) a legacy CGA member who is admitted as a CPA member under Bylaw 501(3) based on successful completion of a legacy CGA education program;
    - (b) a legacy CGA member who is admitted as a CPA member under Bylaw 501(7) on the basis of membership in the Chartered Professional Accountants of Yukon as the equivalent of a legacy CGA member, and who has not already satisfied the requirement prescribed in subsection (2).
  - (2) A legacy CGA member described in subsection (1) must complete an ethics course acceptable to the Membership Committee before the end of the first calendar year after the calendar year of their initial admission as
    - (a) a CPA member, or
    - (b) a member of the Chartered Professional Accountants of Yukon.
  - (3) Hours of coursework completed under subsection (2) may be counted as qualifying hours under Regulation 600/2 for the applicable calendar year or three-calendar year period in which they are completed.

**Annual Compliance Report**

600/5 For the purposes of Bylaw 600(2), the deadline for members to deliver an annual compliance report to CPABC is January 31.

#### **Retention of Documentation**

600/6 Every member must retain documentation supporting the member's completion of verifiable qualifying hours during a calendar year for at least five years after the end of that calendar year.

#### **Late Completion of Professional Development**

601/1 For the purposes of Bylaw 601, the deadline for a member referred to in that Bylaw to deliver an annual compliance report and satisfy outstanding requirements of the Continuing Professional Development Program is March 31.

## PART 7 - LICENSURE FOR PUBLIC PRACTICE

### Exemptions from Licensure

- 700/1 (1) A CPA member is exempt from the requirement for licensure under Bylaw 700(2)(a) if
- (a) the CPA member provides services to the public that are included in public practice only in the capacity of
    - (i) an employee of a registered firm, with no authority to sign off on or release engagements, or
    - (ii) an employee of another organization satisfying criteria approved by the board,
  - (b) the CPA member's primary occupation is not in public practice, and the CPA member only provides services to the public that are included in public practice on an incidental basis, as determined in accordance with criteria approved by the board, or
  - (c) the CPA member is also a practising lawyer under the *Legal Profession Act* who
    - (i) does not provide or perform any services referred to in section 47(1)(a), (b) or (c) of the Act, and
    - (ii) only provides other services to the public that are included in public practice in their capacity as a practising lawyer and in the course of their practice of law, in accordance with the *Legal Profession Act*.
- (1.1) Bylaw 700(3) does not apply to the provision of services by a CPA member described in subsection (1)(c) on behalf of a law firm or a law corporation within the meaning of the *Legal Profession Act*.
- (2) A technologist member is exempt from the requirement for licensure under Bylaw 701(1) if
- (a) the technologist member provides other regulated services to the public only in the capacity of an employee of a registered firm or other organization satisfying criteria approved by the board, or
  - (b) the technologist member's primary occupation is not in public practice, and the technologist member only provides other regulated services to the public on an incidental basis, as determined in accordance with criteria approved by the board.

### Subcategories of Licensure

- 703/1 (1) The following subcategories of Audit Licence are established:
- (a) Audit Licence – Public Companies;
  - (b) Audit Licence – Non-Public Company;
  - (c) Audit Licence – Extra-provincial.

- (2) The following subcategories of Review Licence are established:
  - (a) Review Licence – Regular;
  - (b) Review Licence – Extra-provincial.
- (3) The following subcategories of Compilation Licence are established:
  - (a) Compilation Licence – Regular;
  - (b) Compilation Licence – Extra-provincial.
- (4) The following subcategories of Other Regulated Services Licence are established:
  - (a) Other Regulated Services Licence – Reviewable;
  - (b) Other Regulated Services Licence – Non-Reviewable;
  - (c) Other Regulated Services – Extra-provincial.

### **Limitations on Registrar's Authority**

- 704/1
- (1) The Registrar must not exercise the authority of the Public Practice Committee to issue a public practice licence to a member if
    - (a) a finding or determination has previously been made by a committee of CPABC, a legacy body, a provincial CPA body or a provincial legacy body that the applicant was incompetent or unfit to practise, committed professional misconduct, engaged in conduct unbecoming a member, or contravened the Act, bylaws or Rules of Professional Conduct or corresponding legislation, bylaws or rules, or
    - (b) the applicant has been convicted of a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction.
  - (2) The Registrar must refer any application described in subsection (1), and may refer any other application for issuance or renewal of a public practice licence or to amend the category of a public practice licence, to the Public Practice Committee for its review.
  - (3) The Registrar is not authorized to exercise the authority of the Public Practice Committee under Bylaw 705(1) to (3).

### **Annual Renewal Date**

- 704/2      The annual renewal date for a public practice licence is September 1.

### **Proof of Professional Liability Insurance Coverage**

- 704/3
- (1) An application for issuance or renewal of a public practice licence, or to amend the category of a member's public practice licence, must be accompanied by
    - (a) proof of professional liability insurance coverage that satisfies the requirements under Regulation 1301/1, or

- (b) a declaration by the applicant, in the form required by the Public Practice Committee, that the applicant will only engage in public practice on behalf of a registered firm with professional liability insurance coverage that satisfies the requirements under Regulation 1301/1.
- (2) A member who has provided a declaration under subsection (1)(b) must notify the Registrar, and provide proof of professional liability insurance coverage that satisfies the requirements under Regulation 1301/1, before engaging in public practice in British Columbia other than on behalf of a registered firm with professional liability insurance coverage that satisfies the requirements under Regulation 1301/1.

### **Appointment of Assisting Accountant**

- 704/4
- (1) An application for issuance or renewal of a public practice licence must be accompanied by one of the following, in the form required by the Public Practice Committee:
    - (a) written confirmation of the appointment of an assisting accountant to be responsible for returning client records in the event of the applicant's death or incapacity;
    - (b) written authorization for CPABC to appoint a member in good standing holding a public practice licence as an assisting accountant for the applicant in the event of the applicant's death or incapacity;
    - (c) the applicant's certification that they will only be engaged in public practice at or in association with a registered firm in which two or more members have a proprietary interest.
  - (2) A member who has provided certification to CPABC under subsection (1)(c) must notify CPABC and provide a written confirmation or authorization as described in subsection (1)(a) or (b) before engaging in public practice in any manner that would be outside the scope of that certification.
  - (3) An assisting accountant appointed by a member under subsection (1)(a) or (2) must be another member in good standing holding a public practice licence.

### **Competency Declaration for Audit Licensees**

- 704/5
- An application for renewal of an Audit Licence must be accompanied by a declaration by the applicant, in the form required by the Public Practice Committee, confirming that the applicant has
- (a) completed an annual self-assessment of the applicant's professional competence to provide audit services, in accordance with criteria approved by the board, and
  - (b) undertaken sufficient relevant continuing professional development to develop and maintain that professional competence.

## **Authorized Services**

- 706/1
- (1) Subject to Bylaw 700, a member holding an Audit Licence is authorized to provide any public accounting services and any other regulated services, subject to any applicable standards, limits or conditions established by the board for providing such services.
  - (2) Subject to Bylaw 700, a member holding a Review Licence is authorized to provide
    - (a) any public accounting services, except the performance of an audit engagement or issuance of an auditor's report, and
    - (b) any other regulated servicessubject to any applicable standards, limits or conditions established by the board for providing such services.
  - (3) Subject to Bylaw 700, a member holding a Compilation Licence is authorized to provide
    - (a) any public accounting services, except
      - (i) the performance of an audit, review or other assurance engagement, or issuance of an auditor's report, a review engagement report or another assurance report, or
      - (ii) the performance of a specified procedures engagement or issuance of a specified procedures engagement report, and
    - (b) any other regulated servicessubject to any applicable standards, limits or conditions established by the board for providing such services.
  - (4) Subject to Bylaw 700, a member holding an Other Regulated Service Licence is authorized to provide other regulated services, subject to any applicable standards, limits or conditions established by the board for providing such services.

## **First Renewal Date**

- 708/1 The first renewal date for a public practice licence deemed to be held by a legacy member under Bylaw 708(2) is September 1, 2016.

## **Special Public Practice Extension Fees**

- 708/2
- (1) Every legacy CGA member, legacy CMA member and technologist member who is deemed to have been issued a public practice licence under Bylaw 708(2) must pay a CGA/CMA special public practice extension fee in the amount required by the board in respect of the period from April 1, 2016 to August 31, 2016.
  - (2) The CGA/CMA special public practice extension fee referred to in subsection (1) is due and payable on April 1, 2016.

- (3) Every legacy CA member who is deemed to have been issued a public practice licence under Bylaw 708(2) must pay a CA special public practice extension fee in the amount required by the board in respect of the period from September 1, 2015 to August 31, 2016.
- (4) The CA special public practice extension fee referred to in subsection (3) is due and payable on September 1, 2015.



## **PART 8 - PROFESSIONAL ACCOUNTING CORPORATIONS**

### **Limitations on Registrar's Authority**

- 800/1        (1)     The Registrar must not exercise the authority of the Public Practice Committee to issue a professional accounting corporation permit if any of the conditions specified in section 40(3) of the Act apply.
- (2)     The Registrar must refer any application described in subsection (1), and may refer any other application for issuance or renewal of a professional accounting corporation permit, to the Public Practice Committee for its review.

### **Annual Renewal Date**

- 800/2        The annual renewal date for a professional accounting corporation permit is April 1.

### **First Renewal Date**

- 800/3        The first renewal date for a professional accounting corporation permit deemed to be held by a corporation under section 79(1) of the Act is April 1, 2016.

### **Grandparenting of Legacy CGA Corporations**

- 801/1        A legacy CGA corporation is exempt from the requirements under Bylaw 801(2) for renewal of a permit, provided that
- (a)     immediately before the transition date, the legacy CGA corporation was in compliance with all requirements specified in CGA-BC Form A and any other applicable requirements established by CGA-BC for corporations engaged in the practice of public accounting, and
- (b)     the legacy CGA corporation continues to comply with the requirements described in paragraph (a).

## **PART 9 - REGISTERED FIRMS**

### **Limitations on Registrar's Authority**

- 900/1      (1)      The Registrar must not exercise the authority of the Public Practice Committee to register a firm, or to grant authorization for a practising office of a firm, if any of the conditions specified in section 42(3) of the Act or Bylaw 903(a) to (c) apply.
- (2)      The Registrar must refer any application described in subsection (1), and may refer any other application for registration or renewal of registration of a firm, to the Public Practice Committee for its review.

### **Annual Renewal Date**

- 900/2      The annual renewal date for the registration of a firm is September 1.

### **Proof of Professional Liability Insurance Coverage**

- 900/3      An application for registration or renewal of registration of a firm, or to amend the registration of a firm to grant authorization to a practising office, must be accompanied by proof of professional liability insurance coverage that satisfies the requirements under Regulation 1301/1 for all members who are or will be engaged in public practice at or in association with the firm or any authorized practising office of the firm.

### **Requirement for Authorization of Practising Offices**

- 904/1      The Public Practice Committee must not grant authorization to a practising office of a firm under Bylaw 904(1) unless
- (a)      the office is or will be under the personal charge and management of a CPA member in good standing holding a public practice licence,
  - (b)      the committee is satisfied that the CPA member referred to in paragraph (a) is competent and fit to manage the office, and
  - (c)      the firm has provided satisfactory proof of professional liability insurance coverage in respect of the office under Regulation 900/3.

### **Approval of LLP Registration**

- 907/1      The Registrar must not issue a statement of approval of LLP registration to a partnership under Bylaw 907 unless
- (a)      all partners of the partnership are as described in section 44(7)(a) and (b) of the Act,
  - (b)      if the partnership is a foreign partnership within the meaning of Part 6 of the *Partnership Act*, its governing jurisdiction is another province or territory of Canada or Bermuda, and

- (c) the name that is to be the business name of the partnership after it is registered as a limited liability partnership
  - (i) complies with section 100 of the *Partnership Act*, and
  - (ii) has been approved by CPABC under Rule 401.

### **First Renewal Date**

909/1 The first renewal date for the registration deemed to have been granted to a firm under Bylaw 909(1) is September 1, 2016.

### **Special Registration Extension Fees**

- 909/2 (1) Every firm that is deemed to have been registered under section 42(2) of the Act as a result of the Chief Executive Officer of CGA-BC or the Chief Executive Officer of CMABC confirming the firm's eligibility under Bylaw 909(1) must pay a CGA/CMA firm special registration extension fee in the amount required by the board in respect of the period from April 1, 2016 to August 31, 2016.
- (2) The CGA/CMA firm special registration extension fee referred to in subsection (1) is due and payable on April 1, 2016.
- (3) Every firm that is deemed to have been registered under section 42(2) of the Act as a result of the Chief Executive Officer of ICABC confirming the firm's eligibility under Bylaw 909(1) must pay a CA firm special registration extension fee in the amount required by the board in respect of the period from September 1, 2015 to August 31, 2016.
- (4) The CA firm special registration extension fee referred to in subsection (3) is due and payable on September 1, 2015.

## **PART 10 - PRACTICE REVIEWS**

### **Exemption from Practice Review Program**

- 1000/1      A member is exempt from the program of practice reviews under Bylaw 1000(3)(b) if the member
- (a)      holds no proprietary interest in,
  - (b)      is not employed by, and
  - (c)      does not engage in public practice at or in association with a practising office of
- any registered firm described in Bylaw 1000(2).

### **Documentation Standards**

- 1003/1      (1)      The standards set out in this section are specified for the purpose of Bylaw 1003(c).
- (2)      Members and registered firms must maintain sufficient documentation in their files to confirm the nature and extent of work performed on any engagement included in public practice.
- (3)      For the purpose of subsection (2), the following minimum documentation is required in respect of an audit or review engagement:
- (a)      particulars of the engagement letter or other agreement with the client setting out the services to be provided by the member or registered firm;
  - (b)      evidence of matters subjected to enquiry and discussion with the client, including, for example, a letter of representation signed by the client;
  - (c)      a statement of the program of work performed, or a checklist completed with due care;
  - (d)      appropriate working papers.
- (4)      For the purpose of subsection (2), the following minimum documentation is required in respect of a compilation engagement:
- (a)      particulars of the engagement letter or other agreement with the client setting out the services to be provided by the member or registered firm;
  - (b)      appropriate working papers.
- (5)      A member or registered firm who is responsible for the training of students must maintain records showing, in reasonable detail, the disposition of each student's time and the type of work performed by each student for whom the member or registered firm is responsible.

## **PART 11 - INVESTIGATIONS**

### **Publication**

- 1108/1
- (1) A notice required under Bylaw 1108(1) must be published on the publicly accessible section of CPABC's website, unless otherwise specified in the request accepted by the respondent under Bylaw 1106(7)(a).
  - (2) A notice required under Bylaw 1108(2) must be published on the publicly accessible section of CPABC's website, unless otherwise directed by the Investigation Committee under subsection (3).
  - (3) The Investigation Committee, with the support of at least two public representatives, may direct the Registrar to publish a notice that is required under Bylaw 1108(2) on a section of CPABC's website for which access is restricted to members.

## PART 12 - DISCIPLINE

### Tariff of Costs

- 1208/1 (1) For the purpose of assessing costs under section 53(4)(g) of the Act or Bylaw 1111(1)(i) or 1205(1)(i), qualifying expenses incurred by CPABC, other than expenses referred to in subsection (3), from the time
- (a) the Registrar receives a complaint under Bylaw 1103(1) or a report under Bylaw 408(1), 511(1), 805(1) or 908(1),
  - (b) the Investigation Committee receives a report under Bylaw 603 or 1006, or
  - (c) the Investigation Committee initiates an investigation of a matter on its own motion under Bylaw 1101(2)
- until the time the Investigation Committee issues a Statement of Complaint under Bylaw 1106(13) are deemed to be expenses incurred by CPABC to conduct the investigation of the matter.
- (2) For the purpose of assessing costs under section 53(4)(g) of the Act or Bylaw 1111(1)(i) or 1205(1)(i), qualifying expenses incurred by CPABC, other than expenses referred to in subsection (3), from the time the Investigation Committee issues a Statement of Complaint under Bylaw 1106(13) until the time
- (a) the board enters into a resolution agreement with the respondent under Bylaw 1205(2), or
  - (b) the panel of the Disciplinary Committee makes an order under section 53(4)(g) of the Act
- are deemed to be expenses incurred by CPABC to conduct the hearing of the matter.
- (3) For the purpose of assessing costs under section 53(4)(g) of the Act or Bylaw 1111(1)(i) or 1205(1)(i), qualifying expenses incurred by CPABC
- (a) to prepare a report or other materials for review by a panel of the board under section 57 of the Act,
  - (b) for attendance by legal counsel or an investigator at a meeting of a panel of the board under section 57 of the Act, and
  - (c) for related correspondence, communications and negotiations,
- are deemed to be expenses incurred by CPABC to conduct the proceeding under section 57 of the Act.
- (4) For the purpose of assessing costs under section 54(1) of the Act, qualifying expenses incurred by the respondent, other than expenses referred to in subsection (6), from the time
- (a) the Registrar receives a complaint under Bylaw 1103(1) or a report under Bylaw 408(1), 511(1), 805(1) or 908(1),

- (b) the Investigation Committee receives a report under Bylaw 603 or 1006, or
- (c) the Investigation Committee initiates an investigation of a matter on its own motion under Bylaw 1101(2)

until the time the Investigation Committee issues a Statement of Complaint under Bylaw 1106(13) are deemed to be expenses incurred by the respondent in respect of the investigation of the matter.

- (5) For the purpose of assessing costs under section 54(1) of the Act, qualifying expenses incurred by the respondent, other than expenses referred to in subsection (6), from the time the Investigation Committee issues a Statement of Complaint under Bylaw 1106(13) until the time the panel of the Disciplinary Committee makes an order under section 54(1) of the Act are deemed to be expenses incurred by the respondent in respect of the hearing of the matter.
- (6) For the purpose of assessing costs under section 54(1) of the Act, qualifying expenses incurred by the respondent
  - (a) for attendance by legal counsel at a meeting of a panel of the board under section 57 of the Act, and
  - (b) for related correspondence, communications and negotiations,
 are deemed to be expenses incurred by the respondent in respect of the proceeding under section 57 of the Act.
- (7) Qualifying expenses under subsections (1) to (6) must be assessed as follows:

<b><i>Expense</i></b>	<b><i>Rate of Indemnity</i></b>
Legal representation for the purposes of conducting or responding to the investigation, or preparing for and conducting the hearing or the proceeding under section 57 of the Act	up to 50% of actual legal fees
Engagement of investigator under Bylaw 1102(1) for the conduct of the investigation	up to 50% of actual fees
Other reasonable and necessary professional services engaged by CPABC for the purposes of the investigation	100% of actual fees
Reasonable and necessary expert witness fees for the purposes of preparing for and conducting the hearing	100% of actual fees
Other reasonable and necessary disbursements incurred for the purposes of conducting or responding to the investigation, or preparing for and conducting the hearing or the proceeding under section 57 of the Act (including disbursements incurred by legal counsel or an investigator)	100% of actual disbursements

## **PART 13 - GENERAL**

### **Professional Liability Insurance**

- 1301/1      (1)      Registered firms must maintain the following minimum levels of professional liability insurance, in a form satisfactory to CPABC, for each authorized practising office of the firm, covering the acts and omissions of all members engaged in public practice at or in association with the authorized practising office:
- (a)      \$1,000,000 per claim, if there is one member with a proprietary interest in the firm who is engaged in public practice at or in association with the authorized practising office;
  - (b)      \$1,500,000 per claim, if there are two or three members with a proprietary interest in the firm who are engaged in public practice at or in association with the authorized practising office;
  - (c)      \$2,000,000 per claim, if there are four or more members with a proprietary interest in the firm who are engaged in public practice at or in association with the authorized practising office.
- (2)      A member holding a public practice licence who is engaged in public practice, and whose practice is not covered by professional liability insurance maintained by a registered firm that satisfies the requirements in subsection (1), must maintain professional liability insurance, in a form satisfactory to CPABC, of at least \$1,000,000 per claim in a form satisfactory to CPABC.
- (3)      Every member who holds a proprietary interest in a registered firm and engages in public practice at or in association with an authorized practising office of the firm is personally responsible for ensuring that the firm maintains sufficient professional liability insurance coverage to satisfy the requirements in subsection (1).
- (4)      To satisfy the requirements in subsection (1) or (2), a professional liability insurance policy must be with a recognized insurance company, and must be endorsed with a requirement for the insurance company to notify CPABC in writing forthwith of
- (a)      any cancellation or non-renewal of the policy, or
  - (b)      any insurance coverage that is below the minimum level required under subsection (1) or (2).
- (5)      Members holding a public practice licence must ensure that prior acts and omissions are covered by adequate professional liability insurance either through riders to an ongoing insurance policy or a separate discovery policy, for a minimum of six years after ceasing to be in public practice.
- (6)      The minimum levels of professional liability insurance coverage in this section are subject to the commercial availability of such insurance to members and registered firms engaged in public practice.



- (7) An Auditor General's office, and members engaged in public practice exclusively at or in association with an Auditor General's office, are exempt from the minimum professional liability insurance coverage requirements in this section.

## Transition

- 1301/2 (1) In this section:

**“legacy requirements”** means, in respect of a legacy member or a registered firm in which a legacy member holds a proprietary interest, all applicable professional liability insurance requirements previously established by the legacy member's legacy body that were in effect immediately before the transition date;

**“pre-existing coverage”** means professional liability insurance coverage from the same insurance provider with which a legacy member or registered firm maintained professional liability insurance coverage immediately before the transition date.

- (2) Before September 1, 2019,
- (a) a registered firm in which one or more legacy members holds a proprietary interest is deemed to satisfy the requirements in Regulation 1301/1(1) and (4) if the firm maintains pre-existing coverage that satisfies the legacy requirements of the legacy body of each legacy member holding a proprietary interest in the firm, and
  - (b) a legacy member is deemed to satisfy the requirements in Regulation 1301/1(2), (4) and (5) if the member maintains pre-existing coverage that satisfies the legacy requirements of the member's legacy body.

## **Appendix E**

*Chartered Professional Accountants Code of Professional Conduct – October 2020*

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[600 to 900 for provincial/territorial use as necessary]

## **PREAMBLE TO THE CPA CODE OF PROFESSIONAL CONDUCT**

### **Application of the Code**

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

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

### **Introduction**

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

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

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

### **Characteristics of a profession**

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

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

By these criteria chartered professional accountancy is a profession.

### **Responsibility for compliance with the CPA Code**

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

### **Fundamental principles governing conduct**

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

The CPA Code is derived from five fundamental principles of ethics - statements of accepted conduct for all registrants whose soundness is, for the most part, self-evident. These principles are fundamental to the conduct of all registrants and are as follows:

#### **Professional Behaviour**

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

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

There are business considerations involved in the creation and development of any organization, whether it is a professional practice or an entity that operates outside of that domain. A registrant's involvement in any organization should be based primarily upon a reputation for professional excellence. In particular, registrants who occupy positions of senior authority should recognize that

such positions include an obligation to influence events, practices and attitudes within that organization. Accordingly, such registrants should encourage an ethics-based culture in their organizations that emphasizes the importance of ethical behaviour and compliance with generally accepted standards of practice of the profession.

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

#### Integrity and Due Care

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

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

#### Objectivity

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

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

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

#### Professional Competence

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

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

#### Confidentiality

*Chartered Professional Accountants protect confidential information acquired as a result of professional, employment and business relationships and do not disclose it without proper and*



*specific authority, nor do they exploit such information for their personal advantage or the advantage of a third party.*

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

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

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

### **Personal character and ethical conduct**

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

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

### **Ethical conflict resolution**

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

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

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

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

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

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

If a significant conflict cannot be resolved, a registrant may wish to obtain guidance on ethical issues without breaching confidentiality from CPABC or legal advisors. For example, a registrant may have

encountered a fraud, the reporting of which could breach the responsibility to respect confidentiality. The registrant is advised to consider obtaining legal advice to determine whether there is a requirement to report.

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

### **Principles governing the responsibilities of firms**

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

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

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

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

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

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

- the firm did not take appropriate action in response to becoming aware of any conduct that breaches the CPA Code; or
- there are repeated instances of breaches of the CPA Code by person(s) in the firm.

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

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

## DEFINITIONS

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

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

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

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

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

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

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

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

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

- (a) a fee fixed by a court or other public authority;
- (b) a fee for a professional service in respect of any aspect of an insolvency practice, including acting as a trustee in bankruptcy, a liquidator, a receiver or a receiver-manager;
- (c) a fee for the administration of trusts or estates, which by statute or tradition, are based on a percentage of realizations, assets under administration, or both; or
- (d) a fee that is agreed at the time of billing, commonly referred to as a value billing, that is based on criteria which include:
  - (i) the level of training and experience of the persons engaged in the work;
  - (ii) the time expended by the persons engaged in the work;
  - (iii) the degree of risk and responsibility which the work entails;
  - (iv) the priority and importance of the work to the client; and

(v) the value of the work to the client.

**“cross referenced”** means, in relation to a practice of public accounting and one or more other businesses or practices:

- (a) reference in the advertising, promotional or other material of any of them to any of the others; or
- (b) use by any of them of any name, word, design or other feature or characteristic of presentation or communication,

which, in the view of a reasonable observer, would imply that the practice of public accounting, or any of its owners has ownership interest or management influence in any of the other businesses or practices or has any other ongoing economic association or relationship with any of the other businesses or practices.

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

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

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

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

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

**“practice of public accounting”** means, except in Rule 204, the provision of any services included in “public practice” as defined in the bylaws.

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

**“professional colleague”** means a member of a provincial CPA body.

**“provincial CPA body”** means CPABC or a provincial CPA body or provincial legacy body as defined in the bylaws.

**“public accounting”** means “public practice” as defined in the bylaws.

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

***“registrant”*** means a member, registered firm, professional accounting corporation or student.

***“related business or practice”*** means, in relation to a registered firm that is engaged in public practice, another business or practice in respect of which a reasonable observer would be likely to infer that the registered firm, or a person holding a proprietary interest in the registered firm,

- (a) has a proprietary interest or management influence in the other business or practice, or
- (b) has any other ongoing economic association or relationship with the other business or practice, as a result of one or more of the following:
- (c) any reference to the registered firm in advertising or promotional material of the other business or practice;
- (d) any reference to the other business or practice in advertising or promotional material of the registered firm or another related business or practice of the registered firm;
- (e) use of a name, word, design or other feature or characteristic of presentation or communication in advertising or promotional material of the other business or practice, the registered firm, or another related business or practice of the registered firm.

## **100 PROFESSIONAL GOVERNANCE**

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

#### **RULES:**

#### **101.1 (a) All registrants, regardless of their jurisdiction of residence, shall comply with the CPA Code of Professional Conduct**

- (b) All registrants, regardless of their jurisdiction of residence, shall comply with:*
  - (i) the Chartered Professional Accountants Act of British Columbia, bylaws and regulations of CPABC, as they may be approved and in force from time to time; and*
  - (ii) any order or resolution of the Board, or any order of any officer, agent, tribunal, committee or other authoritative body acting on behalf of CPABC, made under the Act or bylaws.*
- (c) Notwithstanding the provisions of paragraphs (a) and (b), if a registrant is prohibited by law from complying with any part of the bylaws, regulations and the CPA Code of Professional Conduct of CPABC, the registrant shall comply with all other parts of those governing documents.*
- (d) Where a registrant holds membership in CPABC and another professional body, whether in Canada or elsewhere, and there is a conflict between the requirements of CPABC and the other professional body, the registrant shall comply with the requirement that establishes the more stringent requirement.*

#### **101.2 Registrants who identify that they have breached the CPA Code shall**

- (a) take whatever action might be appropriate or required by law, as soon as possible, to satisfactorily address the consequences of any such breach; and*
- (b) evaluate whether the breach is such that it needs to be reported to, CPABC, and if so, report it promptly .*

#### **GUIDANCE – Rule 101**

- 1** Rule 101.1 applies to all registrants, regardless of their jurisdiction of residence. It also applies to all activities undertaken by a registrant, whether professional or not, unless a provision of the CPA Code specifies otherwise.
- 2** The requirement for registrants to comply with the Act, bylaws, regulations and the CPA Code serves the public interest. Rules 101.2 and 102 requires registrants to report to CPABC specific matters pertaining to their own conduct. Rule 211 requires registrants to report to CPABC specific matters in relation to the conduct of other registrants.
- 3** However, registrants also have an obligation to take appropriate action to address breaches of the CPA Code for which they themselves are responsible, as set out in Rule 101.2. When such a breach has occurred, registrants are required to take appropriate action which satisfactorily addresses the consequences of the breach or may be required by law. Such action may include notifying those who may have been affected by the breach and when the breach is such that it diminishes the reputation of the profession or fails to serve the public interest, registrants are also required to notify CPABC of the breach.
- 4** Those who are affected by a breach described in Rule 101.2 may decide to pursue legal action against a registrant. In case such action is taken, insured registrants should contact their insurance provider once a breach has been identified. Failing to do so may invalidate insurance coverage, thus exposing the affected party to the risk that coverage will be denied.

It is also simply prudent from a personal liability perspective to discuss such possible claims with one's insurer as soon as possible.

- 5** Registrants are also reminded that legislation or bylaws, or both, in their jurisdiction are likely to provide that the coming into force of a new Act, bylaws, regulations, the CPA Code or other governing documents does not relieve registrants from the obligation to have been compliant with the former Act, bylaws, regulations, codes or other governing documents, nor does it relieve a registrant's obligation to comply with any order issued by or on behalf of CPABC or its predecessors under the former Acts, bylaws, regulations, codes or other governing documents.



## **102 Matters to be reported to CPABC**

### **RULES:**

#### **102.1 Illegal activities**

*Registrants shall promptly notify CPABC after having been, in any jurisdiction,:*

- (a) convicted of any criminal offence , including but not limited to an offence of fraud, theft, forgery, money-laundering, extortion, counterfeiting, criminal organization activities, charging criminal interest rates, financing terrorism or similar offences related to financial matters, or an offence of conspiring or attempting to commit such offences;*
- (b) found guilty of a violation of the provisions of any securities legislation or having entered into a settlement agreement with respect to such matters;*
- (c) found guilty of a violation of the provisions of any tax legislation that involves, explicitly or implicitly, dishonesty on the part of the registrant, or having entered into a settlement agreement with respect to such matters; or*
- (d) discharged absolutely or upon condition after pleading guilty to or being found guilty of an offence described in (a), (b) or (c) above.*

#### **102.2 Other provincial CPA bodies**

*Registrants shall promptly notify CPABC after having, in relation to a disciplinary or similar process of any provincial CPA body:*

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

#### **102.3 Other professional regulatory bodies**

*Registrants shall promptly notify CPABC after having, in any jurisdiction in relation to a disciplinary or similar process of another professional regulatory body,:*

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

#### **102.4 Other regulatory bodies**

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

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

### **GUIDANCE - Rule 102**

- 1** Rules 102.1, 102.2 and 102.3 identify certain matters which must be reported to CPABC by registrants.
- 2** It is particularly important that the conduct of registrants in a matter that involves acting in a professional capacity, relates to professional skills, involves reliance on licensure, registration or association with any provincial CPA body, diminishes the good reputation of the profession

or fails to serve the public interest is subject to scrutiny. Accordingly, registrants are required to report offences, including but not limited to fraud, theft, forgery, money-laundering, extortion, counterfeiting, criminal organization activities, charging criminal interest rates, financing terrorism and similar offences related to financial matters, including offences involving a violation of any of the provisions of securities legislation.

- 3** Registrants may hold membership, licensure or registration with more than one provincial CPA body, although students are ordinarily enrolled with only one provincial CPA body. In order to properly protect the public across jurisdictions, where a registrant has been found guilty by or entered into a settlement agreement with one provincial CPA body, the registrant must report that finding or settlement agreement to any other provincial CPA body in which membership, licensure or registration is held. In addition, some provincial CPA bodies permit the voluntary resignation or cancellation of membership, licensure or registration of registrants in order to resolve a disciplinary proceeding; in these cases, the registrant must also report such voluntary resignations or cancellations to any other provincial CPA body in which registration is held.
- 4** Conduct which results in a breach of the requirements of another professional regulatory body is likely to diminish the good reputation of the profession or otherwise breach the CPA Code. Such breaches must be evaluated by CPABC against the requirements of the CPA Code and therefore, all such matters must be reported. Reporting of these matters is required whether they were addressed through a settlement agreement with or by a finding of guilt by the professional regulatory body.
- 5** A “professional regulatory body” is a body that sets and maintains standards of qualification, attests to the competence of the individual practitioner, develops skills and standards of the profession, sets a code of ethical standards and enforces its professional and ethical standards. Such a body has power to compel a person to appear and answer to disciplinary actions relating to compliance with its standards. Examples of professional regulatory bodies include, but are not limited to, bodies that regulate the accounting, legal, actuarial, investment, real estate, engineering and financial planning professions.
- 6** Conduct which results in a breach of the requirements of any other regulatory body may also breach the CPA Code. In such situations, the registrant should exercise professional judgment to determine whether such a breach is a matter that involves acting in a professional capacity, relates to professional skills, or involves reliance on licensure, registration or association with any provincial CPA body. The breach must be evaluated against the requirements of the CPA Code and in particular Rule 201.1, and any such matters which do not meet those requirements must be reported to CPABC. Reporting of these matters is required whether they were addressed through a settlement agreement with or by a finding of guilt by the other regulatory body.
- 7** A “regulatory body” is a body that has power to compel a person to appear and answer to charges relating to compliance with its requirements. In this context, such a regulatory body’s requirements include legislation that it is empowered to enforce, whether against its own members or the public generally, codes of ethics, bylaws, regulations, professional or practice requirements and similar standards. Examples of regulatory bodies include, but are not limited to, bodies that regulate competition, elections, gaming, human rights, environmental protection and health and occupational safety.
- 8** In applying Rules 102.1 through 102.4, the words “guilt” and “guilty” include findings by a regulatory body of a contravention, breach, violation, infringement and other similar term in relation to failures to comply with its requirements. Additionally, the imposition of a requirement or restriction on a registrant by a regulatory body is equivalent to “guilt”. However,

administrative orders for penalties such as late filing penalties from tax assessments or reassessments or interim cease trade orders of a securities regulator do not constitute findings of guilt.

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

### **103 False or misleading applications**

#### ***RULE:***

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

## **104 Requirement to co-operate**

### **RULES:**

**104.1** *A registrant shall co-operate with the regulatory processes of CPABC.*

**104.2** *A registrant shall:*

- (a) promptly reply in writing to any communication from CPABC in which a written reply is specifically required;*
- (b) promptly produce documents when required to do so by CPABC; and*
- (c) attend in person in the manner requested when required to do so by CPABC in relation to the matters referred to in Rule 104.1.*

### **GUIDANCE - Rule 104**

- 1** The regulatory processes of CPABC include practice inspections and reviews, investigations into professional conduct, and disciplinary or other hearings.
- 2** Lack of co-operation includes attempts to delay, mislead or misdirect CPABC by concealing relevant information, providing false, incomplete or misleading statements or information, failing to respond to communications or otherwise obstructing the regulatory processes of CPABC. Lack of co-operation does not include good faith assertions of legal privilege (having regard to section 51(10) of the Act).
- 3** The requirement for prompt written replies and production of documents contemplates the establishment of a reasonable timeframe to respond to the request. Requests for reasonable extensions will not normally be refused, however, repeated requests without adequate grounds will be refused.
- 4** Requirements for attendance in person may be modified by agreement between CPABC and the registrant to provide reasonable accommodations. However, repeated requests for alternative accommodations without adequate grounds will be refused.
- 5** Subject to the agreement of CPABC, the requirement to attend in person may include attendance by teleconference, videoconference or other means.
- 6** The requirement to co-operate with CPABC includes a requirement to co-operate with officers, staff, volunteers or agents acting on behalf of CPABC in matters described in Rules 104.1 and 104.2.

## **105 Hindrance, inappropriate influence and intimidation**

### **RULES:**

**105.1** *A registrant shall not, directly or indirectly hinder any regulatory process of CPABC or otherwise attempt to exert inappropriate influence or pressure on the outcome of a regulatory matter of CPABC.*

**105.2** *A registrant shall not threaten or intimidate a complainant, witness, or any other person related to a regulatory matter of CPABC nor shall a registrant threaten or intimidate officers, staff, volunteers or agents acting on behalf of CPABC.*

### **GUIDANCE - Rule 105**

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

## 200 – PUBLIC PROTECTION

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

#### **RULES:**

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

#### **GUIDANCE - Rule 201**

##### **Compliance with regulatory legislation**

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

##### *Chartered Professional Accountants Act*

All members and firms who offer public accounting services in British Columbia, whether full or part-time, should be familiar with the provisions of the *Chartered Professional Accountants Act* and CPABC's bylaws under it, and must ensure that they obtain individual licensure or firm registration where such licensure or registration is required before offering services to the public; such licensure or registration must be kept up to date during the time that such services are offered.

##### **Criticism of the work of other professionals**

- 4** In the course of performing professional services, a registrant may on occasion criticize the work of another professional; such criticism may be direct, or may be implied by material adjustments to a client's accounts considered necessary to correct work performed by the other professional. It may be, however, that there are facts or explanations known to the other professional concerned which could have a bearing on the matter.

- 5 Unless limited or restricted in writing by the terms of the engagement, it is recommended that the registrant first communicate any proposed criticism to the other professional involved so that any eventual criticism takes into account all the available information. This is a step dictated by considerations both of professional courtesy and simple prudence.
- 6 Paragraphs 4 and 5 apply to criticisms of a general nature as well as to criticisms of specific professional work of another professional.
- 7 Paragraph 5 does not apply to a registrant bringing to the attention of the Registrar any apparent breach of the CPA Code or any instance involving doubt as to the competence, integrity or capacity to practise of a registrant or applicant, as required by Rule 211.

#### **Resignation/termination of auditors**

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

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



## **202 Integrity and due care and Objectivity**

### **RULES:**

#### **202.1 Integrity and due care**

*A registrant shall perform professional services with integrity and due care.*

#### **202.2 Objectivity**

*A registrant shall not allow their professional or business judgment to be compromised by bias, conflict of interest or the undue influence of others.*

### **GUIDANCE - Rule 202**

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

### **Professional services and fiduciary duty**

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

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

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

### **The public interest**

- 6** Clients, employers and the public generally expects that a registrant will bring the qualities of objectivity, integrity and due care to all professional services. It therefore becomes essential that registrants will not compromise their professional judgment to the will of others. When a possible ethical conflict arises because another person in an organization overrides the professional judgment of a registrant, the registrant should refer to the ethical conflict resolution guidance in the Preamble to the CPA Code.

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

### **Objectivity and advocacy**

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

### **Practice of public accounting – additional requirements**

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

### **Continuing assessment of objectivity and integrity**

- 13 A registrant must remain conscious of the need to remain objective and act with integrity in the conduct of all professional services, and must continually assess and manage the risks to objectivity and integrity. In the absence of specific rules, standards or guidance, a registrant should consider whether another registrant, without the relationships or influence that have put objectivity or integrity at risk, would have come to the same decision with access to the

same information. The registrant may wish to apply the ethical conflict resolution guidance in the Preamble to the CPA Code in circumstances where difficult decisions may be required. In order to resolve the conflict, it may be necessary to consult with an experienced member or appropriate staff at CPABC.

- 14** A firm is accountable under Rule 502 for a lack of objectivity or integrity of any members, students and other persons who carry out professional services on behalf of the firm.

### **203 Professional competence**

#### ***RULE:***

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

## 204 Independence

### **DEFINITIONS:**

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

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

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

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

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

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

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

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

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

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

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

**“direct financial interest”** means a financial interest:

- (a) owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others);
- (b) beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control or ability to influence investment decisions;
- (c) owned through an investment club or by a private mutual fund in which the individual participates in the investment decisions.

**“engagement period”** means the period that starts at the earlier of the date when the member or firm signs the engagement letter or commences procedures in respect of the engagement and ends when

the assurance report is issued, except when the engagement is of a recurring nature, in which case the engagement period ends with:

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

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

**“engagement team”** means:

- (a) each member of the firm performing the assurance engagement;
- (b) all other members of the firm who can directly influence the outcome of the assurance engagement, including:
  - (i) those who recommend the compensation of, or who provide direct supervisory, management or other oversight of, the assurance engagement partner in connection with the performance of the assurance engagement. For the purposes of an audit engagement this includes those at all successively senior levels above the lead engagement partner through to the firm's chief executive officer;
  - (ii) those who provide consultation regarding technical or industry-specific issues, transactions or events for the assurance engagement; and
  - (iii) those who provide quality control for the assurance engagement; and
- (c) in the case of an audit client, all persons in a network firm who can directly influence the outcome of the audit engagement.

**“financial interest”** includes a direct or indirect ownership interest in an equity or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.

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

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

**“firm”** means a registered firm that carries on the practice of public accounting or related activities as defined by the Board, and is deemed to include a related business or practice of the firm.

**“fund manager”** means, with respect to a mutual fund, an entity that is responsible for investing the mutual fund's assets, managing its portfolio trading and providing it with administrative and other services, pursuant to a management contract.

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

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

**“key audit partner”** means:

- (a) an audit partner who is the lead engagement partner;
- (b) the engagement quality control reviewer; and

- (c) any other audit partner on the engagement team who makes important decisions or judgments on significant matters with respect to the audit or review engagement.

**“lead engagement partner”** means the partner or other person who is responsible for the engagement and its performance, for the report that is issued on behalf of the firm and who, where required, has the appropriate authority from a professional, legal or regulatory body.

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

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

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

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

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

**“member of a firm”** or **“member of the firm”**, as the case may be, means a person, whether or not a professional colleague, who is:

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

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

**“mutual fund complex”** means:

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

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

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

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

**“practice of public accounting”** means the provision of “public accounting services” as defined in the bylaws.

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

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



reason to believe that the existence of an activity, interest or relationship involving the member or firm and that other entity is relevant to the evaluation of the independence of the member or firm with respect to the assurance engagement:

- (i) an entity over which the client has control;
- (ii) an entity that has control over the client, provided that the client is material to such entity;
- (iii) an entity that has significant influence over the client, provided that the client is material to such entity;
- (iv) an entity which is under common control with the client, provided that such entity and the client are both material to the controlling entity; or
- (v) an entity over which a client has significant influence, provided that the entity is material to the client.

**“reporting issuer”** means an entity that is defined as a reporting issuer under the applicable Canadian provincial or territorial securities legislation, other than an entity that has, in respect of a particular fiscal year, market capitalization and total assets that are each less than \$10,000,000. An entity that becomes a reporting issuer by virtue of the market capitalization or total assets becoming \$10,000,000 or more in respect of a particular fiscal year shall be considered to be a reporting issuer thenceforward unless and until the entity ceases to have its shares or debt quoted, listed or marketed in connection with a recognized stock exchange or the entity has remained under the market capitalization or total assets threshold for a period of two years.

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

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

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

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

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

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

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

## **GUIDANCE - Rule 204 Definitions**

### **“clearly insignificant”**

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

#### **“firm”**

The definition of “firm” refers to related activities as defined by the Board. References to a “firm” in Rule 204 are also deemed to include a related business or practice of the firm, as defined in the Code.

#### **“key audit partner”**

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

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

#### **“member of a firm” - retired partner**

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

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

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

#### **“network firm”**

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

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

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

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

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

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

#### **“related entity”**

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

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

	the controlling second entity.			
(a)(v) (b)(ii)(D) (c)(v)	The entity is subject to significant influence by the client and the entity is material to the client.	Related	Conditional*	Conditional*

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

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

## **204 Independence**

### **RULES:**

#### **Transitional provisions**

##### *A. Continued application of legacy independence rules*

The applicable independence rules that were established before the transition date by CGA-BC, ICABC or CMABC continue to apply to legacy CGA members, legacy CA members and legacy CMA members, and their firms, instead of the provisions of Rules 204.1 to 204.10, with respect to:

- (a) any assurance engagement in respect of a particular reporting period of a client, if the reporting period commencing before the transition date; and
- (b) any other assurance engagement or engagement to issue a report of the results of applying specified auditing procedures, if the engagement was commenced before the transition date.

##### *B. Provision of litigation support services*

The litigation services referred to in 204.4(29)(a) do not include services provided by legacy CGA members, legacy CA members and legacy CMA members, and their firms, if the services has not been completed before the transition date and:

- (a) there exists immediately before the transition date a binding contract for the member or firm to provide the service; and
- (b) the provision of the service by the member or firm would not have contravened any corresponding requirements under the applicable independence rules that were established before the transition date by CGA-BC, ICABC or CMABC.

##### *C. Key audit partner rotation*

Despite 204.4(20), a key audit partner who would not have been subject to rotation under the corresponding provisions of the applicable independence rules that were established before the transition date by CGA-BC, ICABC or CMABC may continue to participate in the audit of the financial statements of the particular client up to and including the audit engagement for the second fiscal year of the client commencing after the transition date.

## **204 Independence**

### **RULES:**

#### **204.1 Assurance and Specified Auditing Procedures Engagements**

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

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

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

#### **204.2 Compliance with Rule 204.1**

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

#### **204.3 Identification of Threats and Safeguards**

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

### **GUIDANCE - Rules 204.1 to 204.3**

#### **INTRODUCTION**

- 1** It is a fundamental principle of the practice of Chartered Professional Accountancy that a member who provides assurance services shall do so with unimpaired professional judgment and objectivity, and shall be seen to be doing so by a reasonable observer. This principle is the foundation for public confidence in the reports of assurance providers.
- 2** The confidence that professional judgment has been exercised depends on the unbiased and objective state of mind of the reporting accountant, both in fact and appearance. Independence is the condition of mind and circumstance that would reasonably be expected to result in the application by a member of unbiased judgment and objective consideration in arriving at opinions or decisions in support of the member's report. A member or firm is not considered to be independent if the member or firm does not comply with the provisions of Rules 204.1 to 204.4.
- 3** Rule 204.1 provides that a member or firm who engages or participates in an engagement:
  - to issue a written communication under the terms of any assurance engagement; or
  - to issue a report on the results of applying specified auditing procedures;must be independent of the client. Independence requires the avoidance of situations which impair the professional judgment or objectivity of the member, firm or a member of the firm or which, in the view of a reasonable observer, would impair that professional judgment or objectivity.
- 4** Rule 204.2 provides that a member or firm, who is required to be independent pursuant to Rule 204.1 in respect of a particular engagement, must comply with Rules 204.3 and 204.4.
- 5** Rule 204.3 provides that a member or firm must identify and evaluate threats to independence and, if they are not clearly insignificant, identify and apply safeguards to reduce them to an

acceptable level. Where safeguards are not available to reduce the threats to an acceptable level the member or firm must eliminate the activity, interest or relationship creating the threats, or refuse to accept or continue the engagement.

Rule 204.4 describes circumstances and activities which members and firms must avoid when performing assurance and specified auditing procedure engagements because adequate safeguards will not exist that will, in the view of a reasonable observer, eliminate the threat or reduce it to an acceptable level, as required by Rule 204.3. The requirements to avoid these circumstances and activities are referred to as “prohibitions.”

- 6** Rule 204.5 requires the member or firm to document compliance with Rules 204.3, 204.4(24)(b), 204.4(34)(b), 204.4(35) and 204.4(40).
- 7** Rule 204.7 provides that a member or student must disclose breaches of the Code to a designated partner in the firm. It also provides that, when a member or student has been assigned to an engagement team, the member or student must disclose to a designated partner any interest, relationship or activity that would preclude the member or student from being on the engagement team.
- 8** Rule 204.8 provides that a firm must ensure that members of the firm comply with Rule 204.4. The Rule provides that a firm may not permit any member of the firm to have a relationship with or an interest in an assurance client, or provide a service to an assurance client, which is precluded by Rule 204.
- 9** This Guidance describes a conceptual framework of principles that members and firms should use to identify threats to independence and evaluate their significance. If the threats are other than clearly insignificant, the member or firm should identify available safeguards. Some safeguards may already exist within the structure of the firm or the client, while others may be created by the action of the member, firm or client. Safeguards should be identified and, where applicable, applied to eliminate the threats or reduce them to an acceptable level. Members should exercise professional judgment to determine which safeguards to apply and whether the safeguards will permit the member or firm to accept or continue the engagement.
- 10** The effectiveness of safeguards largely depends on the culture of the particular firm. Therefore, the Board encourages leaders of firms to stress the importance of compliance with Rule 204 and emphasize the expectation that members of the firm will act in the public interest. In doing so, firms should create and monitor effective policies and procedures designed to preserve the independence of the firm and its partners and employees when required by Rule 204.
- 11** The specific circumstances and examples presented herein are intended to illustrate the application of the principles; they are not, nor should they be interpreted as, an exhaustive list of all circumstances that may create a threat to independence. Consequently, it is not sufficient for a member or a firm merely to comply with the specific circumstances and examples presented. Rule 204.3 requires that they apply the principles to any particular circumstance encountered, whether or not the examples used in the Guidance, or the prohibitions set out in Rule 204.4, reflect those circumstances.
- 12** Specific circumstances and relationships that may create threats to independence are described together with safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level in each circumstance. While the specific circumstances and examples relate to the audit or review of financial statements and other assurance engagements, they also apply to engagements to issue a report on the results of applying

specified auditing procedures as required by Rule 204.1(b).

- 13 This Guidance sets out how, in the Board's opinion, a reasonable observer might view certain situations in the application of Rule 204.1 to 204.10. The reasonable observer is a hypothetical individual who has knowledge of the facts which the member knew or ought to have known, including the safeguards applied, and who applies judgment objectively, with integrity and due care. Members should also refer to the Preamble to the CPA Code, which provides the rationale for establishing the reasonable observer principle.
- 14 Members are reminded that for the purposes of Rules 204.1 to 204.10, independence includes both independence of mind and independence in appearance. As stated in Rule 204.1, independence requires the absence of any influence, interest or relationship which would impair the professional judgment or objectivity of the member or a member of the firm or which, in the view of a reasonable observer, would impair the professional judgment or objectivity of the member or a member of the firm. Frequently it is appearance of independence, or lack thereof, that poses the greatest challenge. In all situations, members should reflect on the wording of the Rule and Guidance to ensure compliance with the spirit and intent of the Rule and Guidance.
- 15 If, after considering the Rules and this Guidance, members are uncertain as to their correct application, they are encouraged to discuss the matter with partners, professional colleagues or CPABC staff.
- 16 Members should also be cognizant of any relevant Canadian or foreign legislation that may preclude a member from accepting or continuing an engagement. Members are cautioned that legislation under which corporations and other enterprises are incorporated or governed may impose differing requirements in respect of independence. Members should satisfy both the requirements of any governing legislation and the CPA Code.

## **THE FRAMEWORK**

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

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

- 18 The use of the word "independence" on its own may create misunderstandings. Standing alone, the word may suggest that a person exercising professional judgment ought to be free from all economic, financial and other relationships. This is impossible, as everyone has relationships with others. Therefore, members should evaluate the significance of economic, financial and other relationships in the light of what a reasonable observer would conclude to be acceptable in maintaining independence.
- 19 In making this evaluation, many different circumstances may be relevant. Accordingly, it is impossible to define every situation that creates a threat to independence and specify the appropriate mitigating action. In addition, because of differences in the size and structure of firms, the nature of assurance engagements and client entities, different threats may exist, that require the application of different safeguards. A conceptual framework that requires members and firms to identify, evaluate and address threats to independence, rather than merely comply



with a set of specific and perhaps arbitrary rules is, therefore, in the public interest.

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

#### **EXTENT OF APPLICATION OF REQUIREMENT FOR INDEPENDENCE FOR DIFFERENT TYPES OF ENGAGEMENTS**

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

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

## **EVALUATING THREATS AND SAFEGUARDS**

- 27** The ongoing evaluation and disposition of threats to independence should be supported by evidence obtained both before accepting an engagement and while it is being performed. The obligation to make such evaluation and take action arises when a member of a firm or network firm knows, or should reasonably be expected to know, of circumstances or relationships that might impair independence. There may be occasions when a member, a firm or a network firm is inadvertently in breach of a provision of this Rule. If such an inadvertent breach occurs, it would generally not impair independence for the purposes of Rules 204.1 to 204.10, provided the firm had appropriate quality control policies and procedures in place to promote independence and, once discovered, the breach was corrected promptly and any necessary safeguards were applied. An inadvertent breach would include a situation where the member did not know of the circumstances that created the breach.
- 28** Rule 204.4 describes activities, interests or relationships that create threats to independence that are so significant that there are no safeguards available to reduce them to an acceptable level and, accordingly, prohibits the provision of assurance services, as specified, in conjunction with such activities, interests or relationships. Rules 204.1 to 204.8 and this Guidance also describe the threats to independence and analyze safeguards that may be capable of eliminating them or reducing them to an acceptable level. They conclude with some examples of how the conceptual framework to independence is to be applied to specific circumstances and relationships and the relevant threats and safeguards. The examples are not all inclusive. Professional judgment should be used to determine whether appropriate safeguards exist to eliminate all threats to independence or to reduce their cumulative effect to an acceptable level. In some examples, it may be possible to eliminate the threat or reduce it to an acceptable level by the application of safeguards. In some other examples, the threat or threats to independence will be so significant that the only possible actions are to eliminate the activity, interest or relationship creating the threat or threats, or to refuse to accept or continue the engagement

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

## **THREATS TO INDEPENDENCE**

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

### **Self-Interest Threats**

- 31** A self-interest threat occurs when a firm or a person on the engagement team could benefit from a financial interest in, or other self-interest conflict with, an assurance client. Examples of circumstances that may create a self-interest threat include, but are not limited to:
- a direct financial interest or material indirect financial interest in an assurance client;
  - a loan or guarantee to or from an assurance client or any of its directors or officers;
  - dependence by a firm, office or member on total fees from an assurance client;
  - undue concern about the possibility of losing the engagement;
  - evaluating performance or providing compensation for selling non-audit services to an assurance client;
  - having a close business relationship with an assurance client; and
  - potential employment with an assurance client.

### **Self-Review Threats**

- 32** A self-review threat occurs when any product or judgment from a previous engagement needs to be evaluated in reaching a conclusion on the particular assurance engagement, or when a person on the engagement team was previously an officer or director of the client, or was in a position to exert significant influence over the subject matter of the assurance engagement. Examples of circumstances that may create a self-review threat include, but are not limited to:
- a person on the engagement team being, or having recently been, an officer or director of the client;
  - a person on the engagement team being, or having recently been, an employee of the assurance client in a position to exert significant influence over the subject matter of the assurance engagement, or another person having the duties or responsibilities normally associated with such an employee;
  - a member or firm performing services for an assurance client that directly affect the subject matter of the engagement; and
  - a member or firm preparing original data used to generate financial statements or preparing other records that are the subject matter of the engagement.

### **Advocacy Threats**

- 33** An advocacy threat occurs when a firm, or a person on the engagement team, promotes, or may be perceived to promote, an assurance client's position or opinion to the point that

objectivity may be, or may be perceived to be, impaired. Such would be the case if a person on the engagement team were to subordinate their judgment to that of the client, or the firm were to do so. Examples of circumstances that may create an advocacy threat include, but are not limited to:

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

### **Familiarity Threats**

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

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

### **Intimidation Threats**

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

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

### **SAFEGUARDS**

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

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

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

- education, training and practical experience requirements for entry into the profession;
- continuing education programs;
- professional standards;
- external practice inspection;
- disciplinary processes;
- members' practice advisory services;

- participation by members of the public in oversight and governance of the profession; and
- legislation governing the independence requirements of the firm and its members.

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

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

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

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

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

- firm leadership that stresses the importance of independence and the expectation that persons on engagement teams will act in the public interest;
- policies and procedures to implement and monitor quality control of assurance engagements;
- documented independence policies regarding the identification of threats to independence, the evaluation of their significance and the identification and application of appropriate safeguards to eliminate or reduce the threats, other than those that are clearly insignificant, to an acceptable level;
- internal policies and procedures, including annual reporting by members of the firm, to monitor compliance with firm policies and procedures as they relate to independence;
- policies and procedures that will enable the identification of interests or relationships between the firm or those on the engagement team and assurance clients;
- policies and procedures to monitor and manage the reliance on revenue received from a single assurance client;
- internal performance measures that do not put excessive pressure on partners to generate non-assurance revenue from their assurance clients and do not over emphasize budgeted hours;
- using different partners and teams with separate reporting lines for the provision of non-assurance services to an assurance client;
- policies and procedures to prohibit members of the firm who are not on the engagement team from influencing the outcome of the assurance engagement;
- timely communication of a firm's policies and procedures, and any changes thereto, to all members of the firm, including appropriate training and education thereon;
- designating a member of the firm's senior management as responsible for overseeing the adequate functioning of the safeguarding system;
- means of advising all members of the firm of those clients and related entities from which they should be independent;

- an internal disciplinary mechanism to promote compliance with firm policies and procedures; or
- policies and procedures that empower members of the firm to communicate, without fear of retribution, to senior levels within the firm any issue of independence and objectivity that may concern them.

**41** Safeguards within the firm's own systems and procedures may include engagement-specific safeguards such as the following:

- involving another person to review the work done or advise as necessary. This person could be someone from outside the firm or network firm, or someone from within who was not otherwise associated with the engagement team. The person should be independent of the assurance client and will not, by reason of the review performed or advice given, be considered to be on the engagement team;
- consulting a third party, such as a committee of independent directors, a professional regulatory body or a professional colleague;
- rotating senior personnel on the engagement team;
- discussing independence issues with the audit committee;
- disclosing to the audit committee, the nature of services provided and extent of fees charged;
- policies and procedures designed to ensure that persons on the engagement team do not make, or assume responsibility for, management decisions for the client;
- involving another firm to perform or re-perform part of the assurance engagement;
- involving another firm to re-perform the non-assurance service; or
- removing a person from the engagement team, when that person's financial interests, relationships or activities create a threat to independence.

## **PRACTITIONERS WITH SMALL OR OWNER-MANAGED CLIENTS**

**42** The size and structure of the firm and the nature of the assurance client and the engagement will affect the type and degree of the threats to independence and, consequently, the types of safeguards appropriate to eliminate such threats or reduce them to an acceptable level. For example, it is understood that not all the safeguards noted in paragraphs 39 to 42 of the Guidance to Rules 204.1 to 204.3 will be available to the sole practitioner or small firm or within smaller clients such as owner-managed entities. Smaller clients often rely on members to provide a broad range of accounting and business services. Independence will not be impaired provided such services are not specifically prohibited by Rule 204.4 and provided safeguards are applied to reduce any threat to an acceptable level. In many circumstances, explaining the result of the service and obtaining client approval and acceptance for the result of the service will be an appropriate safeguard for such smaller entities. Similarly, such clients often have a long-standing relationship with an individual who is a sole practitioner or partner from a firm. Independence will not be impaired provided safeguards are applied to reduce any familiarity threat to an acceptable level. In most circumstances, periodic external practice inspection and, where appropriate, consultation will reduce any threat to independence to an acceptable level.

## **APPLICATION OF THE FRAMEWORK**

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

to reduce a threat or threats to an acceptable level, the only possible actions are to eliminate the activity, interest or relationship creating the threats, or to refuse to accept or continue the assurance engagement.

#### **Rebuttable presumption – not subject to audit procedures**

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

#### **Other specific threats**

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

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

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

- involving a professional accountant from outside of the firm to provide assurance on a discrete aspect of the assurance engagement;
- obtaining the client's acknowledgement of responsibility for the results of the non-assurance service performed by the firm;
- disclosing to the audit committee the nature of the non-assurance service and extent of fees charged; or
- arranging that the members of the firm providing the non-assurance service do not participate on the assurance engagement team.

#### Contingent fees

**48** Members and firms are referred to Rule 215 and the related Guidance.

#### Actual or threatened litigation

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

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

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

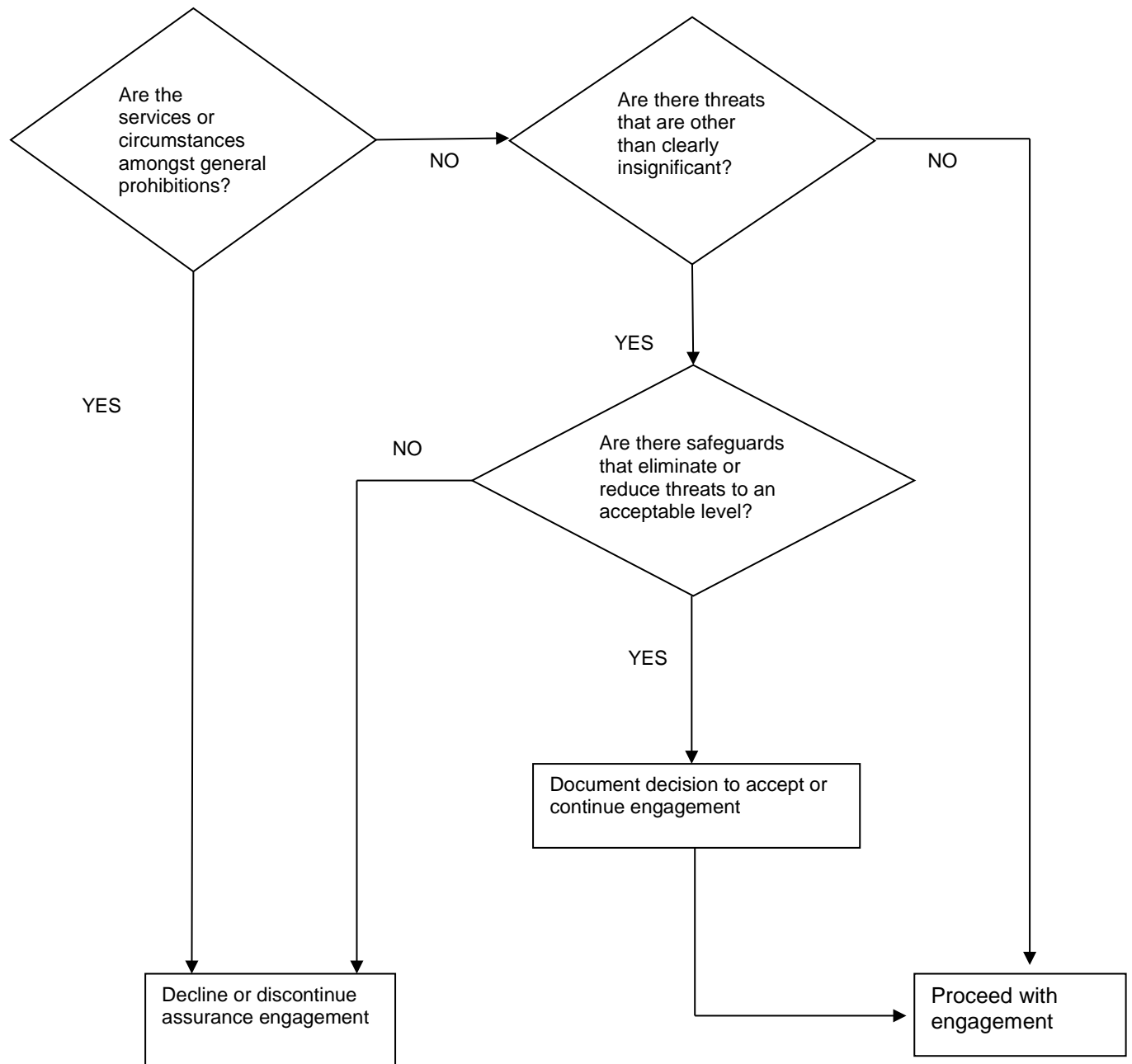
- disclosing to the audit committee the extent and nature of the litigation;
- removing from the engagement team any person involved in the litigation; or
- involving an additional member of the firm who is not part of the engagement team to review the work done or advise as necessary.

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

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



## OVERVIEW OF INDEPENDENCE STANDARD FOR ASSURANCE ENGAGEMENT — FLOWCHART



## **204 Independence**

### **RULES:**

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

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

- (iii) *does not exercise any right derived from membership to vote at meetings of the organization; and*
  - (iv) *cannot dispose of the financial interest for gain.*
- (3) *A member or firm shall not perform an audit or review engagement for an entity if a pension or other retirement plan of the firm or network firm has a direct financial interest or a material indirect financial interest in the entity.*
- (4) *A member who is a partner of a firm and who holds, or whose immediate family member holds, a direct financial interest or a material indirect financial interest in an audit or review client shall not practise in the same office as the lead engagement partner for the client, unless, in the case of a financial interest held by an immediate family member, the financial interest is received as a result of employment and*
  - (a) *the immediate family member does not have the right to dispose of the financial interest or, in the case of a share option, the right to exercise the option; or*
  - (b) *where such rights are obtained, the financial interest is disposed of as soon as is practicable.*
- (5)(a) *A member who is a partner or managerial employee of a firm and who holds a direct financial interest or a material indirect financial interest in an audit or review client shall not provide a non-assurance service to the client, unless the non-assurance service is clearly insignificant.*
- (b) *A member who is a partner or managerial employee of a firm whose immediate family member holds a direct financial interest or a material indirect financial interest in an audit or review client shall not provide a non-assurance service to the client, unless:*
  - (i) *the non-assurance service is clearly insignificant; or*
  - (ii) *the financial interest is received as a result of employment and*
    - (A) *the immediate family member does not have the right to dispose of the financial interest or, in the case of a share option, the right to exercise the option; or*
    - (B) *where such rights are obtained, the financial interest is disposed of as soon as is practicable.*
- (6)(a) *A member or firm shall not perform an audit or review engagement for an entity (the first entity) if the firm or a network firm has a financial interest in a second entity, and the member or firm knows that the first entity or a director, officer or controlling owner of the first entity also has a financial interest in the second entity, unless the respective financial interests of the firm or network firm and the first entity, the director, officer or controlling owner of the first entity are immaterial and the first entity cannot exercise significant influence over the second entity.*
- (b) *A member or student shall not participate on the engagement team for an audit or review client if the member or student or an immediate family member of the member or student has a financial interest in an entity and the member or student knows that the client or a director, officer or controlling owner of the client also has a financial interest in the entity, unless the respective financial interests of the member or student, or immediate family member, and the client, the director, officer or controlling owner of the client are immaterial and the client cannot exercise significant influence over the entity.*

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

- 1** A financial interest in an assurance client may create a self-interest threat. In evaluating the significance of the threat, and the appropriate safeguards to be applied to eliminate the threat or reduce it to an acceptable level, it is necessary to examine the nature of the financial interest. This includes an evaluation of the role of the person holding the financial interest, whether that interest is material and whether it is direct or indirect.
- 2** Financial interests may be held through an intermediary such as a collective investment

vehicle, estate or trust. The determination of whether such financial interests are direct or indirect will depend upon whether the beneficial owner has control over the investment vehicle or the ability to influence its investment decisions. When such control or ability exists, that financial interest is a direct financial interest. Conversely, when such control or ability does not exist, such a financial interest is an indirect financial interest.

- 3 In the application of Rules 204.4(1) to (12) to an assurance, audit or review client the reference to an assurance, audit or review client, a client or an entity includes related entities, as defined, of the assurance, audit or review client, client or entity, as the case may be.

### **Assurance clients**

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

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

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

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

- 6 When a person on an engagement team knows that a close family member has a direct financial interest or a material indirect financial interest in the assurance client, or a related entity, a self-interest threat may exist. In evaluating the significance of any such threat, consideration should be given to the nature of the relationship between the person on the engagement team and the close family member and the materiality of the financial interest. Once the significance of the threat has been evaluated, safeguards should be applied. Such safeguards might include:
- the close family member disposing of all or a sufficient portion of the financial interest at the earliest practical date;
  - discussing the matter with the audit committee;
  - involving another member of the firm who is not, and never was, on the engagement team to review the work done by the particular person on the engagement team or advise as necessary; or
  - removing the person from the engagement team.

- 7 Consideration should be given to whether a self-interest threat may exist because of the financial interests of individuals other than those on the engagement team and their immediate and close family members. Such individuals would include:
- a member of the firm who provides a non-assurance service to the assurance client;
  - a member of the firm who has a close personal relationship with a person on the engagement team;
  - a spouse or dependant of an immediate or close family member of a person on the engagement team; and
  - an individual for whom a member of the engagement team holds power of attorney.

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

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

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

- where appropriate, policies to prohibit such individuals from holding such interests;
- discussing the matter with the audit committee; or
- involving another member of the firm who is not, and never was, on the engagement team to review the work done by the particular individual or advise as necessary.

- 8 The specific prohibitions of Rule 204.4 do not preclude a firm from accepting an assurance engagement with an entity if one or more partners of the firm who do not participate on the engagement team, and who do not practice in the same office as the lead engagement partner, have a financial interest in the entity. However, Rule 204.1 requires the firm to be independent in fact and appearance and requires the firm to identify threats to independence arising from such circumstances, evaluate the significance of the threats and, if they are other than clearly insignificant, apply safeguards to reduce the threats to an acceptable level. If adequate safeguards are not available the firm should not accept the engagement.

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

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

#### **Audit or review clients**

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

#### **Inadvertent breaches**

- 11 An inadvertent breach of the provisions of Rules 204.4(1) to (6) and 204.4(10) to (12), would not impair the independence of the member of the firm or the firm when:

- the firm has established policies and procedures that require a network firm and all members of the firm to report promptly any breaches resulting from the purchase, inheritance or other acquisition of a financial interest in the assurance client;
- the firm promptly notifies the network firm or the member of the firm that the financial interest should be disposed of; and
- the disposal occurs at the earliest practical date after identification of the issue, but no later than 30 days after the person has both the knowledge of the financial interest and the right or ability to dispose of it, or the person is removed from the engagement team.

**12** When an inadvertent breach of the provisions of Rules 204.4(1) to (12) has occurred, the firm should consider whether, and if so which, safeguards should be applied. Such safeguards might include:

- involving another member of the firm who is not, and never was, on the engagement team to review the work done by the particular member involved in the breach; or
- excluding the particular person from any substantive decision-making concerning the assurance engagement.

Members and students are reminded that Rule 204.7 requires a member or student who has an interest that is precluded by Rule 204 to advise in writing a designated partner of the firm of the interest. Inadvertent breaches are also discussed in paragraph 27 of the Guidance to Rules 204.1 to 204.3.

## **204    Independence**

*Rules 204.4(7) to (9) are reserved for future use.*

## **204 Independence**

### **RULES:**

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

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

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

- 1** A loan from, or a loan guaranteed by, an assurance client that is a bank or a similar financial institution to a person on the engagement team or their immediate family member would not create a threat to independence provided the loan or guarantee is made under normal commercial terms and conditions and is in good standing. Examples of such loans include home mortgages, bank overdrafts, car loans and credit card balances.
- 2** Similarly, deposits or brokerage accounts of a firm or a person on the engagement team with an assurance client that is a bank, broker or similar financial institution would not create a



threat to independence provided the deposit or brokerage account was held under normal commercial terms and conditions.

- 3** Rules 204.4(10) and (11) relate to loans and guarantees between a firm and an assurance client. In the case of an assurance client that is an audit or review client, the provisions of Rules 204.4(10) and (11) also apply to network firms. In all cases the provisions of Rule 204.4(10), (11) and (12) should be read as applying also to related entities of the client.

## 204 Independence

### RULES:

#### 204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements

##### Close business relationships

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

### GUIDANCE - Rule 204.4(13)

- 1 A close business relationship between a firm, a network firm or a person on the engagement team and the assurance client or its management, involving a common commercial or financial interest may create a self-interest or an intimidation threat. Members and firms should also consider whether such threats may be created by close business relationships with a related entity or its management. The following are examples of such relationships:
  - having a material financial interest in a joint venture with the client or a controlling owner, director, officer or other individual who performs senior management functions for that client;
  - arrangements to combine one or more services or products of the firm with one or more services or products of the client and to market the package with reference to both parties; and
  - arrangements under which either the firm or the client acts as a distributor or marketer of the other's products or services.

A close business relationship does not include the relationship created by the professional engagement between the client and the member, the firm, or the network firm as the case may be.
- 2 In the case of an audit or review client, a business relationship involving an interest held by a firm, a network firm or a person on the engagement team or any of that person's immediate family members in a closely held entity in which the client or a director or officer of the client, or any group thereof, also has an interest, does not create threats to independence provided:
  - the relationship is clearly insignificant to the firm, the network firm and the client;
  - the interest held is immaterial to the investor, or group of investors; and
  - the interest does not give the investor, or group of investors, the ability to control the closely held entity.
- 3 The purchase of goods or services from an assurance client by a firm (and, in the case of an audit client, by a network firm) or a person on the engagement team will not generally create a threat to independence, provided the transaction is conducted in the normal course of the client's business and on an arm's length basis. However, such a transaction may be of a nature

or magnitude such that it does create a self-interest threat. If the threat so created is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. Such safeguards might include:

- reducing the magnitude of or eliminating the transaction;
- removing the individual involved from the engagement team; or
- discussing the issue with the audit committee.

## **204 Independence**

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Family and personal relationships**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Inadvertent breaches**

**7** An inadvertent breach of the provisions of Rules 204.4(14) or (15) as they relate to family and personal relationships would not impair the independence of the member of the firm, or the firm, when:

- the firm has established policies and procedures that require all members of the firm to report promptly to the firm any breaches resulting from changes in the employment status of their immediate or close family members or other personal relationships that create a threat to independence;
- either the responsibilities of the engagement team are restructured so that the person on the engagement team does not deal with matters that are within the responsibility of the

person with whom they are related or have a personal relationship, or, if that is not possible, the firm promptly removes that person from the engagement team; and

- additional care is given to reviewing the work of the particular person on the engagement team.

**8** When an inadvertent breach of the provisions of Rules 204.4(14) or (15) relating to family and personal relationships has occurred, the firm should consider whether, and if so which, safeguards should be applied. Such safeguards might include:

- involving another member of the firm who is not, and never was, on the engagement team to review the work done by the person on the engagement team; or
- excluding that person from any substantive decision-making concerning the assurance engagement.

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

## **204 Independence**

### **RULES:**

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

- (16) A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if:
- (a) a person who participated in an audit capacity in an audit of the financial statements of the entity performed by the member or firm is an officer or director of the entity or is in a financial reporting oversight role unless a period of one year has elapsed from the date that the financial statements were filed with the relevant securities regulator or stock exchange; or
  - (b) a person who was the firm's chief executive officer is an officer or director of the entity or is in a financial reporting oversight role, unless a period of one year has elapsed from the date that the individual was the chief executive officer of the firm.

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

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

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

- (17)(b) A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member or firm has loaned a member of the firm or a network firm to the entity or a related entity, unless:
- (i) the loan of any such person or persons is made for only a short period of time;
  - (ii) the loan of any such person or persons is not made on a recurring basis;
  - (iii) the loan of any such person or persons does not result in the person or persons making a management decision or performing a management function or providing any non-assurance services that would otherwise be prohibited by Rules 204.4(22) to (34); and
  - (iv) management of the entity or related entity directs and supervises the work performed by the person or persons.

### **GUIDANCE - Rule 204.4(16) and (17)**

- 1** The independence of a firm or a person on the engagement team may be threatened if an officer or director of the assurance client or a related entity, or a person in a position to exert influence over the subject matter of the assurance engagement has been a member of the engagement team or a partner of the firm. Such circumstances may create a self-interest, familiarity or intimidation threat, particularly when a significant connection remains between the individual and their former firm.
- 2** The significance of a threat so created will depend upon the following factors:
  - the position the individual has taken at the client and whether the position involves significant influence over the subject matter of the assurance engagement or the financial statements subject to audit or review by the member or firm;
  - the amount of any involvement the individual will have with the engagement team;
  - the length of time since the individual was on the engagement team or with the firm; and
  - the former position of the individual within the engagement team or firm.

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

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

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

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

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

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

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

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

**4** For the purposes of Rule 204.4(16)(a), other than a key audit partner, the following persons are not considered to have participated in an audit capacity in an earlier audit:

- a person who is employed by the reporting issuer or listed entity due to an emergency or other unusual situation provided that the entity's audit committee has determined that the employment of such person is in the interest of the shareholders;
- a person who provided ten or fewer hours of assurance services in the earlier audit;
- a person who recommended the compensation of, or who provided direct supervisory, management or oversight of, the lead engagement partner in connection with the performance of the earlier audit, including those at all successively senior levels above the lead engagement partner through to the firm's chief executive; and
- a person who provided quality control for the audit engagement.

**5** An individual may have fully complied with Rule 204.4(16)(a) and (b) in accepting employment with an entity, and subsequently thereto, the entity merged with or was acquired by another entity resulting in that individual having a financial reporting oversight role of a combined entity which is audited by the firm in which the individual was previously an employee or a partner. In such a circumstance, unless the employment offer was accepted in contemplation of the merger or acquisition, the individual or the entity could not be expected to know that the employment decision could result in a threat to independence. In all such cases the safeguard of informing the audit committee should be applied.



- 6** For the purposes of Rule 204.4(16)(a) audit procedures are deemed to have commenced for the current audit engagement period on the day after the financial statements for the previous period are filed with the relevant securities regulator or stock exchange.
- 7** For the purposes of Rule 204.4(16)(b), chief executive officer means a person in a position having the usual responsibility and authority of a chief executive officer regardless of the title applied to the person.

## **204 Independence**

### **RULES:**

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

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

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

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

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

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

### **GUIDANCE - Rule 204.4(18) and (19)**

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

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

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

### **Company secretary**

- 3** The position of company secretary has different implications in different jurisdictions. The duties of company secretary may range from administrative duties such as personnel management and the maintenance of company records and registers, to duties as diverse as ensuring that the company complies with regulations or providing advice on corporate governance matters. Generally this position is seen to imply a close degree of association with the entity and may create self-review and advocacy threats.

- 4** If a partner or employee of a firm serves as company secretary for an assurance client or related entity, the self-review and advocacy threats created would generally be so significant that safeguards are unlikely to be available to reduce the threats to an acceptable level. Similarly, if a partner or employee of a firm or network firm serves as company secretary for an audit or review client that is not reporting issuer or listed entity or a related entity, the self-review and advocacy threats created would generally be so significant that safeguards are unlikely to be available to reduce the threats to an acceptable level. However, when the practice of acting as company secretary is specifically permitted under local law, professional rules or practice, the duties and functions undertaken should be limited to those of a routine and formal administrative nature such as the preparation of minutes and maintenance of statutory returns.
- 5** Routine administrative services to support a company secretarial function or advisory work in relation to company secretarial administration matters is generally not perceived to impair independence, provided client management makes all relevant decisions.

**Religious organizations**

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

## 204 Independence

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Long association of senior personnel with a reporting issuer or listed entity audit client**

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

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

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

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

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

### **GUIDANCE - Rule 204.4(20)**

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

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

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

- discussing the matter with the audit committee;
- replacing the senior personnel on the engagement team;
- involving an additional member of the firm who is not, and never was, on the engagement team to review the work done by the particular individual, or advise as necessary;
- the member or firm is subject to external practice inspection; or
- an independent internal quality review of the assurance work performed by a member of the firm who was not part of the engagement team.

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

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

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

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

## **204 Independence**

### **RULE:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Audit committee approval of services to a reporting issuer or listed entity audit client**

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

### **GUIDANCE - Rule 204.4(21)**

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

## **204 Independence**

### **RULES:**

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

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

#### **Preparation of journal entries or source documents**

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

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

- (24) A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, in other than emergency situations, during either the period covered by the financial statements subject to audit or the engagement period, the member, firm, a network firm or a member of the firm or a network firm provides accounting or bookkeeping services related to the accounting records or financial statements including:
- (a) maintaining or preparing the entity's, or related entity's, accounting records;
  - (b) preparing the financial statements or preparing financial statements which form the basis of the financial statements on which the audit report is provided; or
  - (c) preparing or originating source data underlying such financial statements;
- unless it is reasonable to conclude that the results of these services will not be subject to audit procedures during the audit of such financial statements. In determining whether such a conclusion is reasonable, there is a rebuttable presumption that the results of the accounting or bookkeeping services will be subject to audit procedures.

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

- (i) *those who provide the service are not members of the engagement team for the audit;*

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

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

### *Performance of management functions*

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

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

#### *General provisions*

- 2 It is the responsibility of management to ensure that accounting records are kept and financial statements are prepared, although in discharging its responsibility management may request a member or firm to provide assistance.
- 3 Assisting an audit or review client or a related entity in matters such as preparing accounting records or financial statements will create a self-review threat when the financial statements are subsequently audited or reviewed by the member or firm. The significance of any such threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level.
- 4 With respect to Rule 204.4(23), members may be permitted, provided that approval from management is obtained, to prepare or change a journal entry, determine or change an account code or a classification for a transaction, or prepare or change another accounting record for the entity or a related entity, that affects the financial statements subject to audit or review by the member or firm. However, preparing or changing a source document or originating data in respect of any transaction underlying the financial statements subject to audit or review by the member or firm is not permitted.
- 5 A source document is an initial recording or original evidence of a transaction. Examples of source documents are purchase orders, payroll time cards, customer orders, invoices, disbursement approvals, signed cheques and written contracts. Source documents are often followed by the creation of additional records and reports, such as trial balances, account reconciliations and aged account receivable listings, which do not constitute source documents or initial recordings. Source documents may also be preceded by documents containing calculations and advice, such as bonus calculations for tax purposes, impairment test calculations in the oil and gas industry and sample wording for clauses in a contract that will be prepared by the client's lawyers. The creation of such additional records, reports and documents would not constitute the creation of source documents.
- 6 The financial statement audit and review process involves extensive dialogue between persons on the engagement team and management of the audit or review client. During this process, management will often request and receive input regarding such matters as accounting principles and financial statement disclosure, the appropriateness of controls and the methods used in determining the stated amounts of assets and liabilities. The provision of technical assistance of this nature for an audit or review client is an appropriate method of



promoting the fair presentation of the financial statements. The provision of such advice, *per se*, does not generally threaten the member's or the firm's independence. Other services that are usually a part of the audit or review process and that do not, under normal circumstances, threaten independence include:

- assisting with resolving account reconciliation problems;
- analyzing and accumulating information for regulatory reporting;
- assisting in the preparation of consolidated financial statements (including assisting in the translation of local statutory accounts to comply with group accounting policies and transition to a different reporting framework such as International Financial Reporting Standards);
- assisting the drafting of disclosure items;
- proposing adjusting journal entries; and
- providing assistance and advice in the preparation of local statutory accounts of subsidiary entities.

- 7** A self-review threat may exist when a member, firm or network firm assists in the preparation of subject matter other than financial statements and subsequently provides assurance thereon. For example, a self-review threat will exist if a member or firm develops and prepares prospective financial information and subsequently provides assurance on it. Consequently, a member or firm should evaluate the significance of any self-review threat created by the provision of such a service. If the threat is other than clearly insignificant, safeguards should be applied to reduce the threat to an acceptable level.

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

- 8** Subject to Rule 204.4(23), a member, firm or network firm may provide an audit or review client or a related entity that is not a reporting issuer or listed entity with accounting or bookkeeping services provided that any resulting self-review threat so created is reduced to an acceptable level. Examples of such services include:
- recording transactions for which management has determined or approved the appropriate account classification;
  - posting transactions to the general ledger;
  - preparing financial statements;
  - drafting notes to the financial statements;
  - posting journal entries to the trial balance;
  - performing payroll services which do not involve having custody of the client's or related entity's assets; and
  - preparing tax receipts for charitable donations or tax information returns, such as T4 slips.

*Client approval of journal entries*

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

*Evaluation of significance of threats*

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

- the extent of professional judgment required in selecting the appropriate accounting treatment.

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

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

#### *Complex transactions*

- 11** Preparing the journal entries for a complex transaction would likely create a self-review threat the significance of which could only be reduced to an acceptable level by applying safeguards that involve consultation with others, for example by:
- obtaining the views of another professional accountant;
  - arranging for another firm to review a significant accounting treatment; or
  - discussing the proposed accounting treatment with the practice advisory services department of the member's provincial CPA body.

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

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

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

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

## 204 Independence

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### ***Provision of valuation services to an audit or review client that is not a reporting issuer or listed entity***

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

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

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

- (i) the valuation is performed for tax purposes only and relates to amounts that will affect such financial statements only through accounting entries related to taxation, or*
- (ii) it is reasonable to conclude that the results of that service will not be subject to audit procedures during the audit of the financial statements. In determining whether such a conclusion is reasonable, there is a rebuttable presumption that the results of the valuation service will be subject to audit procedures.*

### **GUIDANCE - Rule 204.4(25)**

#### *General provisions*

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

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

- 3** Members and firms should refer to paragraph 5 of the Guidance to Rule 204.4(34) when performing a valuation service for an audit or review client or a related entity for tax purposes only that relates to amounts that will affect the financial statements subject to audit or review by the member or firm only through accounting entries related to taxation.
- 4** Performing a valuation service for an audit or review client or a related entity that is not a reporting issuer or listed entity will create a self-review threat when the valuation resulting from the service is incorporated into the financial statements subject to audit or review by the member or firm. The significance of such a threat should be evaluated. The significance will depend on factors such as:
  - the materiality of the results of the valuation service;
  - the extent of the client's or related entity's knowledge, experience and ability to evaluate the issues concerned, and the extent of the client's or related entity's involvement in determining and approving significant matters of judgment;

- the degree to which established methodologies and professional guidelines are applied when performing the particular valuation service;
- the degree of subjectivity inherent in the item concerned where the valuation involves standard or established methodologies;
- the reliability and extent of the underlying data;
- the degree of dependence on future events of a nature which could create significant volatility in the amounts involved; and
- the extent and clarity of the financial statement disclosures.

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

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

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

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

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

## **204 Independence**

### **RULE:**

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

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

#### **GUIDANCE - Rule 204.4(26)**

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

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

## **204 Independence**

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Provision of internal audit services to an audit or review client**

(27)(a) A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm or a network firm or a member of the firm or network firm provides an internal audit service to the entity or a related entity unless, with respect to the entity for which the internal audit service is provided:

- (i) the entity designates an appropriate and competent resource within senior management to be responsible for internal audit activities and to acknowledge responsibility for designing, implementing and maintaining internal controls;
- (ii) the entity or its audit committee reviews, assesses and approves the scope, risk and frequency of the internal audit services;
- (iii) the entity's management evaluates the adequacy of the internal audit services and the findings resulting from their performance;
- (iv) the entity's management evaluates and determines which recommendations resulting from the internal audit services to implement and manages the implementation process; and
- (v) the entity's management reports to the audit committee the significant findings and recommendations resulting from the internal audit services.

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

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

### **GUIDANCE - Rule 204.4(27)**

#### *General provisions*

- 1** A self-review threat may exist when a member, firm or network firm provides internal audit services to an audit or review client or a related entity. Such services may comprise an extension of the firm's audit service beyond the requirements of generally accepted auditing standards, assistance in the performance of the client's or related entity's internal audit activities, or outsourcing of the activities. In evaluating any threat to independence, the nature of the service should be considered.
- 2** Services involving an extension of the procedures required to conduct an audit or review in accordance with the *CPA Canada Handbook – Assurance* will not be considered to impair independence with respect to an audit or review client provided that a member of the firm or network firm does not act or appear to act in the capacity of the client's or related entity's management.
- 3** During the course of an audit or review engagement the engagement team considers the client's internal controls and, as a result, may make recommendations for its improvement. This is part of an audit or review engagement and is not considered to be an internal audit service.

- 4 In addition to complying with the requirements of Rule 204.4(27)(a), a member or firm should also consider whether internal audit services should be provided to an audit or review client or a related entity only by a member or members of the firm not involved in the audit or review engagement and with different reporting lines within the firm.
- 5 Performing a significant portion of the audit or review client's or related entity's internal audit activities may create a self-review threat and a member, firm or network firm should consider that possibility and proceed with caution before taking on such an activity.

*Audit clients that are reporting issuers or listed entities*

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

## **204 Independence**

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### ***Provision of information technology systems services to an audit or review client***

(28)(a) *A member or firm shall not perform an audit or review engagement for an entity if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or network firm provides a financial information systems design or implementation service to the entity or a related entity where the service involves the design or implementation of all or part of a financial information technology system that either generates information that is significant to the accounting records or financial statements subject to audit or review by the member or firm, or forms a significant part of either entity's internal controls that are relevant to the financial statements that are subject to audit or review by the member or firm, unless, with respect to the entity for which the information technology service is provided:*

- (i) the entity acknowledges its responsibility for establishing and monitoring a system of internal controls;*
- (ii) the entity assigns the responsibility to make all management decisions with respect to the design and implementation of the hardware or software system to a competent employee, preferably within senior management;*
- (iii) the entity makes all management decisions with respect to the design and implementation process;*
- (iv) the entity evaluates the adequacy and results of the design and implementation of the system; and*
- (v) the entity is responsible for operating the hardware or software system and for the data it uses or generates.*

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

(28)(b) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity if, during either the period covered by the financial statements subject to audit or the engagement period, the member, the firm, a network firm or a member of the firm or network firm provides financial information systems design or implementation services and the services involve:*

- (i) directly or indirectly operating, or supervising the operation of, the entity's or a related entity's information system, or managing the entity's or a related entity's local area network; or*
- (ii) designing or implementing a hardware or software system that aggregates source data underlying the financial statements or generates information that is significant to the entity's or a related entity's financial statements or other financial information systems taken as a whole;*

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

#### **GUIDANCE - Rule 204.4(28)**

##### ***General provisions***

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



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

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

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

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

*Audit clients that are reporting issuers or listed entities*

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

## **204 Independence**

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Provision of litigation support services to an audit or review client**

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

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

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

### **GUIDANCE - Rule 204.4(29)**

#### *General provisions*

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

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

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

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

- 3** The effect of Rule 204.4(29) is to prohibit, except for the specified circumstances set out in paragraph 202.4(29)(a), a member, firm or network firm, or a member of the firm or a network firm, from providing specialized knowledge, experience or expertise to advocate or support the audit client's positions, or the positions of a related entity, in an adversarial or similar

proceeding such as an investigation, a litigation matter, or a legislative or administrative tribunal. Litigation or other matters frequently escalate to a level, such as a civil, criminal, regulatory, administrative or legislative proceeding or investigation, which creates a self-review or advocacy threat which cannot be reduced to an acceptable level by available safeguards. Accordingly, it is particularly important for members and firms to consider initially, and thereafter reconsider periodically, whether the matter in support of which the service is provided is likely to escalate, or has escalated, to such a level. In addition, members and firms should discuss, with the audit committee, the possibility that a matter could escalate to such a level and the consequential impact on the member's or firm's ability to continue to provide the litigation support service or to continue to perform the audit or review engagement.

- 4 Rule 204.4(29) does not preclude a member, a firm or a network firm, or a member of the firm or a network firm, from being engaged by an audit committee of an audit or review client to assist it in fulfilling its responsibilities to conduct its own investigation of a potential accounting impropriety. For example, if the audit committee is concerned about the accuracy of the inventory records at a subsidiary, it may engage the member, the firm or the network firm, or a member of the firm or a network firm, to conduct a thorough inspection and analysis of these records, the physical inventory at the subsidiary and related matters without impairing independence. This type of engagement may include forensic or other fact-finding work that results in the issuance of a report to the audit client. It will generally require performing procedures that are consistent with, but more detailed or more comprehensive than, those required by generally accepted auditing standards.
- 5 In an investigation or proceeding for an audit or review client, or for a related entity, the member, firm or network firm, or a member of the firm or a network firm, may provide an account or testimony with respect to a matter of fact, such as describing the work performed by the member's firm or the predecessor auditor. The member, firm or network firm, or a member of the firm or network firm, may explain the positions taken or the conclusions reached during the performance of any service provided for the audit or review client.

## **204 Independence**

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Provision of legal services to an audit or review client**

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

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

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

### **GUIDANCE - Rule 204.4(30) and (31)**

#### *General provisions*

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

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

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

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

## **204 Independence**

### **RULE:**

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

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

#### **GUIDANCE - Rule 204.4(32)**

##### *General provisions*

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

The significance of any such threat should be evaluated and, if it is other than clearly insignificant, safeguards should be applied to reduce it to an acceptable level. In all cases, the firm should not make management decisions and the client should make the hiring decision.

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

- 2** Notwithstanding Rule 204.4(32) a member, firm or network firm, or a member of the firm or a network firm may, upon request of the audit client or a related entity, interview candidates and advise the client or related entity on the candidate's competence for financial accounting, administrative or control positions.

## 204 Independence

### **RULE:**

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

- (33) *A member or firm shall not perform an audit or review engagement for an entity if, during the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or network firm, provides any of the following services:*
- (a) promoting, dealing in or underwriting the entity's or a related entity's securities;*
  - (b) advising the entity or a related entity on other corporate finance matters where:*
    - (i) the effectiveness of the advice depends on a particular accounting treatment or presentation in the financial statements;*
    - (ii) the outcome or consequences of the advice has or will have a material effect on the financial statements; and*
    - (iii) the engagement team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework;*
  - (c) making investment decisions on behalf of the entity or a related entity or otherwise having discretionary authority over the entity's or a related entity's investments;*
  - (d) executing a transaction to buy or sell the entity's or a related entity's investments; or*
  - (e) having custody of assets of the entity or a related entity, including taking temporary possession of securities purchased by the entity or a related entity.*

#### **GUIDANCE - Rule 204.4(33)**

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

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

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

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

- 2 Corporate finance services other than those that are prohibited by Rule 204.4(33) may create an advocacy or self-review threat that may be reduced to an acceptable level by the application of safeguards. Examples of such services include:
- assisting a client in developing corporate strategies;
  - assisting a client in obtaining bank financing by explaining the financial statements to the bank;

- assisting in identifying or introducing a client to possible sources of capital that meet the client specifications or criteria; and
- providing structuring advice and assisting a client in analyzing the accounting effects of proposed transactions.

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



## 204 Independence

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Provision of tax planning or other tax advisory services to an audit or review client**

(34) (a) A member or firm shall not perform an audit or review engagement for a client if, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the firm, a network firm or a member of the firm or a network firm, provides tax planning or other tax advice to the client or a related entity, where:

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

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

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

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

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

### **GUIDANCE - Rule 204.4(34)**

#### *General provisions*

**1** Tax services usually include:

- preparation of tax returns;
- preparation of valuations for tax purposes;
- provision of tax planning and similar tax advisory services on such matters as how to structure business affairs in a tax efficient manner or on the application of tax laws or regulations;
- provision of tax advocacy services with respect to tax disputes; or
- preparation of tax calculations for the purpose of preparing accounting entries.

**2** The provision of tax services may create a self-review threat where the advice or other service affects or will affect the financial statements subject to audit or review by the member or firm, or an advocacy threat where the services involve resolution of a tax dispute with tax authorities. The existence and significance of any threat will depend on factors such as:

- the nature of the tax service that is provided;
- the degree of subjectivity involved in determining the appropriate treatment of tax advice in the financial statements;
- the extent to which the outcome of the tax service has or will have a material effect on the financial statements subject to audit or review by the member or firm;

- the level of tax expertise of the client's employees;
- the extent to which the advice is supported by tax law or regulation, other precedent or established practice; and
- whether the tax treatment is supported by a private ruling or has otherwise been cleared by the tax authority before the preparation of the financial statements.

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

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

#### *Preparation of tax returns*

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

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

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

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

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

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

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

*Provision of tax planning or other tax advisory services*

- 6** Members and firms often provide tax planning or advisory services in order to create tax-efficient outcomes for their clients. Where a member or firm has provided tax planning or other tax advice to an audit or review client or a related entity, Rule 204.4(34)(a) prohibits the member or firm from performing the audit or review engagement if:
- the effectiveness of the advice depends on a particular accounting treatment or presentation in the financial statements;
  - the outcome or consequences of the advice has or will have a material effect on the financial statements; and
  - the engagement team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

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

*Provision of tax advocacy services*

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

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

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

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

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

*Audit clients that are reporting issuers or listed entities*

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

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

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

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

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

**10** Rule 204.4(34)(b) permits, in the event of an emergency situation and under specified conditions, a member or firm to prepare tax calculations of current and future tax liabilities or assets for a reporting issuer or listed entity audit client or a related entity for the purpose of preparing accounting entries that are subject to audit by the member or firm. Such emergency situations might arise when, due to events beyond the control of the member or firm and the client or related entity:

- there are no viable alternative resources to those of the member or firm with the necessary knowledge of the client's or related entity's business to assist in the timely preparation of such tax calculations; and
- a restriction on the member's or firm's ability to provide the services would result in significant difficulties for the client or related entity, for example, as might result from a failure to meet regulatory reporting requirements, in the withdrawal of credit lines, or would threaten the going concern status of the client or related entity. Significant difficulties would not be created simply by virtue of the fact that the client or related entity would be required to incur additional costs to engage the services of an alternative service provider.

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

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

## **204 Independence**

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Provision of non-assurance services prior to commencement of audit or review services**

(35)(a) *Where a member, firm, a network firm or a member of the firm or a network firm has provided a non-assurance service referred to in Rules 204.4(22) to (34) to a client prior to the engagement of the member or firm to perform an audit or review engagement for the client but during or after the period covered by the financial statements subject to audit or review by the member or firm, the member or firm shall not perform the audit or review engagement unless the particular non-assurance service was provided before the engagement period and the member or firm:*

- (i) discusses independence issues related to the provision of the non-assurance service with the audit committee;*
- (ii) requires the client to review and accept responsibility for the results of the non-assurance service; and*
- (iii) precludes personnel who provided the non-assurance service from participating in the audit or review engagement,*  
*such that any threat created by the provision of the non-assurance service is reduced to an acceptable level.*

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

(35) (b) *Where a member, firm, a network firm or a member of the firm or a network firm has performed a non-assurance service referred to in Rules 204.4 (22) to (34) for an audit or review client that has become a reporting issuer or listed entity and the provisions of Rules 204.4(22) to (34) would have precluded the member or firm from performing an audit engagement for a reporting issuer or listed entity, the member or firm shall not perform an audit engagement for the client unless the member or firm:*

- (i) discusses independence issues related to the provision of the non-assurance service with the audit committee;*
- (ii) requires the client to review and accept responsibility for the results of the non-assurance service; and*
- (iii) precludes personnel who provided the non-assurance service from participating in the audit engagement,*  
*such that any threat to independence created by the provision of the non-assurance service is reduced to an acceptable level.*

### **GUIDANCE - Rule 204.4(35)**

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

#### *Audit or review engagements*

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

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

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

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

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

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

*Audit clients that are reporting issuers or listed entities*

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

*Documentation*

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

## **204 Independence**

### **RULES:**

#### **204.4 Specific Prohibitions, Assurance and Specified Auditing Procedures Engagements**

##### **Fees**

- (36) *A member or firm shall not provide an assurance service for a fee that the member or firm knows is significantly lower than that charged by the predecessor member or firm, or contained in other proposals for the engagement, unless the member or firm can demonstrate:*
- (a) that qualified members of the firm have been assigned to the engagement and will devote the appropriate time to it; and*
  - (b) that all applicable assurance standards, guidelines and quality control procedures have been followed.*

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

- (37)(a) *A member or firm shall not perform an audit engagement for a reporting issuer or listed entity when the total revenue, calculated on an accrual basis, for any services provided to the client and its related entities for the two consecutive fiscal years of the firm most recently concluded prior to the date of the financial statements subject to audit by the member or firm, represent more than 15% of the total revenue of the firm, calculated on an accrual basis, in each such fiscal year, unless:*
- (i) the member or firm discloses to the audit committee the fact that the total of such revenue represents more than 15% of the total revenue of the firm, calculated on an accrual basis, in each of those fiscal years; and*
  - (ii) another professional accountant who is not a member of the firm performs a review, that is substantially equivalent to an engagement quality control review, of the audit engagement, either*
    - (A) prior to the audit opinion in respect of the financial statements being issued, or*
    - (B) subsequent to the audit opinion in respect of the financial statements being issued but prior to the audit opinion on the client's financial statements for the immediately following fiscal period being issued.*

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

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

#### **GUIDANCE - Rule 204.4(36) and (37)**

##### **Fees — Overdue**

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

*Members are cautioned that the overdue fees might create the same threats to independence as a loan to the client. Therefore, members should consider whether, because of the*

significance of such threats, it is appropriate for the firm to continue to provide assurance services to that client.

*Fees — Relative size*

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

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

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

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

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

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

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



## **204 Independence**

### **RULE:**

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

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

### **GUIDANCE - Rule 204.4(38)**

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

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

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

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

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

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

## **204 Independence**

### **RULE:**

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

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

## **204 Independence**

### **RULE:**

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

(40)(a) *A member or firm shall not perform or continue with an audit or review engagement for an entity where, as a result of a merger or acquisition, another entity merges with or becomes a related entity of the audit or review client, and the member or firm has a previous or current activity, interest or relationship with the other entity that would, after the merger or acquisition, be prohibited pursuant to any provision of Rule 204 in relation to the audit or review engagement, unless:*

- (i) the member or firm terminates, by the effective date of the merger or acquisition, any such activity, interest or relationship;*
- (ii) the member or firm terminates, as soon as reasonably possible and, in all cases, within six months following the effective date of the merger or acquisition, any such activity, interest or relationship and the requirements of Rule 204.4(40)(b) are met; or*
- (iii) the member or firm has completed a significant amount of work on the audit or review engagement and expects to be able to complete the engagement within a short period of time, the member or firm discontinues in the role of audit or review service provider on completion of the current engagement and the provisions of Rule 204.4(40)(b) are met.*

*(b) Notwithstanding the existence of the previous or current activity, interest or relationship described in Rule 204.4(40)(a), the provisions of Rule 204.4(40)(a)(ii) and (iii) permit the member or firm to perform or continue with the audit or review engagement provided that:*

- (i) the member or firm evaluates and discusses with the audit committee the significance of the threat created by any such activity, interest or relationship and the reasons why the activity, interest or relationship is not terminated or cannot reasonably be terminated by the effective date of the merger or acquisition, or within six months thereof, as the case may be;*
- (ii) the audit committee requests the member or firm to complete the audit or review engagement;*
- (iii) any person involved in any such activity or who has any such interest or relationship will not participate in the audit or review engagement or as an engagement quality control reviewer; and*
- (iv) the member or firm applies an appropriate measure or measures, as discussed with the audit committee, to address the threat created by any such activity, interest or relationship.*

*(c) Where the previous or current activity, interest or relationship described in Rule 204.4(40)(a) creates such a significant threat to independence that compliance with the requirements of paragraphs 204.4(40)(a) and (b) would still not reduce any such threat to an acceptable level, the member or firm shall not perform or continue with the audit or review engagement.*

### **GUIDANCE - Rule 204.4(40)**

**1** Where an activity, interest or relationship that would impair independence is not terminated by the effective date of the merger or acquisition, Rule 204.4(40)(b) describes the circumstances in which the member or firm may perform or continue with the audit or review engagement, including a requirement that the member or firm apply an appropriate measure or measures, as discussed with the audit committee. Examples of such a measure or measures are:

- having another public accountant review the audit or review or any relevant non-assurance work as appropriate;
- engaging another firm to evaluate the results of any relevant non-assurance service or to re-perform any relevant non-assurance service to the extent necessary to enable it to take responsibility for the service; and

- having another professional accountant, who is not a member of the firm performing the audit or review engagement, perform a review that is equivalent to an engagement quality control review.

**2** Rule 204.4(40)(c) provides that even if all of the other requirements of the Rule are met, where an activity, interest or relationship creates such a significant ongoing threat to independence that compliance with paragraphs 204.4(40)(a) and (b) will still not reduce the threat to an acceptable level, the member or firm is required to resign from the particular audit or review engagement. In determining whether the activity, interest or relationship continues to create such a significant threat that the member or firm would be required to resign, consideration should be given to:

- the nature and significance of the activity, interest or relationship;
- the extent, if any, to which the activity, interest or relationship continues to affect the financial statements subject to audit or review by the member or firm;
- the nature and significance of the new relationship with the other entity, for example, whether that other entity becomes a parent, a subsidiary or the client itself; and
- the adequacy of the actions taken, as described in Rule 204.4(40)(b), to address the activity, interest or relationship.

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

#### *Documentation*

**3** Members and firms are also required by Rule 204.5(f) to document:

- a description of the activity, interest or relationship that will not be terminated by the effective date of the merger or acquisition and the reasons why it will not be terminated;
- the results of the discussion with the audit committee and measures applied to address the threat created by any such activity, interest or relationship; and
- the rationale to support the decision of the member or firm.

## **204 Independence**

### **204.5 Documentation**

#### **RULES:**

- (a) *A member or firm who, in accordance with Rule 204.3, has identified a threat that is not clearly insignificant, shall document a decision to accept or continue the particular engagement. The documentation shall include the following information:*
  - (i) *a description of the nature of the engagement;*
  - (ii) *the threat identified;*
  - (iii) *the safeguard or safeguards identified and applied to eliminate the threat or reduce it to an acceptable level; and*
  - (iv) *an explanation of how, in the member's or firm's professional judgment, the safeguards eliminate the threat or reduce it to an acceptable level.*
- (b) *A member or firm who, in an emergency situation, provides an accounting or bookkeeping service to a reporting issuer or listed entity audit client in accordance with the requirements of Rule 204.4(24) shall document both the rationale supporting the determination that the situation constitutes an emergency and that the member or firm has complied with the provisions of subparagraphs (i) through (iv) of the Rule.*
- (c) *A member or firm who, in an emergency situation, prepares tax calculations of current and future income tax liabilities or assets for a reporting issuer or listed entity audit client in accordance with the requirements of Rule 204.4(34)(b), for the purpose of preparing accounting entries that are subject to audit by the member or firm shall document both the rationale supporting the determination that the situation constitutes an emergency and that the member or firm has complied with the provisions of subparagraphs (i) through (iv) of the Rule.*
- (d) *A member or firm who, in accordance with the requirements of Rule 204.4(35)(a), performs an audit or review engagement for a client where the member, firm, a network firm or a member of the firm or a network firm has provided a non-assurance service referred to in Rules 204.4(22) to (34) to the client prior to the engagement period but during or after the period covered by the financial statements subject to audit or review by the member or firm, shall document:*
  - (i) *a description of the previously provided non-assurance service;*
  - (ii) *the results of the discussion with the audit committee;*
  - (iii) *any further measures applied to address the threat created by the provision of the previous non-assurance service; and*
  - (iv) *the rationale to support the decision of the member or firm.*
- (e) *A member or firm who, in accordance with the requirements of Rules 204.4(35)(b), performs an audit engagement for a client that has become a reporting issuer or listed entity where the member, the firm, a network firm or a member of the firm or a network firm provided a non-assurance service to the client prior to it having become a reporting issuer or listed entity and the provisions of Rules 204.4(22) to (34) would have precluded the member or firm from performing an audit engagement for a reporting issuer or listed entity, shall document:*
  - (i) *a description of the non-assurance service;*
  - (ii) *the results of the discussion with the audit committee;*
  - (iii) *any further measures applied to address the threat created by the provision of the non-assurance service; and*
  - (iv) *the rationale to support the decision of the member or firm.*
- (f) *A member or firm who, in accordance with the requirements of Rules 204.4(40)(a) and (b), performs or continues with an audit or review engagement where, as a result of a merger or acquisition, another entity merges with or becomes a related entity of the audit or review client,*

*and the member or firm has a previous or current activity, interest or relationship with the other entity that would, after the merger or acquisition, be prohibited pursuant to any provision of Rule 204 in relation to the audit or review engagement, shall document:*

- (i) a description of the activity, interest or relationship that will not be terminated by the effective date of the merger or acquisition and the reasons why it will not be terminated;*
- (ii) the results of the discussion with the audit committee and measures applied to address the threat created by any such activity, interest or relationship; and*
- (iii) the rationale to support the decision of the member or firm.*

**204**    **Independence**  
**204.6**   **Reserved for future use.**

**204 Independence**

**204.7 Members or Students Must Disclose Prohibited Interests and Relationships**

***RULES:***

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



## **204 Independence**

### **204.8 Firms To Ensure Compliance**

#### **RULE:**

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

***(Note this rule assumes discipline of firms – the alternate rule applying to members is below)***

*A member who is a partner or proprietor of a firm, or a member whose professional corporation is a partner or proprietor of a firm, shall ensure that the firm complies with Rules 204.1, 204.3, 204.4 and 204.9 and that members of the firm do not have a relationship or interest, do not perform a service and remain free of any influence that would preclude the firm from performing the engagement pursuant to Rules 204.1, 204.3, 204.4 or 204.9.*

#### **GUIDANCE - Rule 204.7**

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

## **204 Independence**

### **204.9 Independence: Insolvency Engagements**

#### **DEFINITIONS:**

*For purposes of Rule 204.9:*

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

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

#### **RULE:**

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

#### **GUIDANCE - Rule 204.9**

- 1** Rule 204.9 deals with objectivity and independence in insolvency practice. This Guidance sets out how, in the Board's opinion, a reasonable observer might be expected to view certain situations related to insolvency practice.
- 2** A registrant, or member of the firm, and their respective immediate families, should not acquire directly or indirectly in any manner whatsoever any assets under the administration of the registrant, provided that any of the foregoing may acquire assets from a retail operation under administration of the registrant where those assets are available to the general public for sale and that no special treatment or preference over and above that granted to the public is offered to or accepted by the registrant or the member of the firm and their respective immediate families.
- 3** A registrant should avoid being placed in a position of conflict of interest and, in keeping with this principle, should not accept any appointment, unless expressly permitted by the court, as a receiver, receiver-manager, agent for a secured creditor, or liquidator, or any other appointment under the Acts, except as an inspector, in respect of any debtor, where the registrant is, or at any time during the two preceding years was:
  - a director or officer of the debtor;
  - an employer or employee of the debtor or of a director or officer of the debtor;
  - related to the debtor or to any director or officer of the debtor; or
  - the auditor, accountant or legal counsel, or a partner or an employee of the auditor, accountant or legal counsel of the debtor.
- 4** Where a conflict of interest may exist, or may appear to exist, a registrant should make full disclosure to, and obtain the consent of, all interested parties, and in keeping with this principle, should not accept any appointment:
  - as trustee where the registrant has already accepted an appointment as receiver, receiver-manager, agent of a secured creditor, liquidator, trustee under a trust indenture issued by the bankrupt corporation or by any corporation related to the bankrupt corporation, or on behalf of any person related to the bankrupt without having first made

disclosure of such prior appointment. The registrant should inform the creditors of the bankrupt of the prior appointment as soon as reasonably possible;

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

## **204 Independence**

### **204.10 Disclosure of Impaired Independence**

#### **RULE:**

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

#### **GUIDANCE - Rule 204.10**

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

## **204    Independence**

*Rules 204.11 to .19 are reserved for future use.*

## **204 Independence**

### **204.20 Audits under elections legislation**

#### **DEFINITIONS:**

For purposes of Rule 204.20 and its related Guidance:

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

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

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

#### **RULE:**

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

### **GUIDANCE - Rule 204.20**

#### **Introduction**

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

#### **Ineligibility Provision - Statutory**

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

#### **Extension of Ineligibility Provisions**

- 4 Without wishing to extend the statutory prohibitions unduly, CPABC considers that there are additional interests or relationships to those spelled out in the Act, which could impair, or appear to impair, an auditor’s objectivity. This Guidance, therefore, sets out the profession’s

views on unacceptable interests or relationships, in respect of audits under the Act, encompassing both those prohibited by the statute and those unacceptable professionally.

- 5 Requirements that are too restrictive, coupled with the widespread involvement of registrants, as citizens, in the political process, could make it almost impossible for the audit provisions of the Act to be given practical effect. Accordingly, this Guidance seeks to cover only the more obvious interests and relationships which might be considered unacceptable. Too narrow an interpretation could, in view of the many conceivable conflicts of interest, make it almost impossible for registrants to serve the community's needs.

#### **Audit of a Candidate**

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

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

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

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

#### **Other considerations**

- 9 Generally, registrants contemplating acting as auditors for registered parties, electoral

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

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

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



## **205 False or misleading documents and oral representations**

### **RULE:**

*A registrant shall not:*

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

### **GUIDANCE - Rule 205**

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

## **206 Compliance with professional standards**

### **RULES:**

**206.1** *A registrant shall perform professional services in accordance with generally accepted standards of practice of the profession.*

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

### **GUIDANCE – Rule 206**

#### **Appropriate Financial Reporting Frameworks**

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

#### **Practice of Public Accounting**

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

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

#### **Preparation of Financial Statements**

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

where there is no audit committee, the board of directors. Where possible, the communication should be dated and issued prior to the approval of the financial statements by the audit committee or the board, as the case may be.

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

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

#### **Provision of other professional services**

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

#### **Service on audit committees and boards of directors**

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

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

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

- the issues involved, and related judgments made by management, in selecting accounting

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

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

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

### **All registrants**

**15** Registrants are also reminded of their obligations under the CPA Code:

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

## **207 Unauthorized benefits**

### **RULE:**

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

### **GUIDANCE – Rule 207**

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

## **208 Confidentiality of information**

### **RULES:**

- 208.1** *A registrant shall not disclose any confidential information concerning the affairs of any client, former client, employer or former employer except when:*
- (a) properly acting in the course of carrying out professional duties;*
  - (b) such information should properly be disclosed for purposes of Rules 101, 211 or 302 or under the Act or bylaws;*
  - (c) such information is required to be disclosed by order of lawful authority or, in the proper exercise of their duties, by the Board, or a committee, officer or other agent of CPABC;*
  - (d) justified in order to defend the registrant or any associates or employees of the registrant against any lawsuit or other legal proceeding or against alleged professional misconduct or in any legal proceeding for recovery of unpaid professional fees and disbursements, but only to the extent necessary for such purpose; or*
  - (e) the client, former client, employer or former employer, as the case may be, has provided consent to such disclosure.*
- 208.2** *A registrant shall not use confidential information of any client, former client, employer or former employer, as the case may be, obtained in the course of professional work for such client or employer:*
- (a) for the advantage of the registrant;*
  - (b) for the advantage of a third party; or*
  - (c) to the disadvantage of such client or employer*
- without the consent of the client, former client, employer or former employer.*
- 208.3** *A registrant shall:*
- (a) take appropriate measures to maintain and protect confidential information of any client, former client, employer or former employer, as the case may be and to ensure that access to such information by another person is limited to those with legitimate purpose to access the information; and*
  - (b) obtain the written agreement of any such person to carefully and faithfully preserve the confidentiality of any such information and not to make use of such information other than as shall be required in the performance of appropriate professional services.*

### **GUIDANCE - Rule 208**

- 1** The duty to keep a client's or employer's affairs confidential should not be confused with the legal concept of privilege. The duty of confidentiality precludes the disclosure of a client's or employer's affairs without the knowledge and consent of the client or employer. The duty of confidentiality to clients or employers and former clients or employers does not expire with time. As confidential information becomes dated, the duty may be of less practical concern to a client or employer, but the duty continues.
- The duty of confidentiality also includes establishing, maintaining and upholding appropriate policies and processes to protect confidential information. Such policies and processes include limiting access to the information and implementing appropriate measures to address a situation when the duty of confidentiality has been breached.
- 2** The duty of confidentiality does not excuse a registrant from complying with a legal requirement to disclose the information. However, the courts have held that a registrant faced with a subpoena or other request to disclose information should be aware of the registrant's obligation to bring to the attention of the court or other authority the registrant's duty of confidentiality to the client or employer. If there is doubt as to the legitimacy or scope of a claim for disclosure, legal advice should be sought. Ultimately, in a dispute, a court will determine, based on the facts, whether the confidentiality of the information should be maintained.

- 3 A registrant will not be in contravention of any provision governing confidentiality by reason of obtaining legal advice with respect to the duty of confidentiality, nor will discussing a possible claim in confidence with an insurer constitute a breach of the duty of confidentiality.
- 4 One of the underlying issues when dealing with conflicts of interest is controlling the degree to which persons in an organization share confidential information. (See also Rule 210.) Rule 208 prohibits the improper use of confidential information, but does not restrain its disclosure within an organization. Registrants may find they are in a position of conflict of interest due to the general legal presumption that the knowledge of one person in an organization is shared with or attributed to others in the organization.

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

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

- an assurance provider must have information on all aspects of a client's affairs that might affect the assurance provider's opinion on the financial statements;
  - a tax practitioner, in the course of preparing or reviewing an income tax return, must have information on all aspects of a client's affairs that might affect the income tax return;
  - a person who is employed in the internal audit area of an organization may need to obtain confidential information from a member who is employed in the financial reporting area
  - a forensic accountant undertaking an investigation of a client's affairs might only require information relating to the subject of the inquiry;
  - it may be appropriate for a member who is providing a professional opinion or other advice on a matter to seek the advice of another person in the organization; or
  - a compliance officer or person in a similar position may need access to confidential information held by a member, for example, within a financial institution or an organization providing financial planning services.
- 5 Where appropriate, registrants should also inform clients and potential clients that the use of mechanisms to safeguard their confidential information means that a registrant serving a particular client may not be aware of information that is confidential to another client which would assist the registrant's client and advance that client's interest.
  - 6 Registrants are reminded that the use of electronic communications and storage media may require the use of additional precautions to protect confidential information, such as password, firewall and back up protection. In addition the use of "cloud" or other off-shore computing and storage may increase security requirements as well as concerns related to access to information that is provided by anti-terrorism legislation in some jurisdictions. Registrants should be particularly aware of these concerns as well as applicable privacy legislation. It may be prudent to provide appropriate disclosure of information related to storage and security policies to clients and other affected parties.



## **209 Borrowing from Clients**

### **DEFINITIONS:**

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

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

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

### **RULES:**

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

- (a) *the loan or guarantee has been made under normal commercial terms and conditions, and*
  - (i) *the client is a bank or similar financial institution whose business includes lending money to the public; or*
  - (ii) *the client is a person or entity, a significant portion of whose business is the private lending of money;*

*or*

- (b) *(i) in the case of a member or student, the client is a family member or an entity over which a family member exercises significant influence; or*  
*(ii) in the case of a registered firm or professional accounting corporation, the client is a family member of a partner or shareholder of the firm or corporation or an entity over which a family member of a partner or shareholder of the firm or corporation exercises significant influence.*

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

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

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

### **GUIDANCE - Rule 209**

- 1** It is a fundamental principle of the profession that registrants provide professional services to their clients that are free of prejudice, conflict of interest or undue influence that may impair sound professional judgment. When a registrant borrows money from a client, there is an inherent conflict between the interests of the registrant and those of the client. Accordingly, registrants who enter into the types of financing or borrowing arrangements that are allowed under Rule 209.1 or 209.2 are cautioned that they must comply with all of the other provisions of the CPA Code including, but not limited to:
  - (a) 201 – Maintenance of the good reputation of the profession;
  - (b) 202 – Integrity and due care and Objectivity;
  - (c) 204 – Independence;
  - (d) 208 – Confidentiality of information; and
  - (e) 210 – Conflicts of interest
- 2** When a member or student borrows money from or has a loan guaranteed by a client who is a family member or an entity over which a family member exercises significant influence, the

member or student should consider setting out the terms and conditions of the loan or guarantee in writing. Before the loan or guarantee is made, the member or student should also consider advising the client to obtain independent advice with respect to the matter. Similar considerations should apply when a firm borrows money from or has a loan guaranteed by a family member of a partner or shareholder of the firm or an entity over which a family member of a partner or shareholder of the firm exercises significant influence.

- 3** Rule 209.1 applies only to new borrowings or guarantees or amendments to the terms of existing borrowings or guarantees that occur after the lender becomes a client. When an existing lender or guarantor becomes a client, the registrant should be mindful of the need to provide services with due care and an objective state of mind and, accordingly, should consider whether the loan should be repaid or the guarantee released.

## **210 Conflicts of Interest**

### **DEFINITIONS:**

*For purposes of Rule 210 and the related Guidance:*

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

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

### **RULES:**

**210.1** A registrant shall determine, in relation to a particular matter and before agreeing to undertake or continuing to provide any professional service, whether a conflict of interest may exist as contemplated by Rule 210.2.

**210.2** (a) Subject to the provisions of Rule 210.3, a registrant shall not undertake or continue to provide any professional service to any client or employer in circumstances where there is a conflict of interest between:

- (i) the interest of the registrant and that of the client or employer;
- (ii) the interests of two or more clients or employers; or
- (iii) the interests of the client or employer and those of a third party, where the interest of the third party and the registrant are aligned.

(b) Subject to the provisions of Rule 210.3, a registrant shall not undertake or continue to provide any professional service to any client or employer in circumstances where an interest described in paragraph (a) relating to a former client or former employer creates a conflict of interest in respect of any such proposed or current professional service.

**210.3** Where the agreement to provide any professional service would result in a conflict of interest under Rule 210.2 or where a previously unidentified conflict of interest under Rule 210.2 arises or is discovered in the course of providing any professional service, the registrant must decline to provide the professional service or withdraw from providing all of the affected professional services unless:

- (a) (i) the registrant is able to rely upon conflict management techniques that are generally accepted and the use of such techniques will not breach the terms of any agreement to provide professional services or any duty to another client, employer or third party;
- (ii) the registrant informs each affected party of the existence of the conflict of interest and the techniques that will be used to manage it; and
- (iii) the registrant obtains the consent of each affected party to accept or continue the professional services engagement or engagements; or
- (b) the affected parties have knowledge of the conflict of interest and their agreement for the registrant to accept or continue the professional services engagement is implied by their conduct, in keeping with commonly accepted practice.

**210.4** Where a registrant has determined, in accordance with Rule 210.3, that a professional service in respect of which a conflict of interest exists may be undertaken, the registrant shall document:

- (a) in the case of a conflict of interest in relation to which consent is not implied by the affected parties conduct in keeping with commonly accepted practice:
  - (i) the nature of the conflict of interest that has been identified;
  - (ii) the conflict management technique that has been used to manage the conflict of interest;

- (iii) *the rationale for the choice of the technique and its effectiveness; and*
  - (iv) *the disclosure that has been made, as necessary, to each of the affected parties; or*
- (b) *in the case of a conflict of interest in relation to which consent is implied by the affected parties' conduct in keeping with commonly accepted practice, the basis on which the registrant has concluded that:*
- (i) *the affected parties have knowledge of the conflict of interest; and*
  - (ii) *their agreement for the registrant to accept or continue the professional services engagement has been implied.*

## **GUIDANCE - Rule 210**

### **A Glossary of terms**

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

#### **“above the wall”**

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

#### **“fire wall”**

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

#### **“cone of silence”**

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

#### **“conflict management techniques”**

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

“need to know basis”

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

## **B Identifying conflicts of interest**

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

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

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

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

### *Conflicts of interest in employment situations*

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

Examples of such situations include:

- serving in a management or governance position for two employers and acquiring confidential information from one employer that could be used by the registrant to the advantage or disadvantage of the other employer;
- providing a professional service to each of two parties in a partnership employing the registrant to assist them to dissolve their partnership;
- preparing financial information for certain members of management of the entity employing the registrant who are seeking to undertake a management buy-out;
- being responsible for selecting a vendor for the registrant’s employer when an immediate family member of the registrant could benefit financially from the transaction;
- serving in a governance capacity for an employer that is approving certain investments for the company where one of those specific investments will increase the value of the personal investment portfolio of the registrant or an immediate family member; or

- eligibility of a registrant for a profit-related bonus when the value of the bonus could be affected by decisions made by the registrant.

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

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

*Independence issues*

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

*Protecting confidential information*

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

*Pursuit of clients' interests*

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

**C Commonly accepted practice**

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

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

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

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

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

**D Management of conflicts of interest**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **9 Consulting services**

- A registrant may provide professional services in a variety of engagements such that there are conflicts of interest which may be acceptable in one type of engagement but which are unacceptable in another. Since consulting engagements usually have clearly stated objectives and a defined life span, the issue of possible conflicts of interest is often dealt with in the terms of the engagement (i.e., the extent of the registrant’s obligations are agreed to by contract).
- Consulting engagements may be generally regarded in three categories for the purpose of

considering the issue of conflict of interest, as follows:

- Process and design consulting engagements, which generally involve the provision of specialized knowledge to assist a party to achieve an objective that the party has chosen. It is usual for a consultant to provide such assistance to a wide range of parties, some of whom may have competing interests. Often, the consultant is selected for specialized expertise. The parties recognize that, in the future, the consultant is likely to make that expertise available to others, having built on experience gained along the way. If a specific conflict of interest later arises, it would be prudent to communicate with the affected parties and obtain consent as necessary.
- Strategic consulting often involves a consultant assisting a party in the selection of optimum business strategies. Strategic consulting is likely to involve the most highly sensitive and confidential business information. Consultants providing these types of services typically recognize this sensitivity and do not work for parties who are in direct competition. It is, however, recognized that the business strategies selected often become publicly known within a short time frame. It is also recognized that the experience that is gained and the research and information that is gathered in relation to one such consulting assignment develops skill and proficiency on the part of a consultant that is relevant to another such assignment. Therefore it is possible that, after a suitable time, a consultant may undertake work for a direct competitor of a party to whom consulting services have been provided previously. However, whether such a situation is acceptable is a matter which should be expressly addressed in the consulting engagement contract.
- Search consulting involves assisting a party to locate information or resources that are necessary for the party to attain an objective. Since the information or resource is likely to exist within another commercial enterprise, the opportunity for a conflict of interest to arise is particularly great. For this reason, it is customary for the consultant to disclose at the outset the nature and extent of any limitations on the scope of the search.

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

## **10**     *Taxation services*

- A registrant providing professional tax services in the form of tax assistance and advice is likely to provide such services to a wide variety of parties who are entitled to expect their affairs to be kept confidential. Such a registrant is expected to provide each party with the benefit of all of their professional knowledge, except as outlined in the next paragraph.
- Such a registrant is not expected to provide every client with the benefit of all of their professional knowledge when the registrant and one client agree, preferably in writing, that particular knowledge that the registrant possesses may not be disclosed to third parties because it is proprietary to the first client. The registrant should make other clients aware that this restriction might exist from time to time.



- A registrant may be asked to provide tax-planning advice to two parties who will use that advice to pursue an objective that only one of them can achieve. Since both of the parties are in pursuit of the same objective, there is an initial presumption that in such a situation, only the first request to act in the matter can be accepted. It may, however, be possible for different persons within the firm or organization to act for each party through the use of effective conflict management techniques, thus rebutting the initial presumption that both parties cannot be served.
- A registrant providing professional tax services as part of a firm or other organization may obtain only the information that relates to their specific professional services engagement. In such a case, provided that it is possible to satisfy the onus of demonstrating that the firm's or organization's knowledge of a particular party is not automatically shared, it is reasonable to believe that the registrant will not possess all of the firm's or organization's knowledge of that party.

## 11 *Merger/Acquisition services*

- Due to the nature of the work provided in relation to mergers and acquisitions, it is recognized that providing such professional services to one party may run contrary to the interest of another affected party to whom services are provided by the firm or organization. It would be prudent to disclose and address this possibility within an engagement letter or the terms of the contract.
- A registrant involved in mergers and acquisitions is expected to use a variety of conflict management tools to provide the greatest possible assurance that confidentiality of the work will be maintained unless otherwise agreed with the affected party. Such a firm or organization will be expected to regularly employ fire walls and to impose cones of silence on those who are consulted in the work. Where consultations beyond the firm or organization are required, the use of confidentiality agreements will be necessary.
- When a firm or organization discloses the possibility of conflicts of interest in an engagement letter and uses conflict management techniques such as fire walls, it should be recognized that if their use is challenged in a court of law, the firm or organization will be required to demonstrate that its conflict management techniques are effective.
- When one or more of the firm's or organization's merger and acquisition practitioners are working for parties pursuing approximately the same objective within approximately the same time frame, the firm or organization, with the permission of each affected party, is expected to obtain the consent of all such parties. If such consent cannot be obtained from all affected parties, the firm or organization should resign from all affected engagements.

## 12 *Valuation services*

- A registrant providing valuation services may or may not be a Chartered Business Valuator (CBV). Registrants providing valuation services recognize the need to avoid conflicts of interest by not acting for two or more parties whose interests may conflict, except after adequate disclosure to and with the consent of all parties.
- Registrants providing valuation services must take care not to create a conflict of interest by agreeing to provide any professional service that will put them in a position of advocacy against another party to whom they are providing or have provided professional services when the registrant has confidential information of that party. For example, such a registrant should not agree to provide any professional service in relation to one shareholder group of a company that is being broken up (butterfly transaction) where the

registrant has previously provided professional services to all shareholders of the company. Similar considerations also exist where the parties are a married couple who are divorcing.

### **13**     *Assurance services*

- A registrant may be asked to provide assurance services for two or more clients who have competing commercial interests. The assurance provider is required to deal with the conflict of interest by obtaining the consent of each client unless there is implied agreement on the part of all clients for the registrant to act. In either case, the registrant is required to use procedures to protect confidential information.
- A registrant may possess confidential information obtained from one assurance client that is important to the fulfilment of the assurance engagement of a second client. For example, a member may learn during the course of an assurance engagement that the assurance client is in serious financial difficulty. If the member also undertakes an assurance engagement for a major supplier of the assurance client, the member will possess confidential information that could result in a material change to the financial statements of the supplier-client. The member may not rely on this confidential information to complete the engagement for the supplier-client. If the supplier-client is unaware of the information relating to the first client, the member has a conflict of interest that must be resolved.
- A registrant may possess confidential information gained in the course of an assurance engagement that would be useful in the provision of other professional services by the registrant. Despite this, such confidential information obtained in the course of the assurance engagement must be protected from disclosure or use for other purposes unless prior permission is obtained from the client.
- An assurance provider has the right to obtain the information that is required in order to carry out the assurance engagement. For this reason, the assurance provider is expected to have all knowledge concerning the client that the firm possesses that is relevant to the assurance engagement. Clients are expected to give assurance partners the information directly but may authorize assurance partners to seek out the information from others within the firm. Information protected by legal privilege would be dealt with by following the protocol for enquiries established by the lawyers involved. The refusal of a client to permit the assurance provider to obtain information that is necessary to carry out the engagement may create a scope limitation that must be addressed in the assurance provider's report.
- A registrant engaged to provide an assurance report to the shareholders on a set of financial statements might be asked by one shareholder for confidential information from the audit working papers to be used by that shareholder in a dispute with another shareholder. Since the assurance provider's duty is to the shareholders as a group and not to individual shareholders, such a request would present a conflict of interest as well as a breach of confidentiality.
- Registrants should refer to Rule 204 for assistance regarding conflicts of interest that may affect independence and objectivity with respect to an assurance engagement.

### **14**     *Services to employers*

- A registrant who is employed by an organization may face situations that give rise to conflicts of interest, as outlined in paragraph 4 of this Guidance. For example, a registrant may be asked to prepare financial information for certain members of management of an

organization employing the registrant who are seeking to undertake a management buyout. In such a situation, the registrant may be able to manage the conflict of interest by obtaining consent of all of the parties, taking steps to ensure that information is shared appropriately and fairly with all parties, providing information and not advice and advising all parties to obtain independent advice. If the registrant is one of the parties participating in such a buyout, the registrant should be particularly aware that confidential information cannot be used for personal advantage.

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

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

**16**     *Forensic accounting & litigation support services*

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

**17**     *Actuarial services*

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

**18**     *Insolvency services*

A registrant providing insolvency and corporate recovery services may be a licensed trustee and a member of the Canadian Association of Insolvency and Restructuring Professionals.

Since much of this work is carried out under the auspices of the court or other authorities, there are other requirements that deal with potential conflicts in the various roles in which a registrant may serve. Although these requirements prevent registrants from serving roles for different classes of creditors, they do permit the grouping of creditors of a single class into one pool, even though some of these creditors may have conflicting interests.

**F The process for dealing with conflicts of interest**

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

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

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

*Professional conflicts of interest*

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

*Legal conflicts of interest*

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

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

*Business conflicts of interest*

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

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

**21** Registrants should develop a process to identify conflicts of interest (a “conflict identification process”) that is appropriate to their circumstances. In some cases, this process may include

a database with information about each party to whom professional services are provided and a system that allows for timely access to the database by those within a firm or organization so that real or potential conflicts of interest can be recognized promptly. Inquiries about conflicts of interest should be documented. The database should be kept up-to-date, and should not include confidential information.

- 22** For areas of professional service where conflicts of interest must usually be avoided rather than managed, a registrant's conflict identification process will likely need to be more extensive and formal and should include the identification of a person or persons in the firm or organization to act above the wall as a conflict management officer or officers.
- 23** An effective conflict identification process will allow a registrant to identify conflicts of interest (or possible conflicts of interest) early on when agreeing to provide or providing professional services. The earlier a potential conflict of interest is identified, the greater the chance the registrant will be able to choose to manage it, rather than have to decline or terminate the provision of the professional services.
- 24** A registrant who is associated with an international firm or organization will have to exercise professional judgment when deciding who should be consulted when seeking information about conflicts of interest and possible conflicts of interest. Consultation will normally be limited to the country or countries in which the particular professional service will be provided unless the registrant is aware of the potential for conflicts of interest arising in a broader geographical area. The nature of the association and the interests of the party to whom the professional services will be provided are two factors the registrant should consider.
- 25** ***Step 2: Assess the conflicts of interest***  
After conflicts of interest and possible conflicts of interest have been identified, a registrant should exercise professional judgment as to whether such conflicts must be avoided altogether by declining to provide the professional service, or whether they can be appropriately managed.
- 26** When assessing a conflict of interest, registrants should consider the following questions:
- Is the conflict solely a business conflict of interest such that it does not require any action under the CPA Code?
  - Is it necessary to obtain consent or is the conflict one where agreement to proceed can be implied from the affected party's conduct, in keeping with commonly accepted practice?
  - Does the conflict impair the registrant's independence and objectivity with respect to an assurance engagement?
  - Does the conflict hinder the registrant's ability to perform the required duties?
  - What will be the impact on the party's ability to obtain professional services should the registrant choose to decline the engagement? In smaller communities, where there may be less access to professional services, there may be more occasions when it is necessary to manage conflicts of interest.
  - Would a reasonable person be satisfied that the proposed conflict management approach is satisfactory to manage the conflict?
  - Is it likely the requested service will go before a court where another affected party will be an opposing party? Unless the registrant has been asked to act as a fact finder or is providing information that is not contested, a court is likely to find it unacceptable for a registrant to represent two parties who are litigating against each other.
  - Will the conflict management techniques available to the registrant be effective in managing the conflict? This will be determined by the facts of the situation and the onus will be on the registrant, where necessary, to demonstrate to the courts that the conflict

management techniques are effective in protecting confidential information.

- Will the registrant's decision to avoid the conflict by terminating the provision of the professional service be a commercially satisfactory solution for the party or parties in conflict? In many cases, the solution to avoid the conflict by terminating the provision of the professional services to each of the parties will not be commercially satisfactory.

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

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

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

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

**29** ***Choose the conflict management techniques***

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

***Organization Structure***

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

- adopt conflict of interest management policies that provide those in the organization with guidance on dealing with such conflicts. These policies should recognize the role of professional judgment in the process and require persons in the organization to be able to demonstrate that the interests of the clients of the organization will be served at a high professional standard. The policies should also require that clients be informed as to what they should expect when agreeing to allow an organization with a conflict of interest to act on their behalf;
- implement a reporting structure related to potential conflicts of interest that is overseen by one or more persons within the organization. The role of the responsible person(s) is to (a) identify, at the outset, potential conflicts of interest, and decide whether to avoid such conflicts or manage them and (b) be informed of possible conflicts of interest and provide assistance to others within the organization on exercising professional judgment with

respect to conflict management. The person(s) determining or managing a particular conflict of interest should be above the wall with respect to that conflict;

- create separate areas of practice for specialty functions within the organization, which may act as a barrier to the passing of confidential information from one practice area to another within an organization. The flow of information from one area to another should be restricted by policies and procedures. Such policies and procedures would not preclude the cross-departmental sharing of information by members of a particular client service team. Within each separate area, members of the organization must understand the expected limitations in sharing confidential information across areas. It is recognized that the larger and more complex the organization, the more likely the need for creating separate areas of practice;
- establish policies and procedures to limit access to files. Much of the information obtained throughout the course of an engagement is retained in the files of the organization, either electronically or paper-based. To maintain the confidentiality of these files, an organization may put in place a formal system that limits access to these files to persons who are working directly on the engagement, logs access to files, and documents any access exceptions. The physical segregation of particular confidential information may further enhance its protection. Broad access to non-public information that has been retained by an organization may be viewed by its clients as contrary to its responsibility to protect confidential information;
- use blanket or engagement-specific confidentiality agreements signed by employees, which will emphasize the need to protect confidential information; or
- in those professional service areas where it is likely conflicts of interest will arise on a regular basis, use code names or numbers to assist in the use of fire walls and other conflict management tools.

#### *Fire walls*

The effectiveness of fire walls will be improved by the use of internal procedures such as designating an above the wall person to monitor the activities within the fire wall(s) and to ensure that the organization as a whole is not acting in an inappropriate manner. This person would:

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

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

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

### *Cones of silence*

Cones of silence may be used to:

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

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

### *Other techniques*

#### *Management oversight*

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

#### *Internal or external review*

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

#### *Existence of "whistleblower"/Code of Conduct policies*

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

- 30** The limitations on the use of organization structure, fire walls and cones of silence must always be recognized and considered in terms of whether the organization's obligations to its clients can be fulfilled. A professional judgment must always be made in light of the particular facts and circumstances. Conflict management techniques that are set up on an *ad hoc* basis, after a conflict of interest is identified, will not be seen to protect confidential information that may already have been shared within an organization. Ongoing conflict management techniques used on a regular basis are more likely to be effective and be seen to be effective than those set up on an *ad hoc* basis.
- 31** The uses of conflict management techniques to restrict information flows between units or individuals within an organization may not be effective when:
- a client expects to have complete access to all of the organization's resources. The use of a fire wall to protect the interest of another client may not be acceptable to the client;
  - a registrant or organization is not able to demonstrate clearly that they have been and will continue to be highly effective in preventing the sharing of confidential information;
  - there is a single department, operating unit or a large number of people coupled with a high turnover rate within the wall; or



- a registrant attempts to hide behind the wall. The existence of a fire wall does not relieve a registrant from making the appropriate enquiries or exercising professional judgment.

**32 Provide disclosure and obtain consent**

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

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

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

- In cases where the conflict of interest is one referred to in Rule 210.3(b), the agreement must be implied by the affected party's conduct and acceptance of the circumstances. In all other cases, it is desirable to obtain consent in writing. When such written consent is not obtained, an acknowledgement of the affected party's verbal consent and the details thereof must be noted in the registrant's files. The more direct the conflict is between existing or potential parties to whom professional services are provided, the more important it is to ensure that each of the affected parties know that their interests may conflict with the interests of other parties to whom the registrant provides professional services and that the registrant has effective measures in place to ensure that confidentiality is maintained. In each case, registrants should use professional judgment in determining the nature and extent of disclosures required to be made to each affected party and the need to obtain consent.
- In some cases a registrant may be eligible for a profit-related bonus where the value of the bonus could be affected by decisions made by the registrant. In such cases, consent may be understood to have been obtained where there is a system of internal control and review over the bonus, such as appropriate authorization and oversight and written employment contracts setting out the terms of the bonus arrangement.

**34 If notifying the affected parties of the existence of a conflict of interest would, in itself, constitute a breach of confidentiality, the registrant will have no choice but to decline the engagement.**

**35 The appropriateness of managing a particular conflict of interest is likely to depend on the particular facts and circumstances. As circumstances evolve, affected parties who initially agreed to allow a registrant with a conflict of interest to act may change their position. The risk and consequences of this possibility should be considered at the outset.**

**36 When a registrant enters into discussions with an affected party about the impact of possible conflicts of interest on the party's interest, the registrant should specifically address how the obligations to the party will be met and what restrictions, if any, there will be on access to the expertise of the firm or organization.**

**37 The courts may recognize the contractual clarification of a registrant's obligations by considering written or implied terms, disclosure, and the consent or agreement of the affected party. Such clarification might, for example, be provided by:**

- an engagement letter or contract used to clarify the registrant's and the affected party's obligations in an engagement. The following wording might be used to inform a party of potential conflicts of interest in an engagement, restrictions that could apply and the use of conflict management techniques to protect confidential information:

*"We provide a wide range of services for a large number of clients and may be in a position*

*where we are providing services to clients whose interests may conflict with your own. We cannot be certain that we will identify all such situations that exist or may develop and it is difficult for us to anticipate all situations that you might perceive to be in conflict. We therefore request that you notify us promptly of any potential conflict affecting the Contract of which you are, or become, aware. Where the above circumstances are identified by us or you and we believe that your interests can be properly safeguarded by the implementation of appropriate procedures, we will discuss and agree with you the arrangements that we will put in place to preserve confidentiality and to ensure that the advice and opinions which you receive from us are wholly independent of the advice and opinions that we provide to other clients. Just as we will not use information confidential to you for the advantage of a third party, we will not use confidential information obtained from any other party for your advantage.”;*

- written expression in public available policy statements of obligations undertaken, which also appears to be a tool that a registrant may use to further demonstrate the management of possible conflicts of interest; or
- to the extent that the matter is not dealt with in the foregoing, clarification of a registrant’s obligations that is included in final reports, proposals, etc.

**38** In the engagement letter, policy statement or contract, the relationship may be clarified by:

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

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

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

**40** When assessing the effectiveness of the selected conflict management techniques, registrants should ask the following questions:

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

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

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

- resign from both assignments without disclosure of the detailed reasons if such disclosure would also disclose confidential information, or with appropriate disclosure of the detailed reasons if confidential information can be protected; or
- obtain consent from both parties to continue their engagements in spite of the conflicts of interest; or

- seek the consent of both parties to continue for one party; and
- after obtaining the required consent, use existing conflict management techniques such as cones of silence or fire walls, to protect confidential information in appropriate circumstances.

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

**43** If, however, conflict management techniques such as cones of silence or fire walls have been in place from the outset and the parties have been informed at the outset of possible conflicts of interest, the task of dealing with new conflicts of interest that arise is made easier.

## **G Documentation**

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

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

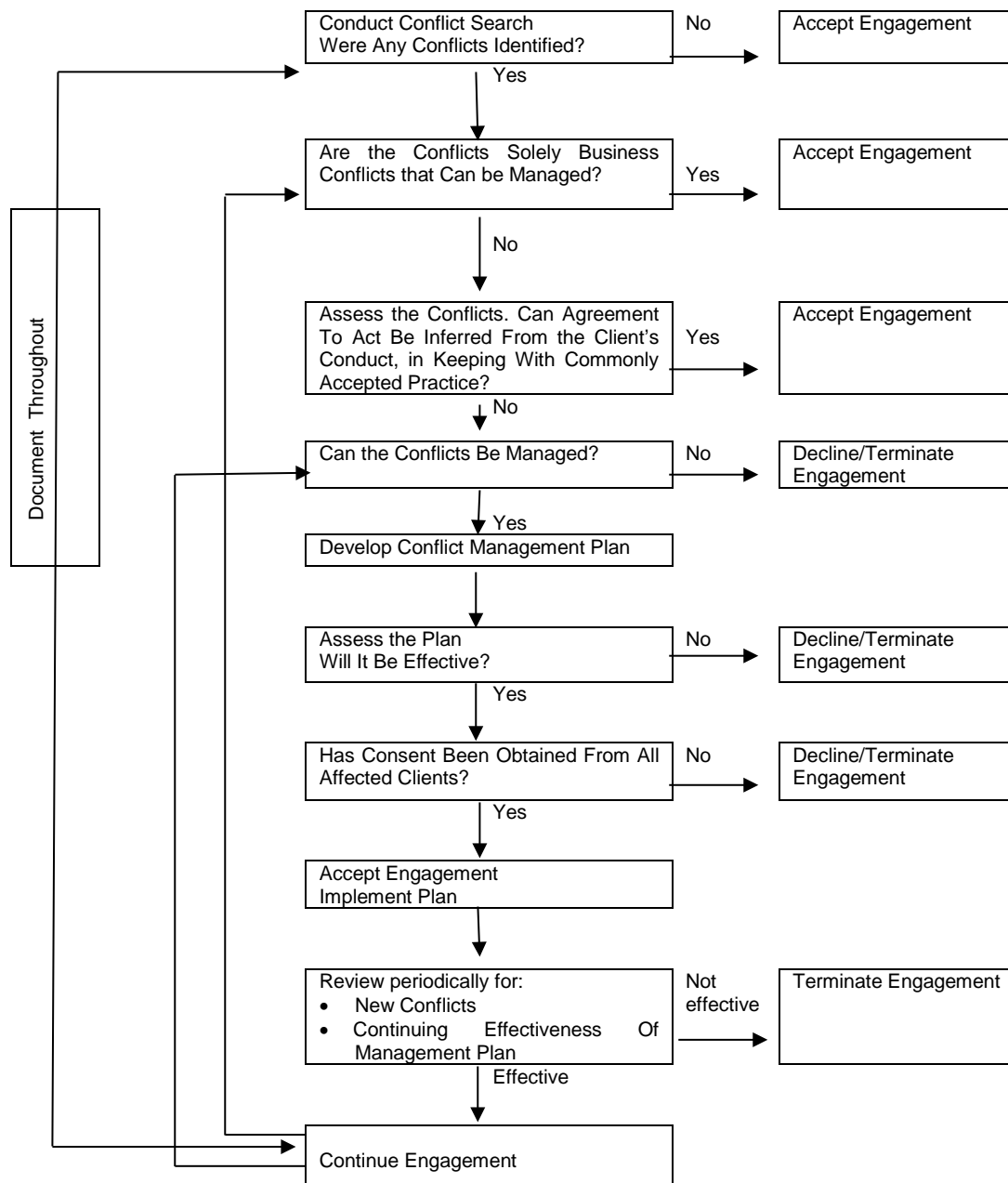
**45** When developing a conflict management approach, the registrant must ensure that the conflict management techniques selected are robust enough to demonstrate that the affected parties' interests will be served within the terms of the engagement or contract.

**46** The use of such techniques requires the use of professional judgment since ultimately their effectiveness and acceptability will be judged using the standard of "the expectation of an informed, reasonable observer".

**47** Where relationships or engagements exist for extended periods of time, the question of potential conflicts of interest should be addressed at least annually, perhaps as part of the ongoing review of client continuance decisions or professional services contracts.

## CONFLICTS OF INTEREST MANAGEMENT DECISION CHART

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



## **211 Duty to report breach of the CPA Code**

### **RULES:**

- 211.1** *A registrant shall promptly report to the Registrar any information concerning an apparent breach of the CPA Code or any information raising doubt as to the competence, integrity or capacity to practise of another registrant or applicant, unless such disclosure would result in:*
- (a) the breach of a statutory duty not to disclose;*
  - (b) the reporting of information by a registrant exempted from this Rule for the purpose and to the extent specified by Board;*
  - (c) the loss of solicitor-client privilege;*
  - (d) the reporting of a matter that has already been reported; or*
  - (e) the reporting of a trivial matter.*
- 211.2** *A registrant required to report under Rule 211.1 and who is engaged, or is in consultation with a view to being engaged, with respect to a civil or criminal investigation need not report to the Registrar any information obtained in the course of such engagement or consultation concerning an apparent breach of the CPA Code or any information raising doubt as to the competence, integrity or capacity to practise of another registrant or applicant until such time as:*
- (a) the client or employer has provided consent to the release of the information;*
  - (b) the registrant becomes aware that the information is known to third parties other than legal advisors; or*
  - (c) it becomes apparent to the registrant that the information will not become known to third parties other than legal advisors.*

### **GUIDANCE - Rule 211**

- 1** It is in the public interest that a registrant be required to report to CPABC apparent breaches by another registrant of the CPA Code. The good reputation of the profession could adversely be affected if such matters were not reported. Rules 211.1 and 211.2 are not intended to require the reporting of a trivial matter or minor perceived faults of another registrant. Each mistake or omission by a registrant is not necessarily a breach of the CPA Code. In deciding when to report, a registrant should believe that the matter raises doubts as to the competence, reputation or integrity of another registrant.
- 2** Rule 211.1 sets out specific situations where it does not apply. For example, the Rule does not apply to disclosure of information obtained:
  - in the course of the registrant's employment by an organization, such as a government taxation authority, where there is a legal requirement imposed by statute to maintain the confidentiality of information obtained through this employment;
  - in the member's role as a practice inspector or member advisor, who has been exempted for the purpose and to the extent specified by Board; or
  - in the course of an engagement, such as a litigation support engagement, where disclosure will result in the loss of solicitor-client privilege (provided, however, that section 51(10) of the Act allows such information to be disclosed to a practice review officer or investigator of CPABC for the purposes of a practice review or investigation).
- 3** Under certain circumstances, such as the forensic investigation of a fraud, Rule 211.2 permits the reporting of the matter to be delayed until:
  - the client has provided consent to the release of such information;
  - the information has become known to third parties other than legal advisors; or
  - it becomes apparent to the registrant that the information will not become known to third parties other than legal advisors.
- 4** Rule 211.2 attempts to strike a balance between the duty to the client and the duty to protect

the public interest and maintain the reputation of the profession. Clients may assume that a registrant will not disclose information without consent, resist the obligation of the registrant to report and even be reluctant to engage a registrant because of the reporting obligation. In addition, reporting without the client's knowledge or consent could result in a claim against the registrant. Thus the client must be informed that while the registrant will seek consent to report the information, ultimately, if the consent is not forthcoming, the obligation to the public and the profession will prevail and the registrant will be obliged to report.

- 5** A registrant reporting a matter does not have to carry out an investigation or reach a decision as to whether the CPA Code has been breached. However, it is not enough simply to have a suspicion that there has been professional misconduct. What must be reported are the facts as known to the registrant along with any supporting documentation.
- 6** If a registrant knows that a matter involving apparent misconduct on the part of another registrant has come to CPABC's attention, the registrant does not have a duty to report the matter. The registrant must report if the registrant knows that certain facts have been concealed, distorted or otherwise not reported.
- 7** Having reviewed Rules 211.1 and 211.2 and this Guidance, a registrant in doubt as to whether a matter should be reported should consult CPABC staff for advice. In certain circumstances, such as those described in paragraph 4 above, the registrant should also consider obtaining legal advice.

## **212 Handling property of others**

### **RULES:**

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

*A registrant, receiving, handling or holding money or other property in any capacity as a trustee, or as a receiver or receiver/manager, guardian, administrator/manager or liquidator, shall do so in accordance with the terms of the engagement, including the terms of any applicable trust, and the law relating thereto and shall maintain such records as are necessary to account properly for the money or other property; unless otherwise provided for by the terms of the trust, money held in trust shall be kept in a separate trust bank account or accounts.*

#### **212.2 Handling property of others**

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

### **GUIDANCE - Rule 212**

- 1** In this Guidance the term "trust funds" includes all amounts received by a registrant to be held or disbursed on the instructions of the person from whom or on whose behalf the amounts are received, such person being referred to as "client".
- 2** While it may be prudent to obtain legal advice with respect to complying with the law relating to trusts, the following should assist in understanding the Rule:
  - each trust relationship should be documented in writing;
  - trust funds, unless subject to written instructions to the contrary, should be deposited without delay to a separate bank account, a "trust account", which may be an account in the name of a specific client, but should in all cases include in its title the word "trust";
  - trust funds and property of others are to be separated from the registrant's assets and used only for the purpose for which they are intended;
  - withdrawals or disbursements from a trust account should be limited to:
    - funds properly required for payment to or on behalf of the client; or
    - funds properly required for or toward payment of the registrant's fees for services rendered or disbursements for which a billing has been rendered and approved, preferably in writing, by the client;
  - in the absence of express agreement to the contrary, any interest earned on trust funds should be accounted for to the client;
  - records should be maintained to show clearly trust funds received, paid or held on behalf of clients, clearly distinguishing the funds of each client from those of other clients and from the registrant's own funds;
  - registrants should establish appropriate safeguards and controls over receipts and disbursements of trust accounts;
  - registrants should be prepared at all times to account for the trust funds or other property together with any income, dividends or gains generated, to any person who is entitled to any such accounting; and
  - registrants should consider using a lawyer or financial institution where amounts are large or the situation is unusual or contentious.
- 3** Matters that should be addressed by a written retainer agreement include:
  - the manner and timing for billings to be rendered and approved;
  - how the retainer is to be applied, for example whether it is to be applied as billings are approved or is to be held and applied to a final invoice;
  - a requirement for the registrant to provide periodic reporting to the client regarding outstanding billings and the balance of the retainer;
  - the manner and timing of refunds of any retainer if the engagement cannot be completed

- or is completed in an amount which is less than the balance of the retainer; and
  - how any dispute with respect to billings is to be resolved.
- 4** There may be occasions when other property is received in trust in lieu of funds. Appropriate safeguards and controls should be established over these properties including, if applicable, the safekeeping of securities or other negotiable instruments.
  - 5** If the engagement is one governed by bankruptcy and insolvency legislation, registrants should refer to the provisions of such legislation and any regulations and directives enacted thereunder.
  - 6** Registrants acting as executors, administrators or trustees should refer to the provisions related to independence as set out in Rule 204.



### **213 Unlawful activity**

***RULE:***

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

## **214 Fee quotations and billings**

### **RULE:**

*A registrant shall:*

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

### **GUIDANCE - Rule 214**

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

## **215 Contingent fees**

### **DEFINITIONS**

*For the purpose of Rule 215 and the related Guidance:*

**"partner"** means a registrant's partner or shareholder, whether or not a member of CPABC, in the registrant's public accounting practice or a related business or practice.

### **RULES:**

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

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

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

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

### **GUIDANCE - Rule 215**

- 1** A registrant is entitled to charge for professional services such fees as the registrant considers to be fair and reasonable for the work undertaken. Generally it is prudent to refer to fees and the basis on which they are to be computed in an engagement letter to the client or potential client.
- 2** When providing a professional service for a contingent fee, a registrant must bear in mind the requirements of Rules 202, 203, 205 and 206. These rules require a registrant to perform services with integrity and due care; to sustain professional competence in all functions in which the registrant practices; not to associate with any letter, report, statement or representation which the registrant knows or should know is false or misleading; and to comply with the generally accepted standards of practice of the profession.
- 3** When permitted by the CPA Code to provide a professional service on a contingent fee basis, a registrant also must ensure that such a contingent fee arrangement does not, in the view of a reasonable observer, create an influence which would impair professional judgment or objectivity with respect to another engagement for the same client which requires objectivity on the part of the registrant.
- 4** The following examples of engagements undertaken on a contingent fee basis are provided as guidance to assist registrants in determining whether their professional judgment or objectivity may be compromised with respect to the types of engagements for which objectivity is required by the CPA Code or would be seen to influence the result of a compilation engagement or the preparation of an income tax return.

Examples of professional services which might be undertaken on a contingent fee basis,

provided that other relevant provisions, including Rule 204, would also permit the provision of such professional services to an assurance client are:

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

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

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

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

**6** Rule 214 permits registrants to render billings, commonly referred to as value billings, based, on criteria which include:

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

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

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

## 216 Commission and other compensation arrangements

### **DEFINITIONS:**

*For the purpose of Rule 216 and the related Guidance:*

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

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

**“client”** means any person or entity, and employers, for whom professional services are performed or to whom products or services are sold or provided by the registrant or any related business or practice directly or indirectly or through referral to others. In the application of Rule 216, references to “client” shall be read as including all related entities of the client.

**“commission and other compensation”** includes, but is not limited to, a commission, rebate, preference, discount, benefit or other consideration paid or received directly or indirectly, whether monetary or non-monetary, but does not include a fee for services and hereinafter, is collectively referred to as compensation.

**“related entity”** has the same meaning as in Rule 204 Independence.

### **RULES:**

#### **216.1 Circumstances when payment or receipt of compensation is permitted**

*A registrant engaged in the provision of professional services to a client may pay or receive any compensation in relation to obtaining or referring a client or the referral of products or services of others, provided that:*

- (a) the prohibitions outlined in Rule 216.2 do not apply; and*
- (b) the registrant:*
  - (i) identifies threats to the objectivity of the registrant arising from the proposed payment or receipt of compensation;*
  - (ii) evaluates the significance of those threats and, if the threats are other than clearly insignificant, the registrant:*
    - (A) identifies and applies any safeguards as appropriate to reduce the threats to an acceptable level;*
    - (B) informs the client of the safeguards applied to reduce the threats to objectivity to an acceptable level;*
    - (C) discloses the compensation to the client in writing; and*
    - (D) obtains the consent of the client prior to the earlier of payment or receipt of the compensation or the provision of the goods or services.*

*Where safeguards are not available to reduce the threats to an acceptable level, the registrant shall not pay or receive the compensation.*

#### **216.2 Circumstances when payment or receipt of compensation is prohibited in respect of an assurance client**

*Other than as allowed by Rule 216.3 and Rule 216.4, a registrant shall not directly or indirectly pay or receive any compensation in relation to or in respect of:*

- (a) obtaining an assurance client;*
- (b) the referral of an assurance client to others;*
- (c) the referral of products or services of others to an assurance client;*

- (d) *the referral of products or services of an assurance client to others; or*
- (e) *the provision of other professional services to an assurance client.*

**216.3 Circumstances when payment or receipt of compensation is permitted in respect of obtaining or referring a client**

- (a) *Notwithstanding Rule 216.2, a registrant engaged or employed in the practice of public accounting may pay to another registrant engaged or employed in the practice of public accounting a commission or other compensation in relation to obtaining the other registrant's existing client(s) or assurance client(s).*
- (b) *Notwithstanding Rule 216.2, a registrant engaged or employed in the practice of public accounting may receive, in relation to referring an existing client or assurance client, a commission or other compensation from another registrant engaged or employed in the practice of public accounting.*
- (c) *Notwithstanding Rule 216.2, a registrant engaged or employed in the practice of public accounting may pay or receive, in relation to obtaining or referring a client or assurance client, a commission or other compensation to or from any person who is a partner, shareholder or employee of the registrant.*

*For greater certainty, the provisions of Rule 216.1(b) do not apply to the circumstances outlined in Rule 216.3(a), Rule 216.3(b) or Rule 216.3(c).*

**216.4 Circumstances when payment or receipt of compensation is permitted in respect of the sale or purchase of a practice**

*A registrant may pay or receive compensation in connection with the sale or purchase of a public accounting practice, professional services practice or a portion thereof.*

*For greater certainty, the provisions of Rule 216.1(b) do not apply to the circumstances outlined in Rule 216.4.*

**GUIDANCE - Rule 216**

**Compensation arrangements**

- 1** Rule 216 is applicable to all registrants providing professional services to clients and employers.
- 2** Receipt of compensation, whether in the form of money or otherwise, from third parties represents a threat to the fundamental principles, in particular integrity and due care and objectivity (Rule 202). There is a conflict of interest (Rule 210) between receiving this compensation and providing a referral or facilitating the sale of products or provision of services, whether the registrant is in a public accounting practice or providing professional services elsewhere. The conflict also arises when making payments.

A registrant may be asked by a third party such as an investment dealer, portfolio manager, insurance broker or software provider to facilitate the sale of securities or software, provision of investment advice or portfolio management services, or the placement of insurance. A registrant may also be asked to refer clients or assurance clients directly to a third-party provider of such products or services. A registrant may, at the same time, be receiving fees from clients or assurance clients for professional services which include advice on the utilization of surplus funds or on insurance coverage.

When referring a product and/or services of a third party to the client, a registrant also needs to be aware that they could be seen to be endorsing that third party and are subject to the requirements of Rule 217.3.

- 3 Compensation that is billed to or by, and/or paid to or received by the registrant's employer, rather than the registrant, will be considered to be indirectly billed to or by, and /or paid to or received by the registrant.
- 4 Fees based on a percentage of assets under management are not included under the definition of "compensation" because they are not linked to a specific transaction.

#### **Compensation permitted with safeguards**

- 5 In considering the significance of any particular threat, qualitative as well as quantitative factors should be taken into account. A threat should be considered clearly insignificant only if it is both trivial and inconsequential.
- 6 When providing a professional service in respect of which Rule 216.1 may permit a registrant to pay or receive compensation, the registrant is required to first identify threats to the fundamental principles (such as objectivity) that may arise in the context of the services to be provided and the proposed compensation methodology. The registrant is then required to identify and apply safeguards to reduce such threats to an acceptable level. Professional services, in this context, could include referral of the client to the products or services of a third party, including software, investment or insurance products and wealth management services, or sale to the client of such products or services by the registrant acting as agent or sub-agent for the third party. An example of such circumstances is where a firm recommends purchase by the client of particular accounting software to assist the firm in providing accounting or bookkeeping services to the client.
- 7 Appropriate safeguards should take into account the nature of the client and the client relationship, such as the level of sophistication of the client. Where the threat is other than clearly insignificant, Rule 216.1 requires the registrant to disclose, at a minimum, the proposed compensation to the client in writing and obtain the client's consent to receipt of the proposed compensation. Safeguards may include, without limitation:
  - prior identification and discussion of alternative products or service providers, or alternative compensation structures with the client, allowing the client to make the final choice as to the products or services to be provided and the basis for compensation of the registrant;
  - review of the proposed transaction by others such as the compliance department of the registrant or firm;
  - disclosure of the relationship between the registrant and the provider of the product or services; and
  - ongoing disclosure of the compensation, including any periodic fees that may result to the registrant after the initial purchase/referral.
- 8 When considering which safeguards are appropriate to apply, registrants will also need to consider whether any of the proposed safeguards conflict with their employer's policies and practices. An employer's policies do not, however, provide a registrant with an exemption from meeting the Rules of Professional Conduct. Guidance provided in Rule 210 in respect of the application of conflict management techniques may also be appropriate.

#### **Alternative compensation for assurance clients**

- 9 The effect of Rule 216.2 is that a registrant engaged in the provision of assurance or other professional services to an assurance client is not permitted to receive compensation for a referral of products or services of others to that assurance client. In this case, the self-interest threat to the principles of objectivity and independence is too great to be eliminated by the application of safeguards.

In order to provide other professional services to assurance clients, the registrant must bill in

respect of those services in a manner that does not involve receipt of compensation by the registrant. One such billing method is an hourly fee for services.

#### **Related entities and parties**

- 10** For the purposes of Rule 216, the definition of “related entity” provided in Rule 204 refers to all clients, not just assurance clients.

The guidance provided in the *CPA Canada Handbook* is relevant in making a determination of what a ‘related entity’ is. Ownership interests, degree of influence, and family relationships are some of the factors that should be considered in determining whether a person or entity is a related party.

- 11** The prohibitions in Rule 216.2 extend to any related business or practice of the registrant. Compensation received by any related business or practice of the registrant is considered to be indirectly received by the registrant. “Compensation” includes non-monetary compensation, and also includes compensation in respect of related parties of the assurance client.

#### **Substance over Form**

- 12** Where a registrant establishes arrangements and corporate or other structures in order to facilitate transactions involving the receipt or payment of commission-based compensation, such arrangements or structures are unlikely to change the substance of these transactions. CPABC will consider the substance and effect of any such transactions when making a determination as to whether a breach of the CPA Code has occurred.

#### **Other regulatory regimes**

- 13** Registrants are reminded that transactions giving rise to the payment or receipt of compensation for the referral of the products or services of others are frequently governed by statute or other regulations setting out specific additional licensing, registration, disclosure and other requirements.

#### **Incidental advice**

- 14** Rule 409 exempts taxation services provided by registrants who meet the conditions set out in that Rule from the restriction against associating with a corporation engaged in the practice of public accounting. Notwithstanding Rule 409, the registrant is considered to be providing professional services and, as such, is required to adopt the threats and safeguards approach discussed above in connection with the provision of services that could result in the receipt of compensation by the registrant.



## **217 Advertising, Solicitation and Endorsements**

### **DEFINITIONS:**

*For the purpose of Rule 217 and the related Guidance:*

**“endorsement” means:**

- (a) *public promotion, support, sponsorship, recommendation, guarantee, sanction or validation of any product or service of another person or entity; or*
- (b) *public indication or implication that the registrant either:*
  - (i) *uses a product or service of another person or entity; or*
  - (ii) *has an association with a product or service of another person or entity that is of a nature that has enabled the registrant to formulate an opinion or belief as to the quality of the product or service or the benefits to be derived by the purchasers or users of the product or service; or*
- (c) *agreement, including by acquiescence, to the use of the registrant’s name in connection with any of the activities described in (a) or (b).*

### **RULES:**

#### **Advertising**

**217.1** *A registrant may advertise or seek publicity for the registrant’s services, achievements or products and may seek to obtain new engagements and clients by various means, but shall not do so, directly or indirectly, in any manner*

- (a) *which the registrant knows, or should know, is false or misleading or which includes a statement the contents of which the registrant cannot substantiate;*
- (b) *which makes unfavourable reflections on the competence or integrity of the profession or any registrant; or*
- (c) *which otherwise brings disrepute on the profession.*

#### **Solicitation**

**217.2** *Notwithstanding Rule 217.1, a registrant shall not, either directly or indirectly solicit, in a manner that is persistent, coercive or harassing, any professional engagement.*

#### **Endorsements**

**217.3** *A registrant may advertise or endorse any product or service of another person or entity that the registrant uses or otherwise has an association with, provided the registrant has sufficient knowledge or expertise to make an informed and considered assessment of the product or service. However, in doing so:*

- (a) *the registrant must act with integrity and due care;*
- (b) *the registrant must be satisfied that the endorsement:*
  - (i) *is not false or misleading or does not include a statement the contents of which the registrant cannot substantiate;*
  - (ii) *does not make unfavourable reflections on the competence or integrity of the profession or any registrant; and*
  - (iii) *does not otherwise bring disrepute on the profession; and*
- (c) *when associating the CPA designation with an endorsement, the registrant must conduct appropriate procedures to support the assertions made about the product or service.*

### **GUIDANCE - Rule 217**

#### **217.1 Advertising**

- 1** *It is in the public interest and in the interest of all registrants of CPABC that registrants be allowed to advertise or otherwise promote services available and the basis of fees charged. Registrants should be able to receive publicity, identifying them as members of CPABC, in areas which reflect their competence and knowledge, in matters which are within the scope of*

activities of registrants of CPABC, and in matters of community or public interest. Advertising and publicity should contribute to public respect for the profession and thus to the professional standing of all members. It is the responsibility of the registrant to ensure that any promotional material produced by or under the control of the registrant is factual, and that any commentary is not misleading.

- 2 As guidance to registrants, the following outlines what is acceptable conduct in a number of areas. Unless specifically noted, this Guidance also applies to registrants otherwise engaged or employed, and to firms or corporations engaged, in a related business or practice. The objective is to ensure that advertising or other promotional communication is accurate and factual.
- 3 Registrants that engage public relations, recruiting or other agents are responsible for ensuring that no activity for which the agent is engaged contravenes the CPA Code. While there are matters in which the use of skilled assistance can be advantageous, it should be recognized that there is an inherent danger of contravention of the CPA Code and that close control must be exercised to avoid breaches.
- 4 A registrant may be the subject of, or may be referred to, in any *bona fide* news story (including interviews and commentaries) or may publish any work (including any professional paper, report, article, etc.) related to the registrant's professional services, provided that the registrant uses all best efforts to ensure that none of the contents of such news story or work violates the requirements of Rule 217.

#### **False or misleading advertising**

- 5 It is not appropriate for registrants to use advertising or promotional communications or media, including electronic media, that bring disrepute on the profession.
- 6 Registrants should ensure, at all times, that any public reference (in promotional material, websites, stationery, reports, etc.) to themselves or their services is accurate. The following are examples of false or misleading references:
  - any implication that the practising unit is larger than it is, such as by use of plural descriptions or other misleading use of words;
  - any implication that a person is a partner of a firm, when the person is not;
  - any implication that separate firms sharing office space, staff or other resources or in other cost-sharing arrangements are in partnership or otherwise share ownership of a firm;
  - any implication that a person is entitled to practise ("as a public accountant," as appropriate) by including their name in public announcements of a practising firm if the person is not licensed ("as a public accountant," as appropriate);
  - any reference to representation or association which is not in conformity with the facts;
  - the use of obsolete or out of date information;
  - any reference to particular services of any person or firm where the person or firm is not currently able to provide those services;
  - any statement that the practice is restricted to one or more functions, if engagements are accepted in other practice functions; and
  - any statement that may create false or unjustified expectations as to the results of an engagement.
- 7 Any reference to fees which is intended for the information of the public (including prospective clients) should not be misleading. The following are examples of false or misleading fee references:

- fee information if the service at the fee specified will not be available on an ongoing basis for a reasonable length of time;
  - a quotation of specific fee information if the service at the fee specified is conditional upon the acceptance by the client of other services, unless such condition is disclosed;
  - a “rate per hour” or fee or fee range for specified services which does not give a reasonable description of the services included;
  - fee information which quotes an unqualified “average rate”, fee or fee range for services when a particular assignment might likely be billed at a significantly higher amount; and
  - fee information, using terms such as “from \$X”, where fees, rates or ranges are not sufficiently representative of those normally charged.
- 8** Registrants should ensure that any controllable public references to them, their services or accomplishments, whether written or oral, are not false or misleading.

### **Unfavourable reflections**

- 9** Since any registrant may be able to offer services similar to those offered by others, it is not appropriate for any registrant to claim superiority with respect to the competence or integrity of any other registrant.

### **Use of the term "specialist"**

- 10** Individuals who have earned the designation “Chartered Professional Accountant” have demonstrated a high level of education and professional experience. To hold oneself out as a specialist is to imply possession of particular skills, talents and experience.
- 11** Specialization must be distinguished from expertise. Expertise implies extraordinary knowledge about a specific subject – no matter how broad or how narrow. Specialization implies a concentration of professional skills developed and applied over a meaningful period of time. A person may be an expert without being a specialist.
- 12** Registrants designating themselves or related businesses or practices as specialists must be prepared to substantiate the claim. Failure to provide advice to a specialist standard after accepting an engagement to do so may have serious legal consequences.
- 13** A member or student seeking identification as a specialist should meet the following minimum criteria:
- the member or student is recognized as such by peers, clients and business associates or holds a credential, designation or both, in a particular professional service area;
  - a significant percentage of the member’s or student’s time over a sustained period has been spent in the specialty;
  - the member or student has completed courses and/or successfully completed appropriate examinations, if applicable, for the specialty;
  - the member or student continues to complete professional development relevant to the specialty, such as attendance at courses, teaching or writing; and
  - the member or student continues to devote a significant percentage of time to the specialty.
- 14** Improperly claiming specialist status may violate one or more of the following Rules:
- Rule 201.1, which requires registrants to act in a manner that will maintain the good reputation of the profession;
  - Rule 202, which requires registrants to perform their services with integrity and due care;

- Rule 203.1, which requires members to sustain their professional competence in all functions in which they practise;
- Rule 205, which prohibits registrants from being associated with false or misleading documents and oral representations;
- Rule 210, which requires registrants to avoid conflicts of interest; and
- Rule 217.1(a), which requires registrants to refrain from making statements that cannot be substantiated.

**15** Firms intending to identify themselves as specialists should meet the following minimum criteria:

- the firm is recognized as such by peers, clients and business associates;
- a significant percentage of the firm's time over a sustained period has been spent in the specialty;
- firm members have completed courses and/or successfully completed appropriate examinations, if applicable, for the specialty;
- firm members continue to complete professional development relevant to the specialty, such as attendance at courses, teaching or writing; and
- the firm continues to devote a significant percentage of time to the specialty.

**217.2 Solicitation**

- 1** Solicitation is an approach to a client or prospective client for the purpose of offering services. The approach may be made in person, through direct mail (including fax or e-mail) or via a third party such as a telemarketer. Regardless of the method used, the approach must comply with relevant legislation as well as the Rules which govern integrity, conflict of interest, payment of commissions and advertising or which otherwise regulate registrants.
- 2** Communication with a prospective client should cease when the prospect so requests either directly to the registrant or through CPABC. Any continued contact will be regarded as harassment, which is contrary to the Rule.
- 3** Participation in a trade or a financial services show or in a seminar arranged for or promoted by a non-registrant is not prohibited by the Rules, provided that the conduct of the registrant and any references to the registrant are in accordance with the Rules and the follow up of contacts are in accordance with Paragraphs 1 and 2 of this Guidance.
- 4** The distribution of technical information such as a tax letter to prospective clients and others is not prohibited.
- 5** Registrants may serve the interests of the public and the profession by presenting educational and informational seminars and may distribute invitations to attend seminars and provide related informational material. Seminars may be advertised as permitted by Rule 217.1. Such advertising may invite the public to request brochures, letters or other descriptive or informational material from the members or firms responsible for the seminar. Registrants may arrange, promote, present or otherwise be responsible for such seminars, with or without a fee, subject to the Rules.

**Clientele of a deceased member**

- 6** When a member who is a sole proprietor dies, the member's executors should be provided a reasonable opportunity to arrange for transfer of the deceased member's clients to another firm. CPABC may be able to assist the estates of deceased members in such circumstances. It is recognized that, in some cases, clients may require immediate service and may not be able to await the orderly disposal of the practice. Any member or firm who is approached to take over the account of a prospective client who had been served by a deceased member

should notify the executor upon assuming the account.

### **217.3 Endorsements**

- 1** When endorsing a product or service that the registrant uses in business or professional practice, the registrant should first make an appropriate investigation or assessment of the product or service so as to be able to express an opinion or state a belief about it.
- 2** When endorsing a personal product or service, the registrant should have sufficient familiarity or acquaintance with the product or service to make an informed and considered decision about it.
- 3** When endorsing any product or service, a registrant must take care to ensure that the endorsement does not or would not create a conflict of interest or impair objectivity.

## **218 Retention of documentation and working papers**

### **RULE:**

*A registrant shall take reasonable steps to maintain information for which the registrant is responsible, including retaining for a reasonable period of time such working papers, records or other documentation which reasonably evidence the nature and extent of the work done in respect of any professional service.*

### **GUIDANCE - Rule 218**

- 1** Cases may arise where a registrant may be required to substantiate procedures carried out in the course of providing professional services. If the files do not contain sufficient documentation to confirm the nature and extent of the work done, the registrant concerned may well have great difficulty in showing that proper procedures were in fact carried out. The importance of adequate documentation cannot be over-emphasized; without it, a registrant's ability to outline and defend professional work is seriously impaired.
- 2** There is an obligation to keep the documentation for a reasonable period of time. Unfortunately, it is not possible to give an all-encompassing guideline as to what is reasonable. What is reasonable varies with the circumstances. One of the problems is that an action based in negligence arises, not when the negligent work is done, but when the damage caused by the negligent work becomes known, or ought to have become known, to the person who is harmed. At a minimum, documentation should not be destroyed until legal advice has been obtained with respect to any limitation periods that may apply.
- 3** Further, registrants should retain documents for a period of time to provide professional services effectively and to properly serve clients and employers. That time period will depend on the risk associated with the professional service provided and the nature of the specific information that is contained in the files. While a general guideline of 10 years is suggested as the minimum time period, some documentation may need to be retained indefinitely. Such documentation could include:
  - financial statements;
  - agreements, contracts and leases;
  - minutes;
  - investment/share capital information;
  - written opinions;
  - tax files and assessment notices;
  - detailed continuity schedules for such items as fixed assets and future taxes;
  - estate plans, wills and similar documents; or
  - other files, information and records as appropriate.
- 4** Registrants may find it helpful to take reasonable steps to segregate information that is property of the client ("client information") from information that is proprietary to the registrant ("proprietary information") or to ensure that they have the ability to easily segregate such client information. The client may choose to engage another professional service provider in the future, or access to the client information may be demanded through litigation discovery or other legal means. Therefore, it is in the interest of the registrant to be able to provide client information without also disclosing proprietary information. For example, a registrant in public practice should either segregate or be able to easily separate client information, including books and records, general ledgers, account groupings, account compositions, continuity schedules and similar client information from audit or review programs and working papers, tax review documentation and other proprietary information.
- 5** When the registrant maintains the client's books and records on behalf of the client, it will be particularly helpful if such client books and records are maintained separately from

documentation related to any other service that the registrant may provide to the client. Copies of the books and records should be provided to the client on a timely and regular basis.

- 6** Registrants are reminded that Rule 208 establishes, among other things, requirements for registrants to maintain and protect confidential information in a manner and format that permits it to remain accessible to those who should properly access it and that limits inappropriate access to it.

**300    PROFESSIONAL COLLEAGUES**

**301    *Reserved for future use.***



## **302 Communication with predecessor**

### **RULES:**

**302.1** *A registrant ("successor") shall not accept an engagement with respect to the practice of public accounting or the provision of a professional service not inconsistent therewith, where the successor is replacing another registrant or other professional ("predecessor"), without taking reasonable steps to communicate with such predecessor and enquire whether there are any circumstances that should be taken into account which might influence the decision whether or not to accept the engagement.*

**302.2** *A registrant shall respond promptly to the communication referred to in Rule 302.1.*

**302.3** *(a) When responding as required by Rule 302.2, if a registrant was unable to continue with or resigned from an engagement with respect to the practice of public accounting, the registrant shall inform the successor of the fact of the withdrawal or resignation, as the case may be.*

*(b) When a registrant has been informed of the circumstances described in Rule 302.3(a), the registrant shall obtain the necessary information to make an informed decision as to whether to accept the client by:*

*(i) requesting such further information from the client; or*

*(ii) requesting permission from the client to obtain such further information from the predecessor.*

### **GUIDANCE - Rule 302**

- 1** The purpose of the Rule is to protect a potential successor from accepting an engagement before that registrant has knowledge of the circumstances under which the predecessor's services were discontinued. Knowledge of these circumstances might well influence that successor against accepting the engagement. The recommended procedure outlined below should be followed.
- 2** When a successor has been asked by a prospective client to accept an engagement it is recommended that the client be advised that the predecessor should be notified of the proposed change by the client. The successor should then enquire of the predecessor whether there are any circumstances that should be taken into account which might influence the decision whether or not to accept the engagement. No work should be commenced on the account until the successor has communicated with the predecessor, except that in the client's interest, acceptance of the offered engagement should not be unduly delayed through the failure of the predecessor to reply, if every reasonable effort has been made to communicate with the predecessor.
- 3** Rule 302.2 requires a registrant to respond promptly to a communication of this nature and to advise whether or not the registrant withdrew or resigned from the engagement. If there are no circumstances of which the successor should be made aware, a simple response to this effect is all that is necessary. If the withdrawal or resignation resulted from incapacity of the registrant to continue, that should be communicated. If, on the other hand, the predecessor is aware of circumstances that should be taken into account which might influence the decision whether or not to accept the engagement or the reason for the withdrawal or resignation does not relate to the registrant's capacity, the predecessor should first consider the question of confidentiality. If it appears that the circumstances cannot be disclosed because of confidentiality, the response to the successor should state that there are, in the opinion of the predecessor, circumstances which should be taken into account, but that they cannot be disclosed without the consent of the client. For example, such circumstances may arise where the existence of a suspected fraud has given rise to the withdrawal or resignation. Further, in some cases, such as when the withdrawal or resignation is the result of a conflict of interest, it may not be possible to disclose

additional information even with the consent of the client. Where confidentiality is in doubt, the predecessor should consider obtaining legal advice.

- 4 When making an engagement acceptance decision, the successor is required to seek additional information in order to make an informed decision as to whether the circumstances of the withdrawal or resignation are such that the engagement should not be accepted. Such additional information may be obtained directly from the client or permission may be sought from the client to obtain such further information from the predecessor. The nature and reasonableness of any information obtained directly from the client or a refusal of permission from the client to contact the predecessor are factors that should be carefully considered by the successor when making the client acceptance decision.
- 5 The successor should also enquire of the predecessor whether there is any ongoing business of which the successor should be aware, in order to ensure that the client's interests are protected. On the part of the predecessor, there must be readiness to co-operate with the successor, although client documents may be withheld where there are fees owing to the predecessor by the former client.
- 6 Registrants should be cognizant of the provisions of any federal and provincial legislation, including securities legislation regulating changes in professional engagements or requiring notification of such changes to predecessors.
- 7 The attention of registrants is drawn to the provisions of various federal and provincial statutes, and to any regulations, guidelines or policy pronouncements issued pursuant to such statutes, which place requirements on the acceptance of audit appointments. These include securities legislation and related pronouncements, such as national policies issued by the Canadian Securities Administrators, the provisions of statutes governing financial institutions, and the audit appointment provisions of the *Canada Business Corporations Act* and the *British Columbia Business Corporations Act*.

### **303 Provision of client information**

#### **RULES:**

- 303.1** (a) *A registrant shall, upon written request of the client and on a timely basis, supply reasonable and necessary client information to the registrant's successor, except where a registrant reasonably withholds such information pending the resolution of any outstanding accounts. Such co-operation is required with any successor accountant ("successor"), including a non-member.*
- (b) *A registrant ("predecessor") shall co-operate with the successor on an engagement.*
- 303.2** *A registrant shall transfer promptly to the client or, on the client's instructions, to another party, all property of the client which is in the registrant's possession or control, except where the predecessor reasonably exercises the right to place a lien on some or all records pending the resolution of any outstanding accounts. Such property shall be transferred in the medium in which it is maintained by the registrant, or such other medium that is mutually agreeable, that will facilitate a timely and efficient transfer which best serves the client's interests. Ordinarily, when electronic copies of the property of the client are readily available, the client's interests will be best served when such information is provided as electronic data, rather than in printed form, provided that supplying the information in such a form will not violate licensing, copyright or similar legal agreements or proprietary rights.*

#### **GUIDANCE - Rule 303**

- 1** When a client decides, for any reason, to change from one professional service provider to another, the change should be facilitated on the basis of the following fundamental assumptions:
  - the client's interests be placed ahead of the interests of the member or firm;
  - the client is free to have work performed by the professional service provider of the client's choice; and
  - professional courtesy and co-operation be maintained in complying with the client's wishes.
- 2** A predecessor should supply reasonable information to the successor about the client. Ordinarily, predecessors are not expected to supply copies of more than information related to the previous year's financial statements and applicable tax returns, unless the predecessor is remunerated for time and expenses to do so.
- 3** A reasonable request for information related to the client includes an opportunity for the successor to discuss with the predecessor the following:
  - the client's accounting policies and consistency of application;
  - the work carried out by the predecessor with respect to material balances in the client's financial statements; and
  - the financial statement groupings and account balance composition (for example, future income taxes) where the client does not have the information.

Registrants are reminded that the *CPA Canada Handbook – Assurance* includes requirements with respect to obtaining audit evidence related to opening balances. Professional courtesy dictates that the predecessor should co-operate with the successor for the purpose of meeting this requirement through discussion and review of working papers. In addition, the client's interests are likely to be best served when the predecessor co-operates as fully as possible with successors for this purpose. Reasonable opportunity to review and discuss working papers does not preclude the use of appropriate waivers or releases. However, appropriate waivers or releases should not include requirements for confidentiality which would contravene the successor's obligation to report breaches by another registrant pursuant to Rule 211 or prevent the successor from otherwise properly serving the best interests of the client.

- 4 Registrants providing professional services other than public accounting services may also receive requests for client information from successor service providers. Provided that appropriate authorization has been provided by the client, the predecessor should supply reasonable information about the client to the successor. For example, it may be reasonable to supply the successor with:
- financial statements, copies of wills and other relevant client information that was provided by a client in relation to the preparation of a financial plan;
  - flow charts, procedural manuals and other documentation provided by a client in relation to an engagement to develop systems and controls;
  - environmental scans, procedural manuals and other documentation provided by the client in relation to a management consulting service; and
  - tax information and balances required for a reorganization or other tax planning purpose.
- 5 Rule 303 is not intended to require the transfer of certain proprietary information. Accordingly, predecessors are not expected to supply copies of audit or review programs and working papers or tax review documentation.
- 6 Property of the client does not include information that is proprietary to the registrant, such as audit or review programs and working papers, review documentation, software or other proprietary material or information. Property of the client does include the work product that is prepared for the client by the service provider, unless the use and distribution of the work product is limited or otherwise protected by specific written agreement between the client and service provider.
- 7 The medium that facilitates a timely and efficient transfer may vary depending on the nature of the engagement and the nature of the property of the client. For greater clarity and without limiting the general meaning of “property of the client”, such property includes original transaction documents (cheques, receipts, invoices, for example), banking records, ledgers and similar records. It would also ordinarily include tax returns and information related to financial statement groupings, account balance composition and continuity schedules that have been prepared by the predecessor accountant for the client’s benefit. In addition, it includes any of the foregoing or other property of the client that is readily available in electronic form where the client does not also have an electronic copy of the records or information.
- 8 “Property of the client that is readily available in electronic form” is not intended to include electronic information that cannot be easily segregated from proprietary information of the registrant. Basic financial information such as trial balances, leadsheets and continuity schedules should always be provided, but need not be provided electronically if they are incorporated into software that includes audit or review programs and working papers or tax review documentation. Accordingly, while registrants should always consider which readily available transfer medium will best serve the interests of the client, registrants are not required to provide client information electronically in every case.
- 9 Paragraph 5 of the Guidance to Rule 218 includes information on facilitating the separation of information that is property of the client from proprietary information of the registrant. Such separation of information is recommended to facilitate the ease with which a predecessor can co-operate with a successor to properly serve the client’s interests.

### **304                    Joint engagements**

#### ***RULE:***

*A registrant accepting an engagement jointly with another registrant shall accept joint and several responsibility for any portion of the work to be performed by either; no registrant shall proceed in any matter within the terms of such joint engagement without due notice to the other registrant.*

#### **GUIDANCE – Rule 304**

- 1**        In order to properly serve the interests of the client and prevent misunderstandings, registrants should take reasonable steps to clarify the specific responsibilities of each participant in a joint engagement, preferably by an agreement in writing, and explain the responsibilities to the client.

### **305 Communication of special engagements to incumbent**

#### **RULES:**

- 305.1** *A registrant engaged in the practice of public accounting or providing a professional service not inconsistent therewith, shall, before commencing any engagement for a client for which another registrant is the duly appointed auditor or accountant, first notify such auditor or accountant of the engagement, unless the client makes an unsolicited request, evidenced in writing, that such notification not be given.*
- 305.2** *Rule 305.1 applies only where the services to be provided under the terms of the engagement are included in the practice of public accounting or relate to a professional service not inconsistent therewith.*

#### **GUIDANCE - Rule 305**

- 1** It is important for auditors and accountants to be fully informed about all matters related to their clients' affairs. When a second registrant is asked by a client of another registrant to undertake a special engagement, the circumstances of that special engagement may be relevant to the work of the first registrant in relation to an assurance or compilation engagement. In some cases, the auditor or accountant may have information that is relevant to the performance of the special engagement. For example, the client may be seeking a "second opinion" with respect to a matter that is the subject of a dispute between the client and its auditor or accountant. The client's interests are most likely to be best served when there is full co-operation among professional service providers. Additionally, full co-operation ensures that all of the registrants who are providing services to the client have the appropriate information to exercise appropriate due care in providing such services.
- 2** When a client makes a request that the potential service provider not provide notification to the auditor or accountant, the potential service provider should inform the potential client of the impact of such a request on the assurance or compilation engagement. In addition, the potential service provider should carefully consider whether the circumstances may be such that the special engagement should be declined.

## **306 Responsibilities owed to an incumbent**

### **RULES:**

#### **306.1 Responsibilities on accepting engagements**

*A registrant accepting an engagement, whether by referral or otherwise, to provide professional services to a client of another registrant having a continuing professional relationship with that client shall not take any action which may impair the ongoing relationship of the other registrant with the client.*

#### **306.2 Responsibilities on referred engagements**

*A registrant receiving an engagement for services by referral from another registrant shall not provide or offer to provide any additional services to the referred client without the agreement of the referring registrant. The interest of the client being of overriding concern, the referring registrant shall not unreasonably withhold such agreement.*

### **GUIDANCE - Rule 306**

- 1** The client's overall interests are best served when professional service providers are aware of any relevant services that may be provided to the client by another service provider. Such knowledge is of particular importance to providers of assurance services to develop sufficient knowledge of the client. However, such knowledge also assists other service providers to avoid duplicating services and to plan and co-ordinate services where necessary to better serve the client.

## **400 PUBLIC ACCOUNTING PRACTICES**

### **401 Practice names**

#### **RULE:**

*A member or registered firm shall engage in the practice of public accounting only under a name or style which:*

- (a) is not misleading;*
- (b) is not self-laudatory;*
- (c) does not contravene professional good taste; and*
- (d) has been approved by the Public Practice Committee or the Registrar in a manner specified by the Board.*

#### **GUIDANCE - Rule 401**

- 1** It is in the interest of all members of CPABC that members and firms be allowed to conduct their practices under names which reflect their individual preferences and which are appropriate for their particular marketplaces. This Guidance provides assistance for members and firms in the selection of practice names and in the identification with other professional service organizations.
- 2** Members, firms and related businesses or practices should ensure, at all times, that any information contained in their practice names about themselves, their firms or their services is accurate. The following are examples of practice names containing inappropriate information:
  - any implication in the practice name that the practising unit is larger than it is, such as by use of plural descriptions or other misleading use of words. The use of "and Company" or similar wording in a practice name is permitted, if it is not misleading with respect to the total number of full-time equivalent persons, whether member or not, performing professional services within the practice;
  - any implication in the practice name that a person is a partner or a former partner of a practice, when the person is not;
  - any reference to representation or association which is not in conformity with the facts;
  - any implication that separate firms sharing office space, staff or other resources or in other cost-sharing arrangements are in partnership or otherwise share ownership of a practice;
  - any reference in the practice name to particular services provided where the practice is not currently able to provide those services; and
  - any statement in the practice name that may create false or unjustified expectations as to the results of a particular engagement.
- 3** When a member or firm engaged in the practice of public accounting or a related business or practice participates in an organization whose members practise public accounting internationally, with professional engagements accepted and reports or opinions issued in the international name, the member, firm or related business or practice may refer to such international name on professional stationery and in name plates, directory listings, announcements and brochures by using terms such as "internationally", "globally", "international firm", or "global firm". General references to "offices throughout the world" or "offices in principal cities throughout the world" imply broad coverage and should be used only where the international organization's members practise public accounting in many countries.
- 4** A member or firm engaged in the practice of public accounting or a related business or practice may have an arrangement with another person or organization whereby one acts for the other in a particular location, and the assignment, by agreement, may be in the name of one of them. In such circumstances it is appropriate, if desired, for the member, firm or related business or practice to refer to the fact of such representation by a suitable reference to the location and the name and/or address and professional designation of the representative, with a description of the relationship as being "represented by". If representation arrangements exist in a number



of locations it may not be possible to give full details of each, and in such case it would be appropriate, if desired, to refer to the fact of representation in the particular locations, specifying the locations individually. Generally references such as "represented throughout the world", which may not be factual and may be misleading, should be avoided. In any public reference to representation, the representative must be a person or organization practising public accounting.

- 5 Members, firms and related businesses or practices may associate themselves with international organizations which do not practise public accounting and which exist primarily to provide their members with access to international public accounting services through referrals or other means. In these cases it is appropriate to make public reference on professional stationery and elsewhere to membership in a *bona fide* international organization by using a term such as "a member of (name), an international association of accounting firms". However, terms such as "internationally", "globally", "international firm" or "global firm" should not be used in those circumstances. General references such as "members throughout the world" should be used only where there are in fact members of the organization in many countries. References such as "represented throughout the world" should be avoided unless they are factual and not misleading.

- 6 Members, firms and related businesses or practices should ensure that their practice names or styles are not self-laudatory and do not claim superiority over any other member, firm or related business or practice. Care should be taken in using the word "The" in the firm name so that it does not imply exclusivity.

Practice names that might tend to lower public respect for the profession should not be used. Care should also be exercised with respect to the use of acronyms.

- 7 In general, approval will be given to non-personal firm names unless they are misleading, self-laudatory or contravene professional good taste. However, there may be certain other considerations which will affect the approval decision. A practice name that is so similar to that of another firm registered in the same area as to cause confusion in the minds of the public may not be approved. Consideration will also be given to cultural and linguistic sensitivities in deciding whether to approve a non-personal firm name.

- 8 The Public Practice Committee, in its discretion, is permitted to be flexible in transitional situations. For example, a member engaged in the practice of public accounting as a sole proprietor or, where permitted, an incorporated professional, may apply to the Public Practice Committee for permission to practise for a specified period of time under both the member's approved name and, with the predecessor's written authorization, the name used by a predecessor sole proprietor or firm.

Other situations where transitional flexibility may be granted include those where a previously approved firm name becomes inappropriate. An example of such a situation would occur when, due to the departure of a partner, the firm name becomes misleading with respect to the size of the firm. In such cases, the member or firm may apply to the Public Practice Committee for permission to continue to use the name for a specified period of time.

## **402 Use of descriptive style**

### **RULES:**

- 402.1** *Subject to sections 44 and 45 of the Act and Bylaw 506, members and registered firms shall carry on the practice of public accounting under the descriptive style of "Chartered Professional Accountant(s)" unless it forms part of the firm name or the member or firm is exempted by CPABC. Regardless of the functions actually performed, the use of "Chartered Professional Accountants(s)" as part of the firm name or as a descriptive style, in offering services to the public, shall be regarded as carrying on the practice of public accounting for the purposes of the CPA Code.*
- 402.2** *A related business or practice shall not be designated "Chartered Professional Accountant(s)", "Public Accountant(s)" or "Professional Accountant(s)".*

### **GUIDANCE - Rule 402**

- 1** The requirement to carry out the practice of public accounting under the descriptive style "Chartered Professional Accountant(s)" does not preclude a firm from advertising professional services without reference to "Chartered Professional Accountant(s)". However, unless prohibited by the Act and bylaws or otherwise exempted by CPABC, all material that refers to the practice of public accounting, including printed promotional material and website content, must include a reference to "Chartered Professional Accountant(s)" in conjunction with the firm name. In addition, such a reference must be included on audit reports, review engagement reports, compilation engagement reports and other material and correspondence that relates to the provision of public accounting services, such as engagement letters, invoices, management letters and responses to requests for proposals.
- 2** In a jurisdiction that may permit the use of the initials "CPA" as part of a firm name, such use would not be considered to meet the requirement for the use of the descriptive style "Chartered Professional Accountant(s)" when carrying on the practice of public accounting unless the jurisdiction specifically permits the use of the initials for that purpose.

### **403 Association with firms**

#### **RULE:**

*A member shall not associate in any way with any firm practising public accounting as “Chartered Professional Accountants” in British Columbia except a registered firm that is entitled to use the designation “Chartered Professional Accountants” under section 44(6) and (7) of the Act.*

#### **GUIDANCE – Rule 403**

- 1** The purpose of Rule 403 is to protect the public by establishing accountability to CPABC by members and firms practising public accounting in British Columbia. The ownership and control of such firms by members of CPABC is necessary to establish that accountability. Accordingly, the ownership of a firm practising public accounting in British Columbia as Chartered Professional Accountants must meet applicable requirements under the Act and bylaws.
- 2** The holding, by a professional accounting corporation, of an ownership interest in another professional accounting corporation, or a partnership or limited liability partnership is governed by the Act.
- 3** The Act allows non-members or their professional corporations to hold a partial interest in a firm that is a partnership. However, a registered firm that is a partnership is prohibited from using the designation “Chartered Professional Accountant” unless all partners residing in British Columbia are members or their professional accounting corporations, and all non-resident partners are members of CPABC or a provincial CPA body or provincial legacy body, or their professional corporations.
- 4** The manner in which a non-member holding a minority ownership interest may practise within a firm is subject to any requirements that are established under the Act or bylaws.

#### **404 Access to members practising public accounting**

##### **RULES:**

**404.1** *Each practice in British Columbia of any member or registered firm engaged in the practice of public accounting shall be under the personal charge and management of a member who shall normally be accessible to meet the needs of clients during the published business hours of the practice.*

##### **GUIDANCE - Rule 404**

- 1** The purpose of the Rule is to ensure that clients' public accounting needs will be met in each instance by properly qualified professional personnel.
- 2** A member is considered to be accessible if the member is available either in person or by telephone, facsimile, electronically or by some other timely method of communication. When the member is not accessible, the office should be closed for the purpose of providing professional services, or another properly qualified professional should be accessible for that purpose. However, if neither person is accessible, non-professional staff may continue to deal with administrative matters.
- 3** Members are expected to fulfil their obligation to respond to inquiries from the public within a reasonable period of time, whether a practice is operated on a full-time or part-time basis.

#### **405 Office by representation**

##### ***RULE:***

*A member or registered firm engaged in the practice of public accounting shall not hold out or imply that the member or firm has an office in any place where the member or firm is in fact only represented by another accountant or a firm of accountants and, conversely, a member or registered firm engaged in the practice of public accounting who only represents an accountant or a firm of accountants, shall not hold out or imply that the member or firm maintains an office for such accountant or such firm.*

##### **GUIDANCE - Rule 405**

- 1** Members and firms are referred to Rule 401 Guidance paragraph 2 which addresses offices by representation and situations where association of firms may be implied by shared resources.

#### **406 Responsibility for a non-registrant**

##### **RULES:**

- 406.1** *A member or registered firm engaged in the practice of public accounting who is associated in such practice with a non-registrant shall be responsible to CPABC for any failure of such non-registrant, in respect of all areas of practice of the member or firm, to abide by the CPA Code and in the application of this Rule, the CPA Code is deemed to apply as if such non-registrant were a registrant.*
- 406.2** *A member or firm engaged in a practice of public accounting to which another business or practice is related, or engaged in such related business or practice, shall be responsible to CPABC for any failure of a non-registrant who is associated with such related business or practice and who is under the member's or firm's management or supervision or with whom the member or firm shares proprietary or other interest in such related business or practice to comply with the CPA Code. In the application of this Rule, the CPA Code is deemed to apply as if such related business or practice were the practice of public accounting and such non-registrant were a registrant.*



#### **408 Association with non-registrant in public practice**

##### **RULES:**

**408.1** *A member or registered firm shall not associate in any way with a non-registrant in a practice of public accounting, or in a related business or practice, unless:*

- (a) such association maintains the good reputation of the profession and serves the public interest; and*
- (b) such business or practice establishes and maintains policies, procedures and arrangements suitable for ensuring that:*
  - (i) every such non-registrant is knowledgeable of and complies with*
    - (A) CPABC's governing legislation, bylaws, regulations and Code; and*
    - (B) the ethical and other regulations applicable to members of a recognized professional organization or regulated body of which the non-registrant is a member; and*
  - (ii) no style or presentation or communication is used which implies that the non-registrant is a registrant.*

**408.2** *A member may associate with a related business or practice as a proprietor, as a partner, or as a director, officer or shareholder of a corporation and may associate with a non-member for this purpose.*

##### **GUIDANCE - Rule 408**

- 1** The provisions of Rule 408.1(b) requiring knowledge and compliance on the part of non-registrants to comply with respect to the governing legislation, bylaws, regulations and Code of CPABC are not intended to require knowledge of and compliance with provisions of those documents that are clearly not applicable to a non-registrant, such as payment of membership fees or completion of continuing professional development requirements.



#### **409 Practice of public accounting in corporate form**

##### **RULE:**

*A member or registered firm shall not associate in any way with any corporation engaged in Canada or Bermuda in the practice of public accounting, except to the extent permitted in clauses (a), (b) (c) and (d) of this Rule, or as otherwise authorized by the Board:*

- (a) a member or firm may engage to provide to the corporation any of the services included in the practice of public accounting.*
- (b) a member, other than a member engaged in the practice of public accounting, may associate with a corporation which provides taxation services involving advice, counsel or interpretation provided such services are only a small part of the corporation's activities.*
- (c) a member or firm may associate with a professional accounting corporation holding a current permit under section 40 the Act.*
- (d) a member or firm may associate with a professional corporation or incorporated professional engaged in the practice of public accounting in a province or territory other than British Columbia if the corporation or incorporated professional is recognized and approved for such practice by the provincial CPA body in the province or territory concerned and the corporation or incorporated professional does not engage in the practice of public accounting in British Columbia.*

*Without limiting the generality of the foregoing, a corporation shall be deemed to be engaged in the practice of public accounting even though the corporation provides a service included in the definition of "practice of public accounting" only to another member or firm engaged in the practice of public accounting.*

##### **GUIDANCE - Rule 409**

- 1** The provisions of Rule 409 are intended to ensure that the practice of public accounting in corporate form is carried out only in accordance with the Act. Without limiting the specific requirements of the Rule or the Act, in general, a member may practice public accounting in corporate form through a professional accounting corporation and may associate with other professional accounting corporations. A member or firm may also associate with a corporation that practises in a province or territory other than BC, if that corporation is properly registered in the other province or territory but does not practise in BC.

**410 Suspended or former members and public practice**

***RULE:***

*Except in accordance with terms and conditions approved by the Board,*

- (a) A suspended member may not carry on public practice; and*
- (b) A member engaged in public practice or a registered firm must not employ or carry on public practice with a suspended member or a former member.*

## **500 FIRMS**

### **501 Policies and procedures for compliance with professional standards**

#### ***RULE:***

*A registered firm shall establish, maintain and uphold appropriate policies and procedures designed to ensure that its services are performed in accordance with generally accepted standards of practice of the profession and the standards of the particular business or practice, provided that the standards of the particular business or practice are not lower than or inconsistent with those of the profession in which case the generally accepted standards of the profession must be followed.*

## **502 Policies and procedures for the conduct of a practice**

### ***RULE:***

*A registered firm shall establish, maintain and uphold appropriate policies and procedures designed to ensure that, in the conduct of the practice, the registrants who are associated with the firm and any other employees of the firm or other persons with whom the firm contracts to carry out its professional services comply with the CPA Code, and in particular:*

- (a) conduct themselves in a manner which will maintain the good reputation of the profession and serve the public interest;*
- (b) perform their professional services with objectivity, integrity and due care;*
- (c) comply with the independence requirements of CPABC;*
- (d) comply with the conflict of interest requirements of CPABC;*
- (e) sustain their professional competence and keep informed of and comply with developments in professional standards in all functions in which they practise or are relied on because of their calling;*
- (f) ensure only authorized individuals have access to or are permitted to appropriately use or release financial and confidential information relating to clients;*
- (g) do not sign or associate themselves with any letter, report, statement, representation or financial statement which they know or should know is false or misleading, whether or not the signing or association is subject to a disclaimer of responsibility, nor make or associate themselves with any oral report, statement or representation which they know or should know is false or misleading;*
- (h) ensure that partners or others who are not professional colleagues:*
  - (i) cannot supersede decisions of registrants relating to the performance of client engagements within the definition of the practice of public accounting;*
  - (ii) are familiar with and comply with the Act, regulations, bylaws and Code; and*
  - (iii) cannot sign off on or release an engagement by the firm to perform or provide any service referred to in section 47(1) of the Act;*
- (i) ensure that persons in the firm who are members of other professional associations comply with those associations' bylaws and code of ethics; and*
- (j) ensure that partners or others who are professional colleagues cannot sign off on or release an engagement by the firm to perform or provide any service referred to in section 47(1) of the Act unless they are authorized to do so by the provincial CPA body in which they hold membership.*

### **503 Association with firms**

#### ***RULE:***

*A registered firm engaged in the practice of public accounting shall not associate professionally with any other firm practising as “Chartered Professional Accountants” in British Columbia except another registered firm that is entitled to use the designation “Chartered Professional Accountant” under section 44(6) and (7) of the Act.*

## **Appendix F**

*Anti-Money Laundering CPD Programs compiled by CPABC and CPA Canada*

## Anti-Money Laundering CPD Programs

The following is a list of professional development courses offered by CPABC and CPA Canada from 2017 – March 2020 relating to money laundering. This list focuses on courses directly focused on money laundering and does not include all courses that address money laundering only in part.

1. *Anti-Money Laundering: The Evolving Role of Professional Accountants*
  - Members in Business & Industry PD Day – Plenary session - 1.75 hours
  - Vancouver, June 20, 2017: attendance: 183
2. *Anti-Money Laundering* - PD course – ½ day
  - Vancouver, June 21, 2017: attendance: 40
3. *Introduction to Anti-Money Laundering, Counter-Terrorist Financing and Proceeds of Crime*
  - Free PD – 2 hours
  - Vancouver Sept 14, 2018: attendance 329
  - Victoria Oct 3, 2018: attendance 61
  - This was subsequently offered as a free audioweb, which has had 2,484 members successfully complete the quiz between November 2018 and August 2019
4. *Fraud Prevention for Professionals* (not exactly AML, but related)
  - Free PD – 2 hours
  - Vancouver Jan 31, 2019: attendance 259
  - Coquitlam Feb 5, 2019: attendance 83
5. *Reality of Fraud & Money Laundering in B.C.* (by RCMP Cpl Robin Critchley)
  - Pacific Summit Plenary session – 1 hour
  - September 26, 2019: attendance 167
6. *Anti-Money Laundering (AML), Counter-Terrorist Financing (CTF) and Proceeds of Crime (POC) for Accountants – 2019 Update*
  - Vancouver, October 3, 2019: attendance 349
7. *Anti-Money Laundering: An Interactive Overview*
  - PD Nexus: Business Insights – Breakout session – 70 minutes
  - Vancouver, Dec 6, 2019: attendance 75
8. *Chapter PD: Introduction to Anti-Money Launderings, Countering the Financing of Terrorism and Proceeds of Crime for Accountants*
  - To be offered by Richmond Chapter on Dec 7, 2019 – 3 hours
  - Maximum attendance: 115
9. *An Introduction to Anti-Money Laundering (AML), Counter-Terrorist Financing (CTF) and Proceeds of Crime (POC) for Accountants*
  - Coquitlam, December 13, 2019: attendance 118
10. *Beneficial Ownership and B.C. Real Estate Taxes*
  - Vancouver, February 19, 2020: attendance 339
  - Free audio web, Feb-July 2020: attendance 989

CPA Canada offers the following PD seminar on AML to members:

- *Complying with Canada's amended anti-money laundering and anti-terrorist financing legislation* [for practitioners]
  - Free webinar, on demand – 1 hour

## **Appendix G**

*Chartered Professional Accountants of British Columbia: Regulatory Report to the  
Public Upholding the Highest Standards – 2019/2020*





**CPA**

CHARTERED  
PROFESSIONAL  
ACCOUNTANTS  
BRITISH COLUMBIA

# 2019-2020

## Regulatory Report to the Public

### UPHOLDING THE HIGHEST STANDARDS

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## Message from the Leadership

There have been few moments in modern history when society has faced a threat such as the COVID-19 global pandemic. At the time of writing, it is unclear how long communities will continue with isolation measures, or the extent to which behaviours will need to change once the immediate crisis has passed.

The federal and provincial governments have taken action to protect businesses and individuals, help stop the spread of the virus, and mitigate the economic damage that will come from mandated preventative measures. Through CPA Canada and the provincial COVID-19 Cabinet, CPABC has provided input to both governments, suggesting areas where relief is needed or announcements could be refined.

The provincial government named “accounting and professional services” to its list of essential services. Being expressly listed as an essential service at such a critical time confirmed the vital role CPAs play in keeping our society functioning, and underscored the importance of CPABC’s role in supporting members.

To that end, we quickly created an online COVID-19 Updates and Resources page for CPAs that provides relevant curated content from reputable sources. We also compiled resources to help members operate remotely, keep themselves and their staff safe, and navigate the mental health challenges being felt by many. Free professional development was produced for our members that was directly related to managing through this crisis and more content will be made available.



Ben Sander, FCPA, FCA  
**CPABC BOARD CHAIR**

We also recognize that as our members’ clients and employers endure financial challenges, this will directly impact many individual CPAs and firms. To provide relief to members, CPABC introduced a new membership dues reduction for CPAs experiencing financial hardship as a result of COVID-19, and deferred membership dues collection processes.

Although professional accountants have changed and adapted how to deliver their services during this pandemic, professional standards have not changed, nor has the expectation that they will be met. As was noted in last year’s report, protecting the public is a cornerstone of the CPA profession, and CPABC continues to meet its mandate and its regulatory responsibilities.

This report describes the regulatory oversight activities and processes for the fiscal year ended March 31, 2020, the majority of which occurred prior to the COVID-19 disruption. It’s expected that similar regulatory diligence will be applied throughout the remaining crisis period and beyond.

Looking ahead, what the new “normal” will look like is uncertain, but CPABC will do what it can to help its members, residents, and businesses get back on track post-pandemic. BC’s economy will recover. It is up to all of us to work together to get through this crisis and emerge stronger and more united, and BC’s CPAs are ready to do their part.



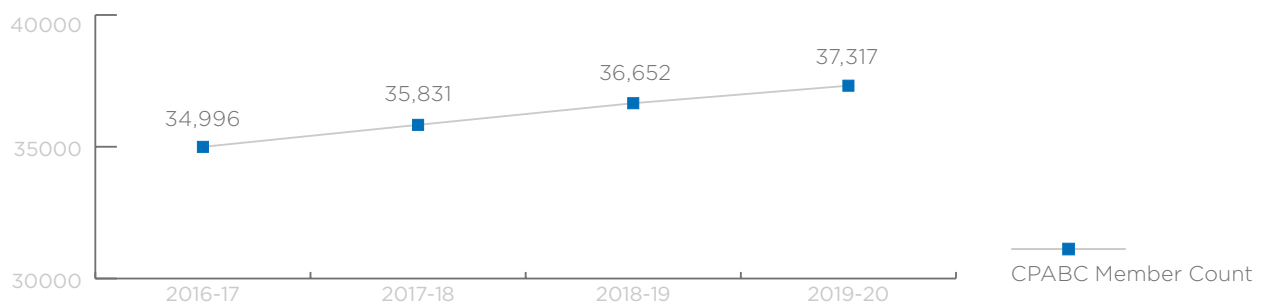
Jamie Midgley, FCPA, FCA  
**EXECUTIVE VICE PRESIDENT,  
REGULATION & REGISTRAR**

## Key Statistics and Four-Year Trends

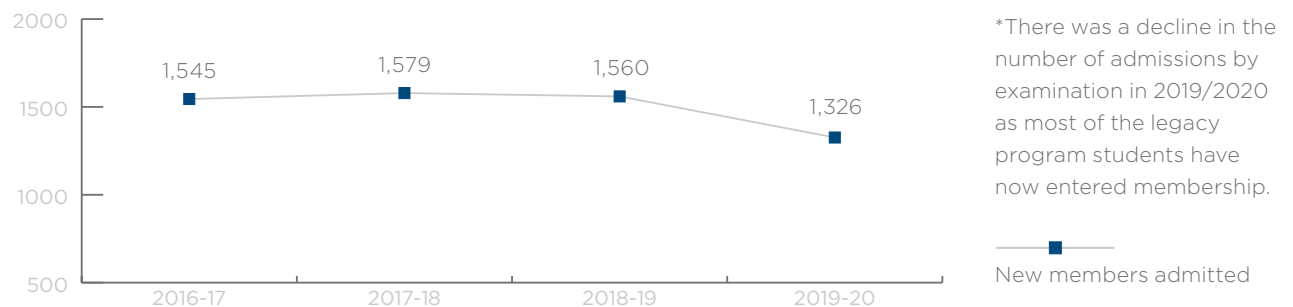
### Membership

CPABC only admitted those applicants who met the rigour of the CPA certification process or met the requirements of a CPA international agreement, and provided satisfactory evidence that they were of good character.

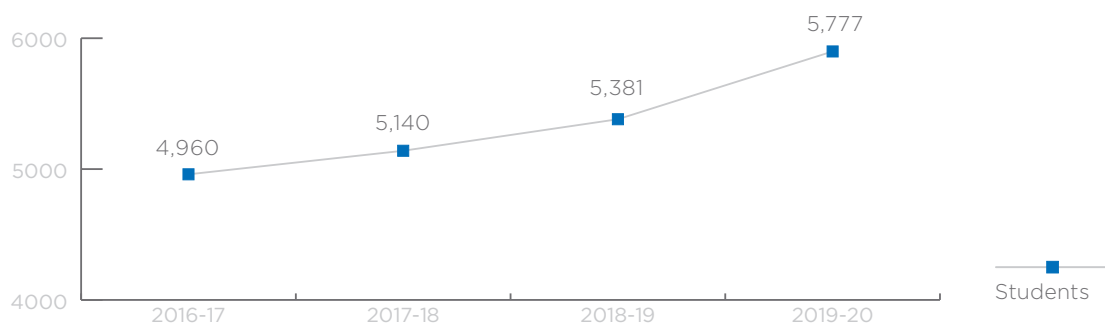
CPABC MEMBER NUMBER COUNT



NEW MEMBERS ADMITTED



BC CANDIDATES & STUDENTS ENROLLED WITH CPAWSB & LEGACY PROGRAM STUDENTS





CPABC Member Number Count: **37,317**



In BC, **many** of CPABC's members in industry work in small- or medium-sized businesses where they are often the only designated accountant in the organization.



During the fiscal year:

**1,326** new members were admitted into the profession, and **661** members left the profession.



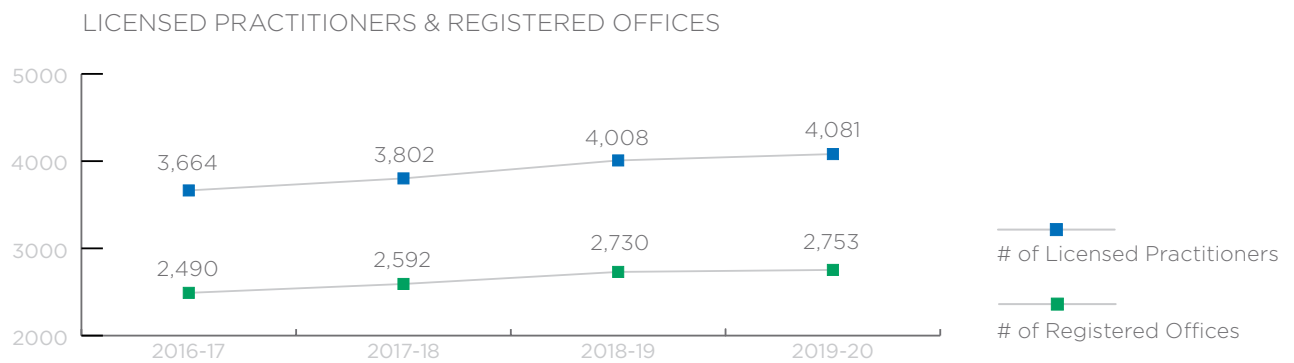
As at March 31, 2020 **5,777** students were pursuing the CPA designation, including **5,649** students in the CPA Professional Education Program (PEP) and **128** students in a predecessor program.



Over the past four years, an average of **775** BC students graduated annually from the CPA or legacy programs.

## Public Practice

Approximately 20% of CPABC's members work in public practice.



Pass/Fail Rate for  
Practice Reviews

**92%**  
2018-19

**94%**  
2019-20



**4,081** public practitioners operating in **2,753** public practice offices in BC as at March 31, 2020. The majority of practitioners work in small businesses where **98.4%** of firms are owned by fewer than five professional accountants.

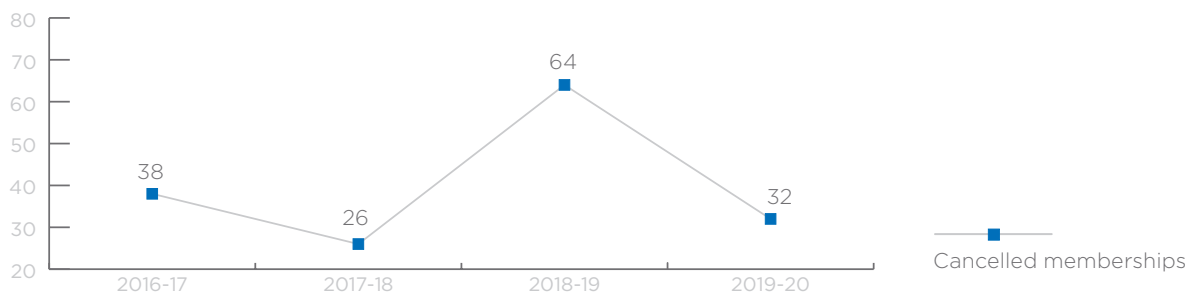


Sanctions may be imposed in cases where there are more serious issues. There were **858** practice reviews conducted this past year. This number includes **43** re-inspections that were undertaken in situations where standards had not been met.

## Continuing Professional Development (CPD)

CPAs were required to report CPD.

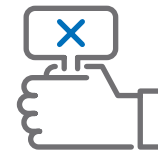
CANCELLED MEMBERSHIP DUE TO NON-COMPLIANCE FOR CPD



**31,327** active members were required to self-report compliance with 2019 CPD. Action is taken against members who do not comply with the requirements. This action can result in suspension or cancellation of membership.



CPABC verified a minimum of **1%** of CPD required reporters. Members who did not comply with the CPD verification process risked being referred to the CPABC investigation and discipline processes, where they could have their membership suspended or cancelled for non-compliance.

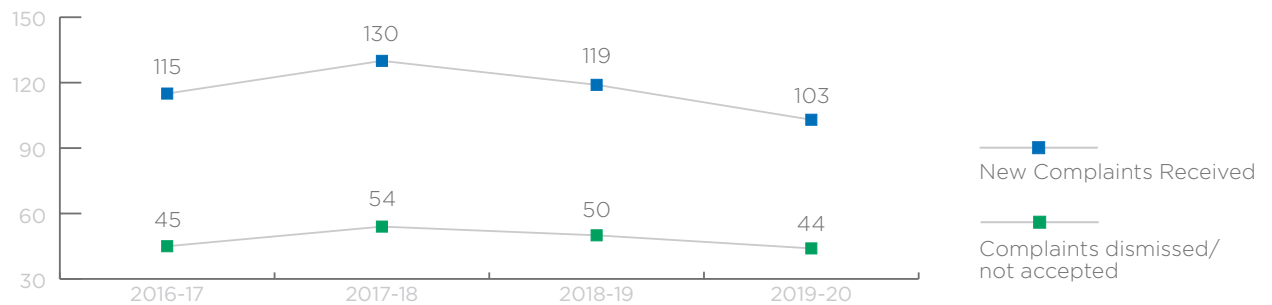


During the year ended March 31, 2020: **174** members had their memberships suspended for CPD non-compliance. **32** of the suspended members had their memberships cancelled.

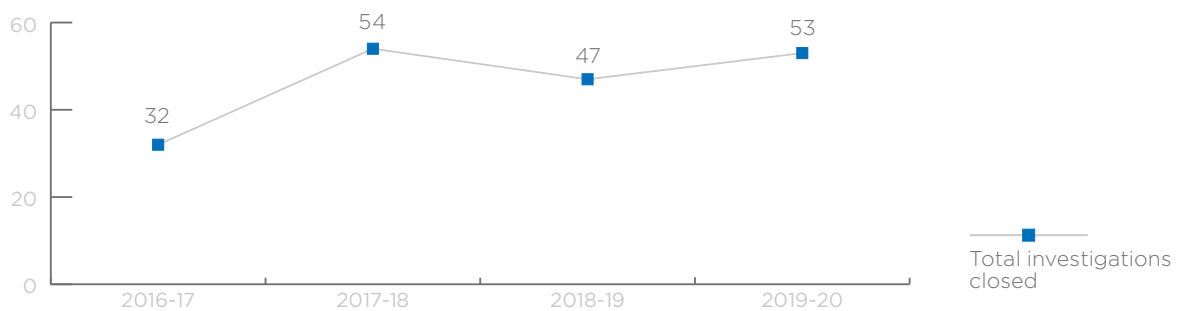
## Discipline

CPABC investigated complaints received about members, firms, and students. Where breaches of the bylaws or rules were found, the resolutions typically included a reprimand and remedial education to protect the public from a repeat of the misconduct. In rare instances, there was a suspension or cancellation of membership.

INVESTIGATION & DISCIPLINE PROCESS

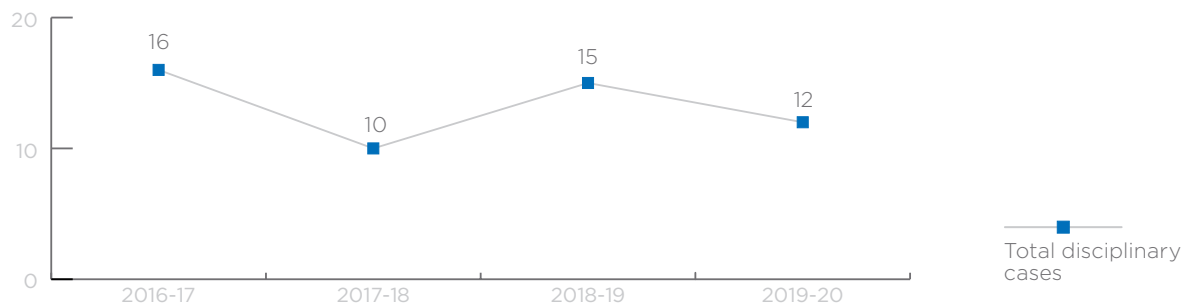


INVESTIGATIONS CLOSED





## DISCIPLINARY COMMITTEE ACTIVITIES



## INVESTIGATION & DISCIPLINE PROCESS

**130\*** Total Active Complaints in 2019-2020

**23** under review

**44** complaints dismissed / not accepted

**63** investigations authorized

\*Active complaints includes new complaints and complaints carried over from the previous year



## INVESTIGATIONS CLOSED

**9** no grounds

**2** not pursued

**27** resolutions - D&R\*

**15** referred to disciplinary committee

\*Determination and Recommendation Agreement



## DISCIPLINARY COMMITTEE ACTIVITIES

**5** resolution agreements

**7** outcome pending

**4** disciplinary panel decisions



## Canadian Context

The Canadian CPA profession has harmonized requirements and regulatory practices across the country wherever possible. This allows members to provide services when they move from one province to another, and firms to operate in more than one provincial jurisdiction.

However, since CPA bodies are subject to provincial legislation, full harmonization is not always possible.

## CPABC's Profile

### Characteristics of a Profession

Distinguishing elements of a regulated profession and professionals:

- » Extensive training and education leading to mastery of a particular intellectual skill.
- » Objective offering of services to others and accepting the responsibility of putting the public good above one's own interests.
- » Belief in the duty of exchanging views and contributing to the development of the profession, adding to its knowledge, and sharing advances in knowledge and technique with peers.
- » Accountable and governed by peers, and the regulatory body maintains standards of qualification, attests to the competence of individual members, and safeguards and develops the skills and standards of the profession.
- » Specialized code of ethical conduct designed principally for the protection of the public.

CPABC's training and regulatory processes ensure that our members meet the required professional standards, and the expectations of British Columbians.

The CPA profession also ensures that its standards and processes evolve to reflect the changing nature of business, while supporting and providing appropriate guidance amidst the uncertainty of a global economy.

### CPABC's Mission

CPABC's mission is to enhance the influence, relevance, and value of the Canadian CPA profession by:

- » Protecting the public interest;
- » Supporting its members and students; and
- » Contributing to economic and social development.

## CPABC's Objectives

The objectives of CPABC are:

- » To promote and maintain the knowledge, skill, and proficiency of members and students in the practice of accounting;
- » To establish qualifications and requirements for admission as a member and continuation of membership, and for enrollment and continuation of enrollment of students;
- » To regulate all matters, including competency, fitness, and professional conduct, relating to the practice of accounting by members, students, professional accounting corporations, and registered firms;
- » To establish and enforce professional standards; and
- » To represent the interests of members and students.

## Governance

The public interest is at the forefront of policy development by CPABC's Board. The 20 person board is made up of three public representatives and 17 members – 15 were elected while two were initially elected and then had their three year term extended under the bylaws given their leadership positions.

Five board appointed committees oversee regulatory matters:

1. Membership
2. Public practice
3. Investigation
4. Disciplinary
5. Bylaws

These five committees manage CPABC's regulatory processes, which are designed to meet or exceed Canadian and international standards. Committees are continuously assessing the regulatory environment, and where needed, evolving CPABC's processes to meet the changing needs of members, and BC's financial markets.

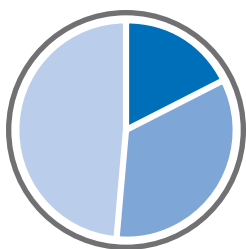
## Protecting the Professional Accountant Designation

Under the CPA Act, use of the designation "professional accountant" is reserved exclusively for CPABC's members. A non-member must not use the designation "professional accountant" or, in any manner, imply, suggest, or hold out that they are a professional accountant.



## Member Directory

Member and firm online directories allow members of the public to verify if an individual is a member or a firm is registered. These directories are searchable by name or city and they are accessible online.



## Investigation & Discipline Process

**130** total complaints  
in 2019-2020

**23** under review

**44** complaints  
dismissed / not  
accepted

**63** investigations  
authorized

Under the CPA Act, only members of CPABC are recognized as having the requisite level of training, education, and proficiency to qualify them to practise as professional accountants in BC. CPABC's regulatory processes are governed by the Chartered Professional Accountants Act ("CPA Act"), Bylaws, and Bylaw Regulations. These documents and processes are described more fully on CPABC's website.

No person other than an authorized CPA member may perform any assurance engagement in accordance with the standards of professional practice published by the Chartered Professional Accountants of Canada or issue any form of certification, declaration, or opinion with respect to information related to a financial statement or any part of a financial statement, on application of:

- » Financial reporting standards published by the Chartered Professional Accountants of Canada; or
- » Specified auditing procedures in accordance with standards published by the Chartered Professional Accountants of Canada.

This ensures that only regulated accountants assurance services under the CPA Canada Handbook Standards.

### CPABC Bylaws

Any proposed changes to the Bylaws need board approval, confirmation at a members meeting (usually the AGM), and oversight by the minister. They can then be implemented.

### CPABC Code of Professional Conduct

The national Code of Professional Conduct (Code) includes a Preamble and the Rules of Professional Conduct.

CPABC has adopted this Code with a few modifications to address provincial considerations.

The Code is derived from five principles of ethics that are fundamental to the conduct of all members. They are:

- » Professional behaviour;
- » Integrity and due care;
- » Objectivity;

- » Professional competence; and
- » Confidentiality.

This Code evolves as national and international standards and best practice continue to change, and confidential member advisors are available at no cost to members and students needing guidance.

CPABC's members must act in the public interest. The public relies on sound and fair financial and management reporting, and providing these essential reports is an economic imperative and a critical obligation of the profession.

The Code has the same legal standing as the Bylaws, hence any changes are required to go through the same approval process as the Bylaws.

## Protecting the Public

### Proactive Approach to Regulation

CPABC's regulatory activities include membership, continuing professional development, public practice licensing and review, and professional conduct.

Effective regulation includes proactive and reactive activities that are provided through education or adjudication.

**Proactive activities:** are focused on preventing problems from occurring and include having only qualified people admitted to membership, ensuring members complete required professional development, and public practice licensing and review.

**Reactive activities:** occur after a problem has surfaced. The investigation and disciplinary committees determine if there was a breach of the bylaws or rules, and if yes, recommends sanctions. These are the final regulatory steps and are necessary only when all else fails.



## CPABC Code of Professional Conduct

The Code is derived from five principles of ethics that are fundamental to the conduct of all members. They are:

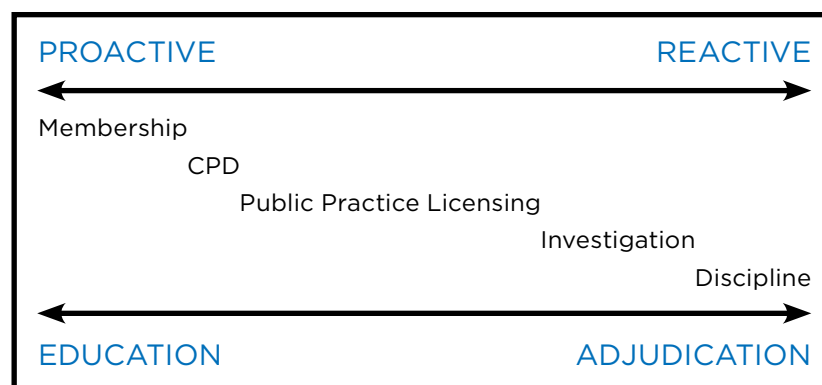
- » Professional behaviour;
- » Integrity and due care;
- » Objectivity;
- » Professional competence; and
- » Confidentiality.



97%

of members  
comply by  
CPD reporting  
deadline

CPABC primarily focuses its activities on education and helping members deal with and meet constantly changing standards. However, education alone will not always work, and there will be a need for an adjudication process.



## Education

The CPA Professional Education Program (PEP) develops and enhances a CPA student's ability to apply professional knowledge, values, ethics, and attitudes in a professional context.

Students must meet practical experience requirements to develop the competencies and proficiencies required of a newly qualified professional accountant, as well as soft skills, such as professional and ethical behaviour, problem solving and decision making, communication, self-management, and teamwork and leadership.

There are common Canadian CPA certification requirements for all CPA applicants, and in BC, there is also an ethics course requirement. Ethical guidance and discussion are regularly provided to students and members through various publications and courses.

The program develops strong technical professional accountants with the basic skills needed to become leaders of the future, able to meet the changing needs of business.

## Continuing Professional Development (CPD)

CPD helps accountants develop and maintain professional competence that is relevant to their roles, and is an important element in maintaining public confidence and trust in CPAs.

Professional development compliance is an important part of the professional commitment of CPA members. Maintenance of CPD standards is one of CPA Canada's obligations as a member of the International Federation of Accountants (IFAC).

The minimum requirement established by CPABC is 120 hours every three years, with an annual requirement of 20 hours.

CPD includes seminars, workshops, courses, and other activities that update the professional knowledge, skills, and values of a CPA. Qualifying courses may be provided by CPABC or others.

## Practice Licensing

Members in public practice must be licensed and their firms registered with, and overseen by, CPABC. They are required to carry minimum levels of professional liability insurance.

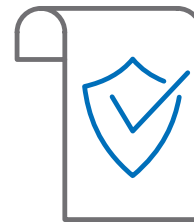
Different categories and sub-categories of public practice licensing have been established to ensure members only practice in areas in which they have appropriate experience and competency.

## Practice Review

Members in public practice are required to undergo mandatory practice reviews. These reviews focus on compliance with professional standards and provide CPAs with guidance and education based on the results.

The program is an important part of ensuring that public practitioners maintain the knowledge, skill, and proficiency to provide the highest level of service to their clients, and are aware of and meeting any changing regulatory standards.

Public practice firms are generally reviewed once every three years. Where deficiencies are noted, re-inspections may be required and corrective measures put in place.



CPD requirements sets the profession apart from others working in business.

High-quality and relevant education, services, and resources directly supported and enhanced the regulatory compliance of CPABC's members.



CPABC ensured members had relevant, timely information related to government programs and assistance for the COVID-19 pandemic.

This allowed them to better support their clients and employers. As an essential service, the accounting profession is here to help businesses and individuals navigate through these challenging times.

CPABC communicates overall results of these practice reviews to all practitioners annually for educational purposes.

## Investigation and Discipline

The Investigation Committee reviews the results of complaint investigations. Most complaints that proceed to investigation are resolved by an agreement with the member, which typically includes recommendations that focus on ensuring the conduct is not repeated in the future. Most members comply and a “no name” summary of the agreement is posted to the CPABC website.

The Investigation Committee refers the more serious matters to the Disciplinary Committee. A hearing panel presides over disciplinary matters, and following the hearing, determines whether there were breaches of the CPABC governing documentation and, if so, the appropriate sanctions. Disciplinary Panel decisions are posted to the CPABC website.

At any stage of the investigation and discipline process, a disciplinary matter may be resolved through a resolution agreement. These agreements are consensual and require approval by the CPABC board. As these agreements are generally used in the more serious cases, they usually include suspension or cancellation of membership and are made public.

## Disclosure

### Privacy

CPABC is required to protect the confidentiality of the members and students it investigates as set out in section 69 of the CPA Act and the Freedom of Information and Protection of Privacy Act (FOIPPA).

However, when it is in the public interest, summaries of cases and decisions are published on CPABC’s public website. This ensures process transparency and aids in member education and deterrence.

While the organization is able to publicize the outcome of a disciplinary hearing, FOIPPA does not permit the organization to comment publicly on any complaint while it is being investigated.



## Access to Information

CPABC is committed to keeping members and the public informed in cases of suspension or cancellation of membership.

If there is public disclosure of a case, public notices relating to the outcome of the complaint may be published in printed media outlets and on the CPABC website.

Names of individuals whose memberships in CPABC have been suspended or cancelled for administrative reasons (i.e. for non-payment of dues or CPD non-compliance) are listed on the CPABC website. Names of suspended members appear for the duration of the suspension.

Names of individuals with cancelled memberships will appear for a period of one year following membership cancellation, unless the member is readmitted, in which case the name will be removed upon readmission.

## Public Trust at the Forefront

Within an environment of increasing public and regulatory scrutiny, and the need for businesses and individuals to navigate through continuous change, the protection of the public will remain front and centre for the profession in BC and across Canada. Supporting our members through education, regulation, and continuous communication regarding changing standards is critical. As is ensuring they meet these changing standards through mandatory professional development, and for those in public practice, regular practice review.

CPABC is proud of its proactive approach to regulation, and protecting the public is one of CPABC's most valued and important functions. CPA members consider this a fundamental service provided by the organization, and recognize that a well regulated profession benefits all stakeholders.



CPABC also ensures members have the support they need as they deal with personal and professional challenges, and provides free access to confidential counselling assistance services.



**CPA**

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 **CPABC**

 **CPABritishColumbia**

 **cpa\_bc**

 **CPABC**

## **Appendix H**

*Chartered Professional Accountants Practice Review Guidelines – September 2018*

## PRACTICE REVIEW GUIDELINES

This package contains information about the practice review process. If you would like further clarification on the process, please contact the Practice Review Officer or the Director, Practice Review at CPABC.

1. Definitions – In these guidelines
  - (a) “Public Practice Committee” means a committee with that name established by the Board as provided for in the Bylaws;
  - (b) “Practice Review Officer” means an individual appointed as a reviewer by the Board for the purposes of these procedures;
  - (c) “authorized practising office” means an office licensed under the Bylaws.
2. Purpose and Scope of Practice Review – The purpose of a practice review is to determine whether the practice in an authorized practising office:
  - (a) *Complies with generally accepted accounting principles and generally accepted audit and review standards;*
  - (b) *Complies with the standards of practice as set out in the Rules of Professional Conduct;*
  - (c) *Is maintained at a sufficiently high standard with regards to generally accepted standards of practice in the profession; and*
  - (d) *Should be pre-approved for the training of CPA students.*The scope of the practice review program is determined from time to time by the Board and the Public Practice Committee.
3. The authorized practising offices in which a review is to be conducted shall be selected in accordance with the following guidelines:
  - (a) The practice in each authorized practising office is typically reviewed periodically based upon a 3-year risk adjusted cycle;
  - (b) Priority will be given to reviewing offices with new licences;
  - (c) Priority will be given to authorized practising offices requesting pre-approval to train CPA students or requesting pre-approval to train more CPA students; and
  - (d) Priority will be given to authorized practising offices who received a non-comply in their last practice review and require a follow-up review.
4. Confidentiality – The Public Practice Committee, Practice Review Officers and any other staff member of CPABC shall neither use nor disclose to any person except as may be required in the performance of their duties:
  - (a) Practice review reports and files;
  - (b) Files, papers, documents or records reviewed by a Practice Review Officer or the Public Practice Committee; or
  - (c) Any other information obtained in the course of a review except as may be required by law, the Bylaws or Rules of Professional Conduct.
5. Further, all Practice Review Officers, members of the Public Practice Committee and staff of the department sign a confidentiality pledge in a form as prescribed from time-to-time.
6. Prior to the review

- (a) Offices are sent by e-mail the Practice Review Questionnaire and a list of Assurance and Notice to Reader Engagement by Partner. Firms are provided with a month to complete the questionnaire and client list and return them to CPABC; the information in this questionnaire is provided to the Practice Review Officer.
  - (b) The office is contacted by a Practice Review Officer to establish a suitable date for the review.
- 7. A confirmation e-mail is sent to the office confirming the appointment which includes practice review guidelines, contact information and CPABC's cancellation policy.
- 8. During the review – The following general procedures are followed during the office visit:
  - (a) The Practice Review Officer or review team will meet with the member in charge of the review. The office procedures, staff and partner responsibilities and client/engagement mix will be discussed. Based on this, and in consultation with the member in charge of the review, a representative sample of files will be selected. The Practice Review Officer may request and review any files, papers, and documents or records in the possession, custody or control of the member that are pertinent to the review. Where an office has strong, effective quality controls that are subject to internal or external review, and the results of that review are made available to the Practice Review Officer, the normal procedures may be varied based on an evaluation of the effectiveness of the controls.
  - (b) The member in charge of the review will obtain the requested engagement working papers and files.
  - (c) The individual working papers will be reviewed and the member provided with copies of the Practice Review Officer's notes on the individual files reviewed. Items noted will be discussed, where possible, with the member in charge of the engagement.
  - (d) The Practice Review Officer will summarize the findings on the engagement files and will determine if additional procedures are required.
  - (e) The Practice Review Officer will prepare a report to the Public Practice Committee which will include:
    - (i) An assessment as to whether the practising office complies with the established standards in those areas set out in the scope of the review;
    - (ii) A summary of the findings and deficiencies; and
    - (iii) Key recommendations.
  - (f) The member in charge of the review will receive a copy of the report, and will sign the report indicating receipt. The member may note on the report any comments that they wish to make at the time of the review.
  - (g) Offices have the opportunity to make written representations to the Public Practice Committee where they disagree with the reviewer's assessment, recommendations or findings.
- 9. Consistency review – All practice review files are consistency reviewed by another Practice Review Officer. This review is primarily to ensure consistency of ratings and recommendations by a Practice Review Officer. Should the consistency review result in a

change to the overall assessment or to the recommendations, these will be communicated to the member in charge of the authorized practising office.

10. Report to Committee – The Practice Review Officer’s report, amended as necessary for changes resulting from the consistency review, along with any written communication from the authorized practising office is presented to the Committee for approval. In those cases where the rating indicates major deficiencies or where a follow-up review is recommended, the Director or Associate Director of Practice Review will contact the partner in charge of the review to discuss the results and recommendations of the review, as well as to obtain feedback on the process. A Committee member will then present the Practice Review Officer’s report to the Committee for discussion and approval at the Committee meeting.
11. Committee’s Determination and Recommendations – The decision of the Public Practice Committee shall be based on:
  - (a) The report of the Practice Review Officer; and
  - (b) Any representations made by the member in charge of the authorized practising office received in advance of the Committee meeting.
12. The Public Practice Committee may ratify or modify the Practice Review Officer’s recommendations and assessment of the office’s overall performance.
13. The Public Practice Committee may:
  - (a) Make one or more recommendations to the member in charge of a authorized practising office regarding desired improvement in the practice of the office;
  - (b) Direct that a Practice Review Officer conduct a follow-up review to determine whether the recommendations have been adopted and have resulted in the desired improvements being made in the practice;
  - (c) Pre-approve the office for the training of CPA students, and specify the number of students who may be pre-approved in the office;
  - (d) Not make a complaint to the Investigation Committee on the condition that the member accepts all the recommendations for improvement noted in the practice review findings and/or voluntarily restricts the practice;
  - (e) Make a report to the Investigation Committee if it considers any one or more of the following matters to be of a sufficiently serious nature:
    - (i) The uncooperative manner of a member in a review or a follow-up review;
    - (ii) Failure to comply with the Bylaws or Rules of Professional Conduct;
    - (iii) Failure to adopt and implement the recommendations, requirements, or restrictions, regarding desired improvements arising from the current or previous practice inspection;
    - (iv) Breach of Part 7 of the Bylaws regarding Licensure for Public Practice; or
    - (v) Any apparent fraud, misrepresentation, flagrant disregard of standards or gross negligence.
14. The office will be notified by letter of the Public Practice Committee’s determination and recommendations concerning the practice, areas where improvements are required and the decision regarding approval to train students. In response, a letter from the authorized practising office to the Director of Practice Review describing the steps taken to implement the recommendations may be required.
15. The Director of Practice Review and Associate Director of Practice Review will review the

office's response and advise the Public Practice Committee of any recommendation for additional follow-up action or reviews. The Public Practice Committee will vote on the recommendations for additional follow-up action or reviews. The office will be notified of the Public Practice Committee's decision.

16. The member, under Bylaw 1005, may request the Committee to refer the determination and recommendations for a binding opinion in accordance with Bylaw 1009.

## **Appendix I**

*Chartered Professional Accountants Common Practice Inspection Deficiencies*



## **PRACTICE REVIEW FINDINGS FOR 2019-2020 AND UPCOMING AREAS OF FOCUS**

The purpose of the Practice Review Program is to protect the public through assessing firms' and practitioners' compliance with professional standards, and by taking appropriate follow-up or remedial action in cases of non-compliance. The Practice Review Program further protects the public by providing an educational experience to firms.

We recognize that recent months have likely been challenging for practitioners who may have had to significantly transition their practices. Similarly, CPABC's Practice Review Program has also shifted to allow inspections of all firms to be performed remotely in order to protect both the public and the health and safety of our staff and practitioners. This article will inform practitioners of key practice review observations from the 2019-2020 inspection year, which include the most significant areas where firms may not have met standards and areas of focus for inspections in the upcoming year.

### **2019-2020 PRACTICE REVIEW RESULTS**

During the 2019-20 review year, 810 (2018-19: 809) public practice offices were reviewed with an overall pass rate of 94% (2018-19: 92%). Of the total reviews completed, 328 (2018-19: 406) of the offices performed assurance work and the remaining 482 (2018-19: 403) offices did not perform any assurance engagements.

For the 328 (2019-20: 406) offices which performed assurance engagements:

- 86% (2018-19: 84%) were assessed by the Public Practice Committee (the "Committee") as meeting requirements; and
- 14% (2018-19: 16%) were assessed by the Committee as not meeting requirements and thereby required a follow-up review of the office, of which 11% (2018-19: 7%) were also required to have a supervised practice.

Of the 482 (2018-19: 403) offices which did not perform any assurance engagements:

- 99% (2018-19: 99%) were assessed by the Committee as meeting requirements; and
- 1% (2018-19: 1%) were assessed by the Committee as not meeting requirements and thereby requiring a follow-up review of the office.

Included in the practice reviews of the 810 offices were follow-up reviews of 36 offices. For those follow-up reviews:

- 81% (2018-19: 88%) were assessed by the Committee as meeting requirements;
- 19% (2018-19: 12%) were assessed by the Committee as not meeting requirements and thereby requiring a re-inspection of the office, of which 86% (2018-19: 100%) were also required to have a supervised practice.

For the firms assessed as not meeting the standards of the Practice Review Program, there were some notable findings:

- Many firms had files which, while overall had appropriate documentation, contained material errors, resulting from either not identifying or not applying the appropriate *CPA Canada Handbook* standards to an accounting or assurance issue.
- Many firms used checklists filled in using "Y" or "N", or otherwise had insufficient or inconsistent document in key areas, and were consequently assessed as not meeting the requirements of the Practice Review Program.

- Some firms had issues with the inadequate supervision or review of staff or were impacted due to the departure of a key engagement team member.
- Some firms performed engagements outside of their core area of practice or in an area where they did not have substantial previous experience. Examples of this would be a firm that primarily does review engagements accepting a reporting issuer client, or a firm that focuses on owner-managed private companies taking on a not-for-profit client.
- Some firms performed review engagements which did not take into account the additional procedures and related documentation required under CSRE 2400.

## **KEY PRACTICE REVIEW OBSERVATIONS**

The items identified below may not be the most commonly identified deficiencies; however, they are considered some of the more significant items which can have a greater impact on the overall quality of work performed. The absence of sufficient evidence to support work performed in these areas commonly resulted in an office being assessed as “Not meeting standards” by the Committee.

## **AUDIT ENGAGEMENTS**

### Auditing Revenue (CAS 240 and CAS 330)

Revenue is an area in audits which often has unique risks and correspondingly has a greater susceptibility to material misstatement. Risks may arise both from complex recognition requirements related to the characteristics of revenue streams and the presumptive risk of fraud when accounting for revenue. We have identified instances in which practitioners did not plan and perform appropriate audit procedures to respond to these risks. For example, audit teams may not have evaluated different types of revenue which give rise to fraud risks. As a result, procedures may not have been performed to address the risks related to each significant revenue stream in an entity.

### Auditing Expenses (CAS 330)

We frequently identify deficiencies in our inspections relating to the nature and extent of substantive procedures performed with respect to expenses. Substantive procedures can consist of substantive analytical procedures (see next observation) or tests of details. When performing tests of details, practitioners must ensure their procedures address the risks identified by assertion. For example, when testing for completeness, expenses should be traced from source documents to the general ledger while to test cut-off, a review of expense transactions around year end should be performed.

### Substantive Analytics (CAS 520)

Substantive analytical procedures are often used on their own or in conjunction with other substantive procedures to provide evidence to support the audit opinion. In general, substantive analytical procedures are most effective when evaluating large volumes of transactions in a highly predictable environment.

In determining which audit procedures to design to address audit risks, practitioners should carefully consider the suitability of using substantive analytical procedures. The suitability of an analytical procedure will depend upon the practitioner's assessment of how effective it will be in detecting a misstatement that may cause the financial statements to be materially misstated. The performance of simple year-over-year analytics generally do not meet the criteria of a substantive analytical procedure.

Effective substantive analytical procedures require the development of expectations using reliable and accurate information, the determination of appropriate thresholds for further investigation and the follow-up of outliers through discussion with management and by obtaining corroborating evidence.

#### Audit Sampling (CAS 530)

When conducting substantive procedures, an auditor commonly tests less than 100 percent of a balance or transaction stream. Instead they will test a sample. When selecting a sample, practitioners should:

- select a representative sample;
- perform appropriate audit procedures; and
- evaluate results to obtain reliable, relevant, and sufficient appropriate evidence to form a conclusion on the population as a whole.

It is critical that the sample represents the population. For example, a practitioner may employ a standard sample size without regard to the nature of the population and the objectives of the procedure. Practitioners must ensure that all items in a population have an equal chance of being selected. Where populations can be disaggregated, i.e., in situations where there are multiple revenue streams, each distinct sub-population should be sampled independently.

#### Use of a Service Organization (CAS 402)

In the course of performing an audit, entities often make use of service organizations. Common service organizations include those related to payroll and investment activities. In these instances, practitioners are required to obtain an understanding of the nature and significance of the services provided and design and perform audit procedures to respond to identified risks. When there is reliance placed on the operating effectiveness of controls, practitioners must perform tests of controls at the service organization or obtain a Type 2 report. If a Type 2 report is received, practitioners must review the scope of the report, the results of the tests of controls, and the period covered by the report.

#### Other Areas

Additional areas where audit deficiencies were identified are as follows:

- Lack of documentation and/or performance of risk assessment procedures relating to obtaining and understanding of the entity and its environment.
- No documentation of discussion of discussions with management and/or those charged with governance relating to fraud.
- Insufficient documentation and/or execution of substantive audit procedures on material classes of transactions and account balances in the following key areas:
  - Accounts payable completeness and cut-off
  - Payroll completeness, accuracy and cut-off
  - Revenue, particularly for long-term contracts and transactions with multiple elements
  - Expense completeness and cut-off
  - Accounts receivable valuation
  - Collectability of loans receivable, particularly from related companies
  - Classification of preferred shares as debt or equity
  - Inventory count procedures and valuation
  - Related party transactions
  - Contingencies, particularly with respect to review of legal expenses and consideration of confirmations
  - Journal entry testing

- Subsequent events review
- Going concern analysis
- Communication with those charged with governance did not include one or more of the following items (or, in some cases, there was no communication with those charged with governance):
  - The auditor's responsibilities in relation to the financial statement audit.
  - An overview of the planned scope and timing of the audit.
  - The written representations that the auditor is requesting from management.
  - Significant matters arising from the audit that were discussed, or subject to correspondence with management.
  - Other matters arising from the audit that are significant to the oversight of the financial reporting process.

## REVIEW ENGAGEMENTS

This is the second year in which the new Canadian Standard on Review Engagements 2400 (CSRE 2400) was reviewed as part of the Practice Inspection Program and due to the cyclical nature of the inspection program, most firms inspected in the current year were having their review engagements under CSRE 2400 inspected for the first time.

Although most practitioners were successful in transitioning to CSRE 2400, the following are some areas for improvement.

### Understanding of the Accounting Systems and Accounting Records (CSRE 2400.43 & .44)

Understanding the accounting system and records used by an entity is vital to identifying areas where a material misstatement is likely to arise. This allows the practitioner to focus analysis and inquiry on these areas. We continue to identify instances where this documentation should be improved.

Practitioners should ensure that their documentation of systems and records is commensurate with the complexity of the business. For example, industries with complex accounting, such as the construction industry, should include greater detail as to how the entity being reviewed records revenue.

### Areas where material misstatements are likely to arise (CSRE 2400.45 & .46)

A critical element of CSRE 2400 is the identification of areas where material misstatements are likely to arise. If this assessment is not completed and documented, it is possible that appropriate inquiries and analytical procedures may not be designed and performed. Inquiry and analytical procedures are required for all material items in the financial statements, including disclosures. When a practitioner has identified an area where material misstatement is likely to arise, additional procedures should be performed to focus on addressing the area. For example, a transaction or event outside of the normal course of business or a subsequent event, may be considered an area where material misstatement is likely to arise requiring focused procedures. These areas may not necessarily be material items in the financial statements.

### Related party balances (CSRE 2400.104)

Related party receivables and payables are common accounts included on the balance sheets of financial statements reviewed by practitioners. This has been an area where issues have been identified year after year as documentation with respect to classification and valuation of related party balances was an issue under both CSRE 2400 and the previous review standard. Practitioners are reminded that

their procedures should not only address balances of receivables outstanding but also the likelihood of collectability. In addition, receivable balances without stated terms should be classified as long-term. Related party payables with no set terms of repayment should be classified as short term unless there are waivers obtained and included in the working paper file.

Documentation requirements for a review engagement under CSRE 2400 are specifically addressed in paragraphs 104-107 of the standard. Checklists filled out with “Y” or “N” only are not sufficient to support procedures performed and, if no further documentation was included in a file, would result in a firm being assessed as not meeting standards. In particular, documentation should be sufficient for an experienced practitioner, having no previous connection with the engagement, to understand:

- the nature, timing, and extent of the procedures performed (including who performed the work, the date it was completed, and who reviewed the work and the date and extent of the review);
- the results obtained from the procedures performed and the practitioner’s conclusions arising from those procedures; and
- significant matters arising during the engagement, the practitioner’s conclusions, and significant professional judgements made to reach those conclusions.

The primary areas where documentation and/or performance of review engagements procedures were insufficient are as follows:

- Inter-relationship/comparison of revenues, expenses, gross margin, operating ratios and balance sheet items.
- Cut-off of accounts payable and enquiries for any unrecorded liabilities.
- Completeness of payroll and related accruals.
- Inventory valuation, client’s count procedures and cut-off, especially when there is a risk that some items are slow moving.
- Sales cut-off, particularly when an entity is a contractor or would use the percentage of completion method to recognize revenue
- Evidence of work performed to determine if the entity’s classification of preferred shares as either debt or equity was appropriate
- Discussions with management and performance of additional procedures regarding any potential contingencies, commitments and subsequent events

#### **QUALITY CONTROL [CSQC 1.48 and .49]**

A firm’s quality control system should be designed and implemented to improve overall engagement quality and ensure that the firm does not issue financial statements that have material errors or inadequate work performed. We continue to find practitioners who have not performed an ongoing evaluation of the quality control system nor have they ensured cyclical monitoring is performed. The absence of effective monitoring can have a negative impact on quality and is a significant factor in the decision to re-inspect a practising office. Although smaller firms may not have internal resources to comply with these requirements, they may consider exploring reciprocal arrangements with other practitioners to fulfill their monitoring obligations.

Practitioners should be aware that Quality Control standards are changing; see Appendix 2 for more information relating to the proposed Quality Management standards.

## COMPILATION AND TAX ENGAGEMENTS

Most firms often include working papers in their files to provide support that the information in the Notice to Reader financial statements is not false or misleading. Issues have been encountered when working papers included in files contained conflicting figures or additional information that had not been addressed or resolved. When firms have no supporting documentation for a Notice to Reader set of financial statements, the file would not meet the requirements of the Practice Review Program.

Tax engagements encountered issues due to a lack of knowledge of compliance procedures, such as adherence to client filing deadlines, lack of retention of key documents, and not obtaining signed T183s from a client when the returns were e-filed.

Additional common deficiencies are as follows:

- The statement of business activities and/or the statement of rental income in the T1 and/or the schedule 100 and 125 in the T2 did not include tax disclaimers indicating that the information was prepared solely for income tax purposes without audit or review from information provided by the taxpayer.
- Lack of documentation for an accountant's consideration and assessment of independence, especially if bookkeeping services were provided.
- The financial statements contained notes that explicitly referred to GAAP.
- No documentation within the file regarding foreign assets or income.

Practitioners need to be aware that a new compilation standard (CSRS 4200) has been issued that is significantly different than the current standard. One of the key changes is the new communication – the Compilation Engagement Report – which differs from the current Notice to Reader communication. See Appendix 2 for more information about the new Compilation standard.

## AREAS OF FOCUS FOR THE UPCOMING INSPECTION YEAR

### Consideration of COVID-19 Impact for Assurance Engagements

The COVID-19 pandemic has significantly impacted the operations of many businesses and will continue to do so. Firms should be aware of additional accounting and assurance issues that may arise as a result of the impact on their clients' operations.

To support practitioners, CPA Canada has developed [accounting](#) and [assurance](#) resources, including considerations for the impact of COVID-19 on key financial assertions and balances. Additionally, CPABC has compiled [online resources](#) that include important information from the profession, government, and health authorities regarding COVID-19, as well as other information to support our members through such an extraordinary time.

Practitioners should ensure that they obtain a thorough understanding of their clients' operations and appropriately document areas of potential risk and the related assurance procedures to address these risks during the planning and completion stages. Failure to consider the impact of COVID-19 as it relates to potential accounting issues, and the related assurance procedures, may result in firms inadequately addressing key areas and performing insufficient procedures. This could result in a material misstatement in the financial statements, which may result in the firm not meeting standards in their practice review and requiring a re-inspection.

### Tax Engagements

CPABC includes tax engagements in its inspections of firms, and typically performs a high-level review for compliance and accuracy of the information included in personal and corporate income tax returns. As a best practice, and in order to support clients if the returns are audited by CRA, all tax issues identified by the practitioner during the preparation of income tax returns should be documented in the file and there should be documentation to support the eligibility of various expenses and deductions.

In order to further protect the public and support the knowledge and proficiency of members, Practice Review Officers will be focusing on some key areas where documentation should be included:

- Eligibility of business-use-of-home expenses claimed in personal income tax returns.
- The recipient of charitable donations in personal and corporate income tax returns to support eligibility for tax credit/deduction.
- The share structure, in particular the ownership of the shares, disclosed in the corporate income tax return.
- The tax documentation supporting shareholder balances and knowledge of the related tax impact.
- Appropriate support for rental and business activities in personal income tax returns.
- Appropriate completion of the GIFI on corporate income tax returns.

Practitioners are reminded of Rule 205 in the CPABC Code of Conduct, which requires that members do not sign or associate with any letter, report, statement, representation or financial statement which they know, or should know, is false or misleading. If practitioners note any items during the preparation of a client's tax return that may appear to be false or misleading, they should raise the items with their client in a timely manner and ensure they are satisfied with their client's response before continuing the engagement.

### New and Emerging Industries

Clients in the crypto-asset and cannabis industries have unique risks that may require the use of experts in order to develop and execute adequate assurance procedures.

Activities in the crypto-asset industry include trading in crypto-assets and crypto-asset mining. Trading in crypto-assets involves trading in virtual currencies such as Bitcoin. Crypto-asset mining is a process whereby a company provides computer processing power for the underlying method of accounting for crypto-asset trading. The fees earned for providing the computer processing are usually paid in a virtual currency. Audits of companies operating in these activities are complex, high-risk and involve difficult-to-verify virtual assets. As a result, information technology experts may be critical for the successful execution of these engagements.

Cannabis entities can take many forms including cultivation, production of medicinal products, or distribution and sales of related products. The most challenging issues arise with respect to the accounting for biological assets (the cannabis plants). As complex estimates are frequently used, expert valuation services are likely required. The regulatory aspects of this industry must also be considered during planning and throughout the engagement, as non-compliance with these regulations could have significant ramifications to the entity. This industry is also currently undergoing frequent mergers and acquisitions which creates unique accounting issues.

During the 2020 practice review year, our Practice Review Officers will be targeting assurance engagements in these two industries due to the unique nature of the risks and assurance issues and the increased potential for errors. The Practice Review Program continues to closely monitor developments in these and other emerging industries.

## **APPENDIX 1 – PRACTICE REVIEW PROGRAM OVERVIEW**

The purpose of the Practice Review Program is to protect the public through assessing firms' and practitioners' compliance with professional standards, and by taking appropriate follow-up or remedial action in cases of non-compliance. The Practice Review Program further protects the public by providing an educational experience to firms. Practice Reviews are performed on the offices of registered firms on a risk-adjusted cycle, typically every three years, and in the case of a newly registered firm, within its first year of operation.

During the reviews, Practice Review Officers (PROs) may identify reportable deficiencies related to material areas, assertions, and disclosures where accounting or assurance standards were not met. Based on the nature and extent of reportable deficiencies identified, the PRO assesses a firm/office into one of three categories:

- Meets requirements: no further action is required though the firm/office is still expected to address the reportable deficiencies identified, and the firm will be reviewed in the next cycle;
- Meets requirements with action plan: if the firm/office provides a satisfactory action plan as to how the reportable deficiencies will be addressed, the firm will be reviewed in the next cycle; and
- Does not meet requirements: the firm will be required to have a follow-up review within a year at a cost to the firm, along with other potential consequences required by the Public Practice Committee (the "Committee").

A firm/office's assessment and the related reportable deficiencies are reviewed by professional staff before being provided, on an anonymous and redacted basis, to the Public Practice Committee for final approval. The Committee is comprised of 20 CPA members and two public representatives.

In determining the action to be taken following a practice review, particularly if the firm was assessed as not meeting requirements for a second consecutive time, the Public Practice Committee's considerations include, but are not limited to:

- the degree to which the requirements of the practice review program have been met;
- the nature and severity of the identified deficiencies;
- the adequacy of the firm's action plan and/or analysis for restatement and commitment towards rectification of issues identified;
- the cooperation of the member/firm and commitment towards improving overall firm quality;
- public interest; and
- on a follow-up review, the results of the previous practice review of the member/firm and the degree to which the member/firm addressed deficiencies identified in the initial review.

## **APPENDIX 2 - NEW AND UPCOMING STANDARDS**

### Compilation Engagements (Newly Effective)



The new compilation standard is effective for compilation engagements for periods ending on or after December 14, 2021, with early adoption permitted. The key differences in the new standard arise in the compilation report and the requirement to disclose the basis of accounting used in the financial statements.

Though not a comprehensive list, below are some important differences in the new standard:

- The new compilation report includes responsibility paragraphs.
- Prior to or when accepting a compilation engagement, the practitioner must:
  - make inquiries of management regarding the intended use of the compiled financial information, including whether that information is intended to be used by a third party.
  - obtain an acknowledgment from management of the basis of accounting expected to be applied in the preparation of the financial information.
- If the information is intended to be used by a third party, the practitioner needs to obtain an acknowledgment from management that the third party either:
  - is in a position to request and obtain further information from the entity; or
  - has agreed with management on the basis of accounting to be applied.
- If management does not acknowledge that the third party can obtain further information or has agreed on the basis of accounting, then the practitioner cannot accept the engagement unless the basis of accounting is a general-purpose framework. It is expected that compiled financial information prepared in accordance with a general-purpose framework will be rare.
- The practitioner must obtain knowledge related to the entity's business and operations, accounting system and records and the basis of accounting used, and document this in the working paper files.
- The practitioner must obtain an acknowledgment from management of management's responsibility for the compiled financial information.

Practitioners should read the new standard to understand the additional inquiry and new documentation requirements. Practitioners need to be ready for the new standard by attending training, discussing the requirements with compilation engagement clients, preparing new engagement letters and updating policies and working paper procedures to meet the requirements. More information can be obtained from the CPA Canada [website](#).

#### Quality Management (Issued but not yet Effective)

On February 8, 2019, the International Auditing and Assurance Standards Board (IAASB) issued an Exposure Draft on quality management at the firm and engagement level. Accordingly, the Auditing and Assurance Standards Board (AASB) followed by issuing an Exposure Draft on quality management at the firm and engagement level in Canada in April 2019. The Canadian Exposure Draft is proposing to adopt the new international standard unchanged except for an amendment to the relevant independence and other ethical requirements to allow reference to Canadian requirements.

The comment period has now closed. Based on the responses received to the Canadian exposure draft, the AASB provided the IAASB with a written response in June 2019. The IAASB continues to deliberate proposals made by its task forces based on comments received from its stakeholders.

Practitioners will need to prepare for the changes arising from the new quality management standard and those firms that only complete compilation engagements will need extra effort to ensure that they meet Canadian Standard on Quality Management 1 (CSQM 1) once it becomes effective. The inclusion of related services engagements in CSQM 1 makes a significant change to the scope of the new standard in relation to the existing CSQC 1.

Further information can be obtained from the [CPA Canada website](#).

## **Appendix J**

*Chartered Professional Accountants of British Columbia Professional Conduct  
Complaint Process*

# Professional Conduct Complaint Process

CPABC's professional conduct process is governed by the Chartered Professional Accountants Act ("the Act")(primarily Part 7) and the Bylaws (primarily Parts 11 and 12).

## A. Professional Conduct Complaint (Part 11 of the Bylaws)

1. Upon receipt of a complaint concerning a member, former member, student, licensed firm or former firm of CPABC (the Respondent), the Director, Professional Conduct ("DPC") undertakes a preliminary review of the complaint and supporting material to determine if the matter falls within CPABC's jurisdiction.
2. The Respondent may be notified of the complaint and requested to provide a preliminary response to the matter and/or provide any necessary documentation.
3. If the DPC determines the matter falls within CPABC's jurisdiction, the matter will be referred to a Panel Vice Chair of the Investigation Committee ("Assigned Member"). The Assigned Member will review the matter and decide whether it gets referred for investigation or that it be dismissed under Bylaw 1103(4). In the latter case, two public representatives (non-CPAs) on the Investigation Committee must agree to dismiss the complaint.
4. If an investigation is to proceed, the Chair of the Investigation Committee sends written notice to the Respondent. The Respondent is also provided with a copy of the applicable Bylaws and this complaint process; and is notified of the assigned Investigator. The Professional Conduct Case Manager provides the assigned Investigator with all relevant information.
5. The Investigator, under the supervision of the DPC, conducts an investigation pursuant to Bylaw 1102. After assembling the facts, the Investigator discusses his/her preliminary findings with the DPC and prepares a draft investigation report. The report contains the nature of the complaint, a list of the rules to be considered, and a summary of the investigation. The Investigator discusses these matters with the assigned Committee member and, if necessary, carries out further investigation work.
6. Under Bylaw 1105, if, at any stage of an investigation, it becomes apparent that there is no evidence to support a breach of the Act, bylaws or rules or that the subject of the investigation is beyond the jurisdiction of the Investigation Committee, the matter is referred back to the Assigned Member for a decision that the investigation proceed no further. Two public representatives on the Investigation Committee must also approve this step.
7. Upon completion of the investigation, a copy of the draft investigation report is provided to the Respondent for review and comments (if any) are requested. The covering letter includes the target Investigation Committee meeting date with an invitation for the Respondent to attend, with or without legal counsel.
8. After consideration of comments from the Respondent, the investigation report, in its final form, is delivered to the Respondent. The covering letter includes confirmation of the Investigation Committee meeting date and confirmation that the Respondent is attending (with or without counsel) or that the Respondent is not attending (or attendance remains unknown).
9. The final investigation report is sent to the Investigation Committee prior to the Committee's meeting to allow for adequate review of the material.
10. At the meeting, after the Investigator presents his/her report, the Investigation Committee may ask questions of the Respondent (if in attendance) as well as the Investigator. The DPC may also provide comments.
11. Upon conclusion of the meeting, the Investigation Committee makes a determination pursuant to Bylaw 1106(1) that either (i) no grounds exist for a disciplinary action against the Respondent or (ii) that grounds do exist for a disciplinary action against the Respondent. In the first case, two public representatives of the Committee must be in favour of the determination pursuant to Bylaw 1106(2).

12. If the Investigation Committee makes a determination that no grounds exist for a disciplinary action against the Respondent, the Committee must refer the determination to an independent reviewer for confirmation pursuant to Bylaws 1106(4) and 1107. The independent reviewer is a member of the Law Society of British Columbia, retained to conduct independent reviews of no grounds determinations made by the Investigation Committee under Bylaw 1106(1)(a). The independent reviewer must review the investigation report, and any other materials that were considered by the Investigation Committee, to consider the reasonableness of the determination.  
The independent review process will be conducted in accordance with Bylaw 1107.
13. The Investigation Committee is deemed to make a determination that grounds do exist for a disciplinary action if at least three public representatives attend the meeting and no fewer than two of them are in favour of a determination that no grounds exist for a disciplinary action (Bylaw 1106(3)).
14. If the Investigation Committee determines that grounds do exist for a disciplinary action (Bylaw 1106(5)), then the Committee, depending on the seriousness of the matter, either (i) makes a recommendation that the Respondent accepts a reprimand, complete one or more professional development courses, pay a fine of up to \$25,000 for a member (\$4,000 for a student) and not more than \$100,000 for a registered firm, pay expenses and take remedial action, or do any combination of these actions; or (ii) delivers a Statement of Complaint to the Disciplinary Committee. A minimum of two public representatives on the Committee must approve (i). Statements of Complaint are approved by the Chair of the Investigation Committee.
15. If the Investigation Committee makes a recommendation under Bylaw 1106(7), it may also request that the Respondent agree to a named publication on CPABC's public website of a notice concerning the Investigation Committee's determination and recommendation, or such other publication or disclosure, as the Committee may consider to be in the public interest. If the Committee declines to make such a request, it must be approved by two public representatives.
16. The Investigation Committee's determination and recommendation is communicated to the Respondent by letter from the Chair (Bylaw 1106(8)) and also advises the complainant (person/persons who filed the complaint against the Respondent) as to whether the matter was dismissed or disciplinary action was taken. Communication is restricted under section 69 of the Act.
17. If the Respondent accepts the determination and complies with the recommendation, the matter is concluded (Bylaw 1106(11) and (12)).
18. For complaints received after April 1, 2017 that are referred to the Investigation Committee for investigation and review, an anonymous publication of a determination and recommendation will be posted CPABC's public website, unless the Investigation Committee recommends otherwise.
19. If the Respondent disagrees with the recommendation or the determination on which it is based, he/she/it can enter the binding opinion process which will facilitate the resolution of a disagreement over a determination and recommendation between the Investigation Committee and the Respondent in an informal and expeditious manner (Bylaws 1109 and 1110).
20. If the Respondent fails to respond to or declines the determination and recommendation, or fails to comply with the terms agreed to, the Investigation Committee may deliver a Statement of Complaint to the Disciplinary Committee (Bylaws 1106(12) and (13)).

## B. Binding Opinion (Bylaws 1109 and 1110)

21. If the Respondent believes that a determination and recommendation is unfair or inappropriate, he/she/it can advise the Chair of the Investigation Committee or the DPC that he/she/it wishes to use the binding opinion process.
22. The use of the binding opinion process must be acceptable to the Investigation Committee, and both parties must agree, in writing, that any opinion given will be final and binding, and may not be challenged, reviewed or appealed.
23. The administrative fee referred to in Bylaw 1109(1) is \$1,000.
24. The Chair of the Disciplinary Committee will select a Binding Opinion Panel of three reviewers to provide the opinion. The reviewers will be selected from among members of the Disciplinary Committee. A public representative is included on the Panel.
25. The Binding Opinion Panel will not be appointed, and the binding opinion process will not be commenced or proceed, until the administrative fee is paid. The fee is not refundable, except as provided in Bylaw 1110(6).
26. The binding opinion process will be conducted in accordance with Bylaw 1110.
27. In proposing any changes to the recommendation, the Binding Opinion Panel will be limited by the outcomes specified in Bylaw 1110(4).
28. The binding opinion will be provided as expeditiously as possible, without reasons or explanations.

## C. Disciplinary Committee (Part 12 of the Bylaws)

29. The Disciplinary Committee is appointed by the Board and comprises senior, experienced CPABC members and at least three non-CPA public representatives. None of the Disciplinary Committee members are members of the Board, or any CPABC regulatory committees.
30. The Disciplinary Committee hearings are formal, open to the public, and are heard by a panel of three, or five, members of the Disciplinary Committee, including a public representative. Usually, a lawyer is appointed to assist the Committee; CPABC retains a lawyer (prosecutor) to present the case outlined in the Statement of Complaint; and the Respondent is generally represented by a lawyer (Bylaw 1204).

31. The panel of the Disciplinary Committee must make a decision to either dismiss or confirm the Statement of Complaint in whole or in part, and give reasons for its decision (Bylaw 1207).
32. If the Statement of Complaint is confirmed, the panel may make an Order (Section 53(4) of the Act) including one or more of a reprimand, a suspension, a cancellation, imposition of conditions upon continuation of membership, a fine of up to \$25,000 for a member (\$4,000 for a student) and not more than \$100,000 for a registered firm and an award of costs.
33. Under Section 56 of the Act, the Respondent or CPABC may appeal the Order of the Disciplinary Committee to the Supreme Court of BC

## D. Extraordinary Suspension (Act, Section 57)

34. Under Section 57 of the Act, if the matter is very serious and the public interest may be prejudiced by the delay of the usual discipline process, a panel of any three members of the Board may order a suspension without giving the Respondent an opportunity to be heard.
35. The Respondent may appeal this extraordinary suspension to the Supreme Court of BC.
36. Regardless of whether the Respondent appeals, CPABC will go through the usual discipline process outlined above as expeditiously as possible.

## E. Resolutions of Discipline Proceedings – Bylaws 1111 and 1205

37. At any time, but typically before the commencement of a Disciplinary Committee hearing, CPABC and the Respondent may agree to a resolution of the discipline proceedings.
38. Such a resolution may include any terms or conditions that are agreed to by the Respondent and CPABC, including, for example:
  - the Respondent's agreement to the cancellation of his/her CPABC membership;
  - if the Respondent has resigned or agreed to the cancellation of his/her membership, an agreement never to apply for readmission, or not to apply for readmission for a specified period of time, or until specified conditions are met;
  - agreement to pay CPABC costs for the investigation and discipline proceedings; and;
  - an agreement as to what information about the circumstances and terms of the resolution of the discipline proceedings may be published on CPABC's website and/or in other media, including an agreement as to specified content of the publication.

## F. Transition Provisions

39. The Act has transitional provisions addressing the completion of ongoing legacy investigations, hearings and appeals, specifically sections 80, 81 and 82.
40. The Bylaws also have transitional provisions addressing the procedures to be followed for completion of ongoing legacy cases, specifically Bylaws 1112 and 1209.

## **Appendix K**

Canadian Public Accountability Board Exchange – *An Auditor's Responsibilities Related to Fraud in an Audit of Financial Statements* – February 2020

# cpab exchange

## An auditor's responsibilities related to fraud in an audit of financial statements



There has been a brighter spotlight on fraud recently in the wake of high-profile corporate failures. A focus internationally has been on how far an auditor's responsibility extends in detecting fraud in an audit of the financial statements.

The Canadian Public Accountability Board (CPAB) launched a project in 2019 to explore this topic.

### Our fraud project has two phases:

- During **Phase 1** we evaluated how auditors in Canada are complying with the Canadian Auditing Standard (CAS) 240, *The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements* (CAS 240 or the Standard).
- **Phase 2** has us looking beyond CAS 240. As a follow up to our fall 2019 Canadian Audit Quality Roundtable<sup>1</sup>, CPAB is organizing a working group in 2020 to further explore what actions can be taken by all relevant stakeholders to better prevent and detect corporate fraud.

## WHAT WE DID

An auditor conducting an audit in accordance with the Canadian Auditing Standards (CAS) is responsible for obtaining reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether caused by fraud or error.

Our objective for Phase 1 was to evaluate the quality of audit work being performed by auditors to meet the requirements of CAS 240 and to identify leading audit practices. The observations described in this paper are based on inspections carried out between March and September 2019.

We reviewed the audit work related to the following requirements of CAS 240:

- Fraud risk discussion among the engagement team<sup>2</sup>.
- Fraud risk assessment procedures and related activities<sup>3</sup>.
- Responses to assessed risks of material misstatement due to fraud<sup>4</sup>.

## WHAT WE FOUND

**Auditors met the requirements of the Standard for the audit files reviewed.**

**During our reviews we identified a number of areas for auditors to consider as they design their audit approaches related to identifying and responding to fraud risks in their audits of financial statements.**



<sup>1</sup>The Audit Quality Roundtable was co-hosted by CPAB and the Office of the Superintendent of Financial Institutions – news release

<sup>2</sup>CAS 240, para. 16

<sup>3</sup>CAS 240, para. 17-28

<sup>4</sup>CAS 240, para. 29-34



## AREAS FOR CONSIDERATION

1

### Focus on the company's fraud risk management program

A company's susceptibility to fraud, whether due to fraudulent financial reporting or misappropriation of assets, is significantly impacted by the strength of its fraud risk management program. The program includes a company's fraud risk governance policies, fraud risk assessments and fraud prevention and detection controls. An effective fraud risk management program creates a strong fraud deterrence effect.

In more than half of the audits we inspected, auditors evaluated aspects of the company's fraud risk management program to inform their fraud risk assessments. Procedures included evaluations of: code of conduct communications and related sign-offs by employees, processes in place to investigate fraud and take corrective action, and the quality of oversight exercised by audit committees over the program.

These procedures assist auditors to obtain an understanding of the strengths and weaknesses of a company's fraud risk management and where opportunities exist for internal controls to be circumvented and for fraud to occur.

### For discussion



- What is the nature and extent of audit work that auditors should perform when obtaining an understanding of the fraud risk management program?
- When would it be beneficial for auditors to test the effectiveness of important aspects of a company's fraud risk management program and report the results of this work to management and/or the audit committee?

2

### Evaluating the effectiveness of the whistleblower hotline

The Association of Certified Fraud Examiners' **2018 Global Study on Occupational Fraud and Abuse** found that 40 per cent of occupational fraud<sup>5</sup> is detected through tips from employees, customers, vendors, and other anonymous sources.

About a quarter of the audits we inspected evidenced an evaluation of the effectiveness of the whistleblower hotline. Audit procedures included:

- Evaluation of the implications of whether the whistleblower hotline is handled by the company or outsourced to a third party.
- Evaluation of the hotline escalation process including whether complaints/tips are dealt with in a timely and appropriate manner.
- Mock whistleblower complaints. Some auditors made anonymous complaints through the hotline to confirm their understanding of how complaints are received, escalated, and resolved.

Evaluating the effectiveness of whistleblower hotlines also contributes to an auditor's understanding of the tone at the top of the company, including the importance placed on ethical conduct.

### For discussion



- When would a detailed assessment of the whistleblower hotline be necessary or beneficial?
- What is the nature and extent of that testing?

<sup>5</sup>The study defined occupational fraud as the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets. Occupational fraud is committed against the organization by its own officers, directors, or employees.

## AREAS FOR CONSIDERATION

3

### Participation of specialists in the auditor's fraud brainstorming meeting

As the complexity of the business environment continues to increase, so has the breadth of specialists engaged by auditors to participate in their audits. These specialists are key members of the extended audit team because of the expertise they contribute to highly specialized areas of the audit.

The perspectives of specialists during the planning phase of the audit are relevant to the audit team because of each specialist's involvement in complex areas of the audit, including critical accounting estimates with high degrees of subjectivity that are particularly susceptible to fraud. Those specialists may also help the core audit team design an integrated, multi-disciplinary audit approach that responds to identified fraud risks.

The fraud brainstorming meeting<sup>6</sup> is a discussion during the audit planning phase where auditors consider areas of a company's financial statements that may be susceptible to fraud. We observed that specialists engaged in audits participated in the audit team's fraud brainstorming meeting in two thirds of the audits inspected.

We think it is beneficial for specialists engaged in audits to participate in fraud brainstorming meetings. We understand, based on initial discussions with audit firms, that specialists are typically invited to attend those meetings.

#### For discussion



- How much importance should be placed on having specialists engaged by auditors participate in the fraud brainstorming meeting?
- When would their participation be unnecessary?

4

### When to involve fraud and forensics specialists

With the digitization and automation of financial reporting systems, fraud is increasingly more sophisticated. This suggests that the specialized skills of fraud and forensics specialists (fraud specialists) may be beneficial in helping auditors identify areas where sophisticated fraud could be perpetrated against a company.

The use of fraud specialists was observed in five per cent of the audits we inspected. Those specialists were typically engaged after a trigger event including when suspicions emerged about the integrity of management or to respond to allegations that company assets had been materially misappropriated.

Auditors should consider when it is appropriate to engage fraud specialists before a trigger event. Considerations may include the complexity of the business model and operations of the company, whether the company has operations in emerging markets, the complexity of the company's regulatory environment, and idiosyncratic fraud risks associated with the company or industry.

#### For discussion



- When should fraud specialists be engaged in audits of the financial statements?

<sup>6</sup>CAS 240, para. 16

## 5

## Other observations relevant to identifying and responding to fraud risks



## For discussion

## Understanding compensation arrangements and analyst expectations

A common framework used by auditors to identify and assess fraud risks is the fraud risk triangle. The sides of the triangle are represented by<sup>7</sup>: (i) *incentives or pressures* to commit fraud, (ii) perceived *opportunities* to commit fraud, (iii) *rationalizations* used by individuals to justify an act of fraud.

We identified instances where auditors considered how management is compensated to inform their fraud risk assessments. This information is useful to auditors when obtaining an understanding of the incentives or pressures that could influence management to manipulate financial results. We also identified instances where auditors reviewed investment analyst reports or listened to analyst earnings calls to understand the degree of pressure on management to meet analyst earnings targets.

## Rebuttal of the presumption of fraud in revenue recognition

Revenue and revenue growth are often key performance measures for public companies. Auditors are required to presume<sup>8</sup> that there is a risk of fraud associated with revenue recognition and then evaluate more carefully the unique facts and circumstances applicable to each company that give rise to such risks.

The Standard allows auditors to rebut the fraud risk presumption in revenue recognition. The example described in the Standard is where auditors conclude: “there is no risk of material misstatement due to fraud relating to revenue recognition in the case where there is a single type of simple revenue transaction, for example, leasehold revenue from a single unit rental property”.

We found that about a quarter of audits we inspected included a rebuttal of the risk of fraud in revenue recognition. The overall rate of rebuttals was higher than we had expected based on the risk profiles of those audits although the rebuttal rate varied considerably across audit firms.

## Use of unpredictable audit procedures

Research suggests that when auditors use consistent procedures year over year, those procedures become predictable and less effective at detecting fraud in the financial statements.<sup>9</sup>

CPAB found that 90 per cent of files inspected incorporated unpredictable audit procedures in their audits as a response to identified fraud risks at the financial statement level. Examples included auditors changing sampling methods and performing audit procedures at different locations on an unannounced basis.

We plan to more carefully evaluate the quality of unpredictable audit procedures in our 2020 inspection cycle.

- Should auditors of public companies always obtain an understanding of compensation arrangements and analyst expectations as part of their fraud risk assessments?
- When is this unnecessary?
- When is it appropriate for auditors to rebut the presumption of fraud risk in revenue recognition?
- Are there industries where a rebuttal of the fraud risk presumption is more common?

<sup>7</sup> CAS 240, para. 3, A1

<sup>8</sup> CAS 240, para. 27, A29-31

<sup>9</sup> Journal of Practice & Theory. 2009. Vol 27, Page 239. Financial Statement Fraud: Insights from the Academic Literature. No. 2.

## WHAT'S NEXT?

It is useful to consider whether, in today's environment, there is an opportunity for auditors to do more in the area of fraud in the financial statement audit. We encourage further dialogue.

As a follow up to our fall 2019 Canadian Audit Quality Roundtable, CPAB is organizing a working group to further explore what actions can be taken by all relevant stakeholders to better prevent and detect corporate fraud.

We want to hear from you. Please reach out to us at [thoughtleadership@cpab-ccrc.ca](mailto:thoughtleadership@cpab-ccrc.ca) with your thoughts about this project.

## Learn More

Visit us at [www.cpab-ccrc.ca](http://www.cpab-ccrc.ca) and join our mailing list. Follow us on Twitter — @CPAB-CCRC

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## **Appendix L**

*Chartered Professional Accountants Canada Guide to Comply with Canada's Anti-Money Laundering Legislation - 2014*

# Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation





# Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation

Prepared by MNP LLP



## **DISCLAIMER**

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# Preface

The Anti-Money Laundering Committee (AML Committee) of the Chartered Professional Accountants of Canada (CPA Canada) has commissioned this publication *Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation* to help CPA Canada members and Accounting Firms deal with recent changes in AML regulatory requirements. Accountants and Accounting Firms are reporting entities under Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* with specific regulatory requirements when they engage in certain activities.

This *Guide* sets out recent changes to Canada's AML Legislation and provides practical guidance for AML compliance that is relevant to Accountants and Accounting Firms.

Accountants and Accounting Firms are at risk of penalties (both monetary and criminal) for non-compliance with the AML Legislation in the event of, for example, failure to report suspicious transactions. An effective AML compliance program is key to mitigating this risk.

This publication aids Accountants and Accounting Firms by addressing comprehensive topics including:

- AML standards and regime
- who and what activities fall within the AML obligations
- money laundering risk assessment
- development of a compliance regime
- AML and privacy obligations
- Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) examinations
- ongoing monitoring of business relationships

Throughout the *Guide* there are questionnaires and checklists to help Accountants and Accounting Firms ask the right questions, FINTRAC forms, and practical guidance on how to complete the forms.

CPA Canada thanks the author, Matthew McGuire of MNP LLP, and acknowledges the contribution of the CPA Canada AML Committee. Particular gratitude is extended to Mr. McGuire's colleague at MNP LLP, Iain Kenny, who provided valuable input and assistance throughout the project.



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## CHAPTER 1

# Motivation for the Guide

Since 2000, professional accountants in Canada have been an official part of the country's fight against money laundering and terrorist financing.<sup>1</sup> Our part in the fight generally involves keeping specified records about transactions and identifying clients from which we receive funds<sup>2</sup> in case that information should be needed for investigations; collecting, retaining and reporting large cash transactions;<sup>3</sup> as well as reporting attempted and completed suspicious transactions<sup>4</sup> and terrorist property<sup>5</sup> to add to the national money laundering intelligence database. AML Legislation was recently amended with changes to obligations effective February 1, 2014.<sup>6</sup> Those amendments also require Accountants and Accounting Firms to conduct ongoing monitoring of the relationships with clients involved in Triggering Activities.<sup>7</sup>

Canada codified obligations for Accountants and Accounting Firms in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its Regulations (collectively referred to in this document as "AML Legislation"). The regulator responsible for ensuring adherence to that legislation is the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). FINTRAC issues its own guidance to assist individuals and entities to comply with their obligations.<sup>8</sup>

1 Details about the offences of money laundering and terrorist financing, and Canada's anti-money laundering and counter terrorist financing initiatives and their history are included in Appendix A—Canada's AML Legislation.

2 See section 3.1.1 for details.

3 See section 3.1.2 for details.

4 See section 3.1.3 for details.

5 See section 3.1.4 for details.

6 Those changes are incorporated into this guidance, and summarized in Appendix C—Summary of Changes Effective February 1, 2014.

7 See section 3.2 for details.

8 A listing of links to FINTRAC guidance relevant to Accountants and Accounting Firms is included in Appendix B—Links to FINTRAC Guidance.

The obligations only apply to Accountants and Accounting Firms in certain circumstances, generally instances where they are dealing with assets on behalf of their clients.<sup>9</sup> Once it is determined that they do apply, fulfilling the obligations may seem complex. Failing to comply with applicable AML Legislation in the prescribed circumstances can result in significant fines, penalties and jail time for Accountants and Accounting Firms.<sup>10</sup>

CPA Canada and its members are mandated to maintain the reputation of our profession. The profession's reputation can be tainted by non-compliance with legislation designed to combat crime, and worse, by association with activities that enable crime.

With that in mind, this *Guide* has three main purposes:

1. To help Accountants and Accounting Firms determine if AML obligations are applicable to their activities.
2. To guide Accountants and Accounting Firms to which AML Legislation applies in the development of a program to comply with their obligations.
3. To educate Accountants and Accounting Firms about the enforcement methods by the regulator FINTRAC and risks of non-compliance.

This *Guide* itself does not constitute an AML program. Each Accountant and Accounting Firm must develop its own policies and procedures, risk assessment and training program, as applicable.

9 These circumstances are described in section 2.2.

10 See section 7.4 for details.

## CHAPTER 2

# Determining if the Obligations Are Applicable

AML Legislation is applicable to Accountants and Accounting Firms engaging in Triggering Activities (described in section 2.2). Accountants and Accounting Firms have ongoing obligations to identify the performance of Triggering Activities and to perform all prescribed measures within specified timelines. As a practical matter, Accounting Firms are advised to perform annual training to make their organization aware of Triggering Activities in order that those in their firm are equipped to self-identify those circumstances. As a safeguard, Accounting Firms are advised to conduct an annual self-assessment to determine whether individuals in their organizations are involved in Triggering Activities, and to evaluate conformance of the related documentation to AML standards. Questionnaires aimed at assisting that determination are included in section 2.3.

## 2.1 Definition of Accountant and Accounting Firm

An “Accountant” is defined by AML Legislation as being a Chartered Accountant (CA), Certified General Accountant (CGA), or a Certified Management Accountant (CMA).<sup>11</sup> We expect that AML Legislation may be amended to include the new Chartered Professional Accountant (CPA) designation. This *Guide* has been prepared as though CPAs are covered.

<sup>11</sup> Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) subsection 1(2).

An “Accounting Firm” is defined by AML Legislation as being an entity that is engaged in the business of providing accounting services<sup>12</sup> to the public and has at least one partner, employee or administrator that is an accountant.<sup>13</sup>

The definition of Accountant does not require the professional to be engaged in providing professional accounting services to the public to be covered by the AML Legislation, only that they are a designated Accountant that performs, however infrequently, Triggering Activities.

An Accountant is not subject to AML Legislation if they only perform Triggering Activities on behalf of their employer.<sup>14</sup> That employer could be an Accounting Firm, or any other entity. An Accountant performing any Triggering Activities for any client in addition to, or outside of their regular employment relationship would still be subject to AML Legislation, in respect of those outside activities.

## 2.2 Definition of Triggering Activities

Generally, Triggering Activities involve dealing with client assets on their behalf. Dealing with client assets might involve actually conducting transactions on their behalf, or giving instructions to a party to conduct the transactions.<sup>15</sup> Exceptions and other considerations are explained in section 2.2.2.

There are three categories of Triggering Activities which are listed below with illustrative examples. These examples do not represent an exhaustive list of all possible Triggering Activity scenarios.

1. Receiving, Paying or Transferring Funds<sup>16,17</sup>
  - a. Your Accounting Firm performs bookkeeping services and has signing authority over the account of a not-for-profit organization client and pays invoices from that account on its behalf.

12 “Accounting services” is not defined in the PCMLTFR. In Alberta, the *Regulated Accounting Profession Act* paragraph 1(oo) defines “public accounting practice” to include the providing or offering to provide one or more of the following services to the public: (i) an assurance engagement; (ii) a specified auditing procedures engagement; (iii) a compilation engagement; (iv) accounting services; (v) forensic accounting, financial investigation or financial litigation support services; (vi) advice about or interpretation of taxation matters; (vii) preparation of a tax return or other statutory information filing, if prepared in conjunction with any service referred to in subclauses (i) to (vi).

13 PCMLTFR subsection 1(2).

14 PCMLTFR subsection 34(2).

15 The concept of “giving instructions” is explained in more detail in section 2.2.1.

16 PCMLTFR paragraphs 34(1)(a)(i)(iii).

17 “Funds” are defined in the PCMLTFR 1(2) as meaning “cash, currency or securities, or negotiable instruments or other financial instruments, in any form, that indicate a person’s or an entity’s title or interest in them”.

- b. A client issues a cheque to you as a sole practitioner Accountant in an amount equal to their income tax payable and your accounting fees. You then deposit the cheque and wire the income tax payable to the Canada Revenue Agency from your account.
  - c. A client instructs their vendor to settle their invoice by remitting funds to your Accounting Firm and then asks that your firm issues a cheque for the difference between the value of the wire and your outstanding fees.
  - d. A client requests assistance in transferring funds from a sanctioned country into Canada, in respect of which an Accountant arranges for Canadian accounts and wire transfers through intermediate countries.
- 2. Purchasing or Selling Real Property, Business Assets, or Entities<sup>18</sup>
  - a. The leader of the corporate finance group of your Accounting Firm travels to the U.S. to finalize the purchase of a business on behalf of their client.
  - b. Acting as the trustee for an estate, an Accountant instructs a real estate broker to sell a piece of land owned by the estate.
- 3. Purchasing, Transferring or Selling Securities<sup>19</sup>
  - a. An Accountant within your Accounting Firm has been engaged by the lawyer of a client without capacity to manage their investments, and exercises discretionary authority to buy and sell securities on their behalf.
  - b. As part of a tax restructuring engagement, an Accountant opens investment accounts in other countries on behalf of their clients and orders domestically-held securities transferred there.
  - c. In connection with a corporate reorganization, an Accountant documents and executes share transfers in a minute book on behalf of their client.

### 2.2.1 Giving Instructions Versus Giving Advice

An interpretation notice from FINTRAC<sup>20</sup> distinguishes the concept of “giving instructions”, which would constitute a Triggering Activity in respect of any of the three categories, from “giving advice”, which would not constitute a Triggering Activity. Giving instructions is synonymous with “ordering” a specific transaction in this context (e.g. “Based on my client’s instructions, I request that you transfer \$600 from my client’s account 12345 to his other

<sup>18</sup> PCMLTFR 34(1)(a)(ii)(iii).

<sup>19</sup> *Ibid.*

<sup>20</sup> See the Interpretation Notice No. 2 at Appendix D—FINTRAC Interpretation Notice No. 2.

account 67890"). Giving advice involves a recommendation to the client or their advisors rather than giving instructions to take action with respect to their assets (e.g. "For tax purposes, we recommend that you transfer your money into long-term investments").

### 2.2.2 Specified Exemptions and Considerations

Once it has been determined that you are an Accountant or an Accounting Firm that engages in Triggering Activities, AML Legislation is applicable unless one of three exemptions apply:

1. In the case of an Accountant, when all Triggering Activities are performed on behalf of an employer.
2. In the case of an Accountant or an Accounting firm, where all Triggering Activities are performed in respect of an audit, review or compilation engagement.
3. In the case of an Accountant or Accounting firm acting solely in the capacity of a Trustee in Bankruptcy.

Additionally, for risk and other legislative reasons, some Accounting Firms have incorporated a separate entity through which they conduct Triggering Activities. Those entities are typically subject to other provisions of the same AML Legislation.

#### 2.2.2.1 *Employment Relationship*

As mentioned earlier, an Accountant who performs Triggering Activities only for their employer is not subject to the AML Legislation. Triggering Activities performed by an Accountant outside of their employment relationship would not be exempted by this provision. An Accountant who both worked as full-time employee controller *and* maintained bookkeeping clients on whose behalf they transferred funds, would be covered by AML Legislation because of the latter activity, and only in respect of that latter activity.

#### 2.2.2.2 *Assurance Related Activities*

AML Legislation holds that what would otherwise constitute Triggering Activities do not subject an Accountant or an Accounting Firm to its obligations in cases where those activities are performed in respect of "audit, review or compilation engagements carried out in accordance with the recommendations set out in the CICA Handbook".<sup>21</sup> Given the nature and standards governing those types of engagements, it is unlikely in any event that any Triggering Activities would be performed in connection with them.

21 PCMLTFR subsection 34(3). Also refer to Footnote 51.

### 2.2.2.3 *Trustee in Bankruptcy Services*

FINTRAC issued an interpretation notice<sup>22</sup> advising that Accountants and Accounting Firms appointed by a Court, or acting solely as a trustee in bankruptcy, are not considered to be acting on behalf of any other individual or entity, and therefore, are not engaged in Triggering Activities.

Additionally, FINTRAC advised in the notice that practices that only provide the services listed below are not considered to be “providing accounting services to the public”, and therefore would not be considered to be an Accounting Firm subject to AML Legislation:

1. As a receiver, pursuant to the provisions of a Court order or by way of a private letter appointment pursuant to the terms of a security interest.
2. A trustee in bankruptcy.
3. As monitor under the provisions of the *Companies' Creditors Arrangement Act* or any other proceeding that results in the dissolution or restructuring of an enterprise or individual and to which the firm, individual or insolvency practitioner serves as an officer of the Court or agent to one or more creditors or the debtor.

Notwithstanding, a firm which provides any accounting services to the public outside of the scope of those three listed services will be deemed to be an Accounting Firm. An insolvency practice may, for instance, also perform restructuring and interim controller services outside of the context of an appointment which would bring their firm into the definition of an Accounting Firm. In that case, Triggering Activities performed by that practice, such as the sale of real property in the capacity of an interim controller, would subject them to the obligations of prevailing AML Legislation.

### 2.2.2.4 *Implications of Organizational Structure*

For risk management purposes and to comply with other legislation, it is common practice for Accounting Firms to incorporate separate entities—such as a corporate finance division—for activities that relate to purchasing or selling real property, business assets, entities or securities. If these entities do not offer accounting services to the public, then they would not be considered to be Accounting Firms and therefore not subject to AML Legislation on that basis. However, other obligations arise from AML Legislation for entities that are considered to be “securities dealers”<sup>23</sup> or real estate brokers. Firms that

22 See Interpretation Notice No. 7 at Appendix E—FINTRAC Interpretation Notice No. 7.

23 PCMLTFR subsection 1(2) defines “securities dealers” as being: a person or entity that is authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments or to provide portfolio management or investment advising services.



organize separate entities should comply with laws relevant to their activities, and take care not to provide or offer accounting services to the public from those entities.



#### 2.2.2.5 *A Note on Client Fees*



For clarity, Triggering Activities give rise to the obligations of AML Legislation whether or not professional fees are received for those activities.

Receiving payment for client fees does not in itself constitute a Triggering Activity as the funds are not received on behalf of a client—they are received on behalf of the firm itself. However, payments from clients where the amount is comprised of both fees and value for further payment to a third party, such as the Canada Revenue Agency, would be considered a Triggering Activity.


## 2.3 Questionnaires to Assist in Determining Applicability




### 2.3.1 Do I Have Obligations as an Accountant?

Question	Response	Comment/Direction
1. Are you a professionally designated Accountant (CPA, CA, CMA, CGA)?	Yes	Designated professional Accountants have responsibilities if they perform Triggering Activities.  Proceed to Question 2.
	No	Non-designated accountants do not have responsibilities to AML Legislation by virtue of being accountants.  
2. Do you perform transactions or give instructions for transactions that involve any of these Triggering Activities on behalf of a client (on a compensated or non-compensated basis)? a. Receiving, Paying or Transferring Funds b. Purchasing or Selling Real Property, Business Assets, or Entities c. Purchasing, Transferring or Selling Securities	Yes	Performing Triggering Activities gives rise to obligations defined in AML Legislation, unless exceptions apply.  Proceed to Question 3.
	No	If no Triggering Activities are performed or offered, no obligations arise from AML Legislation by virtue of being an Accountant.  

Question	Response	Comment/Direction
3. Are <b>all</b> Triggering Activities you perform or offer done so as part of your employment?	Yes	<p>If all Triggering Activities are performed in the course of an employment relationship, the obligations defined by AML Legislation are not applicable.</p> 
	No	<p>If any one Triggering Activity is performed outside of an employment relationship, obligations set out in AML Legislation are applicable, unless other exemptions apply.</p> <p>Proceed to Question 4.</p>
4. Are <b>all</b> Triggering Activities performed in connection with assurance engagements or as part of trustee in bankruptcy appointments?	Yes	<p>If all Triggering Activities are performed in connection with assurance engagements or as part of trustee in bankruptcy appointments, obligations defined by AML Legislation are not applicable.</p> 
	No	<p>If any one Triggering Activity is conducted that is not performed in connection with assurance engagements or as part of trustee in bankruptcy appointments, obligations defined by AML Legislation are applicable.</p> <p><b>LEGISLATION APPLICABLE</b></p>

### 2.3.2 Do We Have Obligations as an Accounting Firm?

Question	Response	Comment/Direction
1. Does your firm provide accounting services to the public?	Yes	An entity that provides <b>any</b> accounting services to the public may be considered an Accounting Firm if it has at least one partner, employee or administrator that is an Accountant. Note that insolvency related engagements that involve appointments as: receiver, trustee in bankruptcy, or as monitor under the provisions of the <i>Companies' Creditors Arrangement Act</i> are not considered to constitute accounting services.  Proceed to Question 2.
	No	An entity that does not provide <b>any</b> accounting services to the public is not considered to be an Accounting Firm, and therefore would not have obligations pursuant to AML Legislation on that basis.  
2. Is at least one of your entity's partners, employees or administrators a professionally designated Accountant (CPA, CA, CMA, CGA)?	Yes	Any entity that offers accounting services to the public and has at least one designated professional Accountant as a partner, employee or administrator is considered to be an Accounting Firm, and would have responsibilities if they perform Triggering Activities.  Proceed to Question 3.
	No	Any entity that offers accounting services to the public, but has no designated Accountant partners, employees or administrators, is not considered to be an Accounting Firm, and therefore would not be subject to AML Legislation obligations on that basis.

Question	Response	Comment/Direction
3. Does your firm perform transactions or give instructions for transactions that involve any of these Triggering Activities on behalf of a client (on a compensated or non-compensated basis)? a. Receiving, Paying or Transferring Funds b. Purchasing or Selling Real Property, Business Assets, or Entities c. Purchasing, Transferring or Selling Securities	Yes	Performing <b>any</b> Triggering Activity, for any fees or no fees, gives rise to obligations defined in AML Legislation, unless exceptions apply. Receiving client fees does not itself constitute a Triggering Activity.  Proceed to Question 4.
	No	If the firm performs no Triggering Activity, no obligations arise from AML Legislation by virtue of being an Accounting Firm.  
4. Are <b>all</b> Triggering Activities performed in connection with assurance engagements or as part of trustee in bankruptcy appointments?	Yes	If all Triggering Activities are performed in connection with assurance engagements or as part of trustee in bankruptcy appointments, obligations defined by AML Legislation are not applicable.  
	No	If any one Triggering Activity is conducted that is not performed in connection with assurance engagements or as part of trustee in bankruptcy appointments, obligations defined by AML Legislation are applicable.  

## 2.4 Determination of Triggering Activities in Larger Firms

Once it is determined that you are an Accountant or an Accounting Firm, there is an ongoing risk that you or your firm conducts a Triggering Activity (even if it is determined at a point in time that no Triggering Activity has occurred in the past or is not expected in the future). The engagement in one single Triggering Activity gives rise to the full scope of obligations under AML Legislation applicable to Accountants and Accounting firms, including training obligations, policies and procedures, risk assessments, etc. AML Legislation does not address the issue of how long obligations apply following an Accountant's or Accounting Firm's engagement in a single Triggering Activity.

Given the extent of effort required to maintain a Compliance Regime, and the significance of consequences for non-compliance, it is advisable that Accounting Firms direct resources to the determination of engagement in Triggering Activities across their firm at a point in time and then annually thereafter. A sole-practitioner Accountant may just complete the questionnaire provided above annually. At an Accounting Firm with less than ten partners, that determination may be limited to adding the item to the annual partner meeting agenda for discussion and declaration. At larger firms, education coupled with questionnaires, engagement checklists, and internal audit procedures may be more appropriate.

Some Accounting Firms have adopted a policy to prohibit engagement of Triggering Activities because of the risk and resource they entail, or to conduct them by authorized exception only. To satisfy examiners, those firms may wish to engage in an annual and documented self-assessment exercise to assess adherence to that prohibition policy. Even Accounting Firms that prohibit Triggering Activities or believe that they do not engage in such activities adopt a program to comply with AML Legislation in case Triggering Activities are inadvertently performed.

# CHAPTER 3

## What to Do if the Obligations Are Applicable

Accountants and Accounting Firms that engage in Triggering Activities are subject to the obligations of AML Legislation. Those obligations include the requirement to perform certain tasks when engaging in Triggering Activities that are associated with certain types of transactions, and to implement and maintain a program to ensure that those tasks are performed.

### 3.1 Required Tasks When Engaged in Triggering Activities

Being engaged in a Triggering Activity by itself does not trigger any required transaction-related tasks.<sup>24</sup> Certain tasks must be performed if engaged in a Triggering Activity **and** one or more of the following situations (or “Special Cases”) arise in connection with the Triggering Activity: the receipt of C\$3,000 or more;<sup>25</sup> the receipt of C\$10,000 or more in cash; reasonable grounds to suspect money laundering or terrorist financing; and, knowledge of terrorist property. The following table summarizes those situations and the associated task obligations.

24 Notwithstanding, engaging in any Triggering Activity gives rise to the obligation to implement and maintain a compliance program.

25 All amounts are expressed in Canadian dollars. Amounts received in foreign currencies must be translated to Canadian dollar equivalents using the official conversion rate of the Bank of Canada for that currency as published in the Bank of Canada's Daily Memorandum of Exchange Rates that is in effect at the time of the transaction to assess whether applicable thresholds have been met (PCMLTFR paragraph 2(a)).

Special Case	Receipt of Funds Record	Client Identification	Large Cash Transaction Report	Third Party Determination	Suspicious Transaction Report	Terrorist Property Report
Receiving funds of C\$3,000 or more (section 3.1.1)	•	•				
Receiving C\$10,000 or more in cash (section 3.1.2)	•	•	•	•		
Suspicious activity or transaction (section 3.1.3)		•			•	
Knowledge of terrorist property (section 3.1.4)						•

### 3.1.1 Receiving Funds of \$3,000 or More

If funds<sup>26</sup> of C\$3,000 or more are received by an Accountant or Accounting Firm in a single transaction in connection with a Triggering Activity, two task obligations are triggered:

1. Keep a receipt of funds record.
2. Identify the client from whom the funds are received.

Those funds might be received in respect of fees, or for any other reason connected with the Triggering Activity. AML legislation does not specify that the funds must be received from the client for which the Triggering Activity is being performed.

#### 3.1.1.1 Exemptions

The obligations noted do not apply if the funds are received from a client that is a financial entity<sup>27</sup> or a public body.<sup>28</sup>

26 "Funds" are defined in the PCMLTFR 1(2) as meaning "cash, currency or securities, or negotiable instruments or other financial instruments, in any form, that indicate a person's or an entity's title or interest in them."

27 "Financial Entity" means an authorized foreign bank, as defined in section 2 of the *Bank Act*, in respect of its business in Canada or a bank to which that Act applies, a cooperative credit society, savings and credit union or caisse populaire that is regulated by a provincial Act, an association that is regulated by the *Cooperative Credit Associations Act*, a financial services cooperative, a credit union central, a company to which the *Trust and Loan Companies Act* applies and a trust company or loan company regulated by a provincial Act. It includes a department or agent of Her Majesty in right of Canada or of a province when the department or agent is carrying out an activity referred to in section 45.

28 "Public Body" means (a) any department or agent of Her Majesty in right of Canada or of a province; (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them; and (c) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital authority under the *Excise Tax Act*, or any agent of such an organization.

If the funds received involve C\$10,000 or more in cash, a Large Cash Transaction Report should be completed, retained and filed with FINTRAC instead of producing a receipt of funds record (see section 3.1.2—Receiving funds of \$10,000 or More in Cash).

### **3.1.1.2**     *Receipt of Funds Record*

A sample receipt of funds record is shown in Appendix F—Sample Receipt of Funds Record. All fields on that form are mandatory. An Accountant or Accounting Firm may choose to maintain the information required in a receipt of funds record as part of its regular records (on paper or electronically in order that a paper copy can be readily produced from it),<sup>29</sup> as long as all information can be produced to FINTRAC within 30 days of a request.<sup>30</sup> The receipt of funds record must be retained for five years following the date of its creation. Receipt of funds records should not be filed with FINTRAC, however, their details might be subsequently referenced as necessary in Large Cash Transaction Reports (see section 3.1.2.4) or Suspicious Transaction Reports (section 3.1.3).

### **3.1.1.3**     *Client Identification*

Client identification must occur at or before the time of the transaction to which the receipt relates, although it should occur as soon as practical after being engaged to conduct a Triggering Activity. In instances where funds are received unexpectedly and without the client present, and where the client had not been previously identified, the Accountant or Accounting Firm should identify the client prior to processing or returning the funds (both to meet regulatory obligations and to establish ownership over the property).

The purpose of client identification is to verify the identity of the person (name, address and date of birth) with whom you are dealing, in the case of a natural person, and, in the case of an entity, to verify the existence of the entity with which you are dealing and to verify the identity of the individual who is dealing on its behalf (with reference to corporate/other entity documentation).

29 PCMLTFR subsection 68(a).

30 PCMLTFR section 70.



AML Legislation permits client identification to occur in the following ways:

1. For individuals (natural persons):
  - a. Face-to-face: If the client is met in person, AML Legislation permits Accountants and Accounting Firms to verify their identity with reference to one piece of original government-issued valid and unexpired identification. See Appendix G—Identification of Individuals in Person: Method and Form.
  - b. Non-Face-to-Face: When a client is identified remotely (i.e., they are not physically present when you inspect their original, valid, and unexpired piece of government-issued identification), AML Legislation permits reference to a combination of one necessary and one sufficient identification method. The necessary methods include reference to credit checks or an attestation by a limited class of professionals, and the acceptable sufficient identification methods generally include confirmation against a Canadian deposit account. See Appendix H—Identification of Individuals Non-Face-to-Face: Methods.
  - c. Using an Agent or Mandatary: It is possible to contract a third party to conduct face-to-face identification measures on your behalf (i.e. have a third party pre-contracted to verify the identity of a client with reference to one piece of original government-issued valid and unexpired identification. While the task can be delegated to an agent, the responsibility for client identification rests with the Accountant/Accounting Firm. See Appendix I—Identification of Individuals by Third Parties: Methods.

Individual client information records must be maintained for five years following the date on which they were created. It may be prudent to retain those records for a longer period in case of the need for subsequent reliance in other identification scenarios, and on account of other obligations and uses, while respecting privacy obligations.

2. For entities: Where an entity is the client for Triggering Activities, the Accountant or Accounting Firm must confirm the existence of the entity with reference to its incorporation records, organizing agreements, and retain a copy of the part of official corporate records that contains any provision relating to the power to bind the corporation. See

Appendix J— Confirming the Existence of an Entity. Information collected in respect of this obligation must be maintained for five years following the date the last business transaction is conducted.

Successful client identification need not be repeated for subsequent transactions if the Accountant/Accounting Firm recognizes the client.<sup>31</sup>

### **3.1.2 Receiving Funds of \$10,000 or More in Cash**

When you receive an amount of C\$10,000 or more in cash<sup>32</sup> over one or more transactions over 24 consecutive hours, in respect of a Triggering Activity, by, or on behalf of the same person or entity, you must (a) keep a large cash transaction record; (b) file a large cash transaction report with FINTRAC within 15 days; and (c) take reasonable measures to determine whether there is third party involvement.

While an Accountant or Accounting Firm might prohibit the acceptance of cash by policy or practice, cash may still be received inadvertently (by mail or otherwise). As a consequence, it is advisable to adopt a policy and procedure to deal with that eventuality. Some firms have adopted a policy whereby the sender will be invited to identify themselves to the firm in person and retrieve the funds intact within a certain number of days following receipt, and notified that the funds will be returned intact otherwise by the same method by which they were received. Depositing the funds into the Accountant's or Accounting Firm's account and then remitting them back to the sender may assist in achieving money laundering objectives, given the apparent legitimacy of payments received from an Accountant/Accounting Firm. It has been the administrative practice of FINTRAC that obligations described below still apply if the funds are returned, since the cash has been received.

#### **3.1.2.1 Exemptions**

The noted obligations do not apply if the funds are received from a client that is a financial entity or a public body.

#### **3.1.2.2 Client Identification**

Client identification must occur at or before the time the funds are received, although it should occur as soon as practical after being engaged to conduct a Triggering Activity. In instances where funds are received unexpectedly and without the client present, the Accountant or Accounting Firm should identify the client prior to processing or returning the funds (both to meet regulatory obligations and to establish ownership over the property).

31 FINTRAC's administrative position is that "recognizing the client" involves recognizing the face or voice of an individual.

32 "Cash" means coins or notes issued by the Bank of Canada or coins or bank notes of countries other than Canada.

The purpose of client identification is to verify the identity of the person (name, address and date of birth) with whom you are dealing, in the case of a natural person, and, in the case of an entity, to verify the existence of the entity with which you are dealing and to verify the identity of the individual who is dealing on its behalf (with reference to corporate/other entity documentation).

AML Legislation permits client identification to occur in the following ways:

1. For individuals (natural persons):
  - a. Face-to-face: If the client is met in person, AML Legislation permits Accountants and Accounting Firms to verify their identity with reference to one piece of original government-issued valid and unexpired identification. See Appendix G—Identification of Individuals in Person: Method and Form.
  - b. Non-Face-to-Face: When a client is identified remotely (i.e., they are not physically present when you inspect their original, valid, and unexpired piece of government-issued identification), AML Legislation permits reference to a combination of one necessary and one sufficient identification method. The necessary methods include reference to credit checks or an attestation by a limited class of professionals, and the acceptable sufficient identification methods generally include confirmation against a Canadian deposit account. See Appendix H—Identification of Individuals Non-Face-to-Face: Methods.
  - c. Using an Agent or Mandatary: It is possible to contract a third party to conduct face-to-face identification measures on your behalf (i.e., have a third party pre-contracted to verify the identity of a client with reference to one piece of original government-issued valid and unexpired identification). See Appendix I—Identification of Individuals by Third Parties: Methods.

Individual client information records must be maintained for five years following the date on which they were created.

2. For entities: Where an entity is the client for Triggering Activities, the Accountant or Accounting Firm must confirm the existence of the entity with reference to its incorporation records, organizing agreements, and retain a copy of the part of official corporate records that contains any provision relating to the power to bind the corporation. See

Appendix J—Confirming the Existence of an Entity. Information collected in respect of this obligation must be maintained for five years following the date the last business transaction is conducted.

Successful client identification need not be repeated for subsequent transactions if the Accountant/Accounting Firm recognizes the client.<sup>33</sup>

### **3.1.2.3 Third Party Determination**

Third party determination involves taking measures to confirm whether or not the person from whom the cash is received is acting on someone else's instructions, and then collecting details about that instructing party. The instructing party may be an individual or an entity. The required details include:

- name, address and principle business or occupation of the third party
- if the third party is an individual, their date of birth
- if the third party is a corporation, the incorporation number and place of incorporation
- the nature of the relationship between the third party and the individual who gives you the cash

This information can be recorded on the Large Cash Transaction Record, and must be maintained for five years following the transaction.

An employee is not considered to be a third party with respect to their employer.

### **3.1.2.4 Large Cash Transaction Record and Report**

AML Legislation requires that Accountants and Accounting Firms create a Large Cash Transaction Record and retain it for five years following the transaction, and also that they file a Large Cash Transaction Report with FINTRAC on paper or electronically within 15 days following the transaction. Client identification and third party determination should precede the completion of the record and report to obtain all necessary details (as long as those steps can be completed and the report filed within the 15 day timeline).

A sample of the Large Cash Transaction Report form is included in Appendix K—Large Cash Transaction Report Form.<sup>34</sup> All fields marked with an asterisk are mandatory fields. All other fields are “reasonable efforts” fields, which mean that they must be completed if the information is available to the Accountant or Accounting Firm. Maintaining a copy of the Large Cash

33 FINTRAC's administrative position is that “recognizing the client” involves recognizing the face or voice of an individual.

34 An electronic version can be obtained from FINTRAC's website by following this link: [www.fintrac.gc.ca/publications/LCTR-2008-eng.pdf](http://www.fintrac.gc.ca/publications/LCTR-2008-eng.pdf).

Transaction Report can serve as a Large Cash Transaction Record, since the mandatory fields of the report cover all the requirements of the record. Field-by-field guidance on completing the report is included after the sample in Appendix K—Large Cash Transaction Report Form.

A suspicious transaction report (explained in section 3.1.3) may also be filed in respect of the transactions reported as large cash transactions if circumstances warrant.

### **3.1.3 Suspicious Transaction or Activity**

Within 30 days of the detection of facts first giving rise to suspicion, Accountants and Accounting Firms must report electronically or on paper attempted and completed suspicious transactions which relate to Triggering Activities to FINTRAC using the prescribed forms. A sample form is included at Appendix L—Suspicious Transaction Report Form.<sup>35</sup> The occurrence of a suspicious transaction also gives rise to an obligation to take reasonable measures to ascertain the identity of a person that attempts or conducts the suspicious transaction unless that person had been previously identified according to the AML Legislation standards, or if conducting the identification would make the person aware that a report was being filed (known as “Tipping Off”).

#### **3.1.3.1 Establishing Reasonable Grounds for Suspicion**

According to AML Legislation, Accountants and Accounting Firms are required to report to FINTRAC, using the prescribed form, every financial transaction that occurs or is attempted in the course of Triggering Activities and in respect of which there are reasonable grounds to suspect that the transaction is related to the commission or the attempted commission of (a) a money laundering offence; or (b) terrorist activity financing offence.<sup>36</sup>

The offence of money laundering in Canada broadly involves a person who deals with property or proceeds of any property they know or believe was derived directly or indirectly as a result of a designated offence committed in Canada or elsewhere, with the intent to conceal or convert<sup>37</sup> that property or those proceeds.<sup>38</sup> Designated offences include all manner of offences that can generate proceeds and could result in jail sentences of two years or more (even murder for hire). Particularly, they include offences related to:

35 An electronic version can be obtained from FINTRAC's website by following this link: [www.fintrac.gc.ca/publications/STR-2008-eng.pdf](http://www.fintrac.gc.ca/publications/STR-2008-eng.pdf).

36 PCMLTFA section 7.

37 Convert means to change or transform, and does not require an element of concealment (R. v. Daoust, [2004] 1 SCR 217, 2004 SCC 6).

38 Criminal Code of Canada subsection 462.31.

drugs, fraud, theft, robbery, tax evasion, copyright, as well as break and enter. According to FINTRAC, the person reporting the transaction need not have knowledge or suspicion of the specific offence that gave rise to the proceeds, only reasonable grounds to suspect that reported transactions are related to money laundering or terrorist financing.<sup>39</sup>

The offence of terrorist financing generally involves providing or collecting property intending or knowing that it will be used in whole or in part to carry out a terrorist activity. Terrorist activity includes such things as acts committed for a political, religious, ideological purpose with the intention of intimidating the public with regard to economic or physical security, or compelling any person, government or international organization to do or to refrain from doing any act, and that intentionally causes or endangers health, property, services, facilities or systems.<sup>40</sup> The government maintains a list of entities they have reasonable grounds to believe have knowingly carried out, attempted to carry out, participated in or facilitated terrorist activity; or knowingly acting on behalf of such an entity.<sup>41</sup>

Research has found that the methods employed for money laundering and terrorist financing are similar.

Reasonable grounds to suspect has been held to be equivalent to a “sufficient reasonable articulable suspicion,”<sup>42</sup> which must rely on a “constellation of objectively discernible facts”.<sup>43</sup> A “hunch based on intuition gained by experience”<sup>44</sup> is not sufficient. The discernible facts can consist of information collected about the client, their historical and expected transaction behaviour, and research conducted. One way of identifying potentially suspicious transactions is to be vigilant about indicators of money laundering (see section 3.1.3.3) at the time of the transaction. Another is through the conduct of ongoing monitoring and enhanced due diligence of clients and their activities (discussed in section 3.2).

### **3.1.3.2 How Money is Laundered**

Money laundering methods are often described in three stages: placement, layering and integration. A money launderer’s first problem is typically placing cash into the financial system. The placement stage attracts the most

39 FINTRAC Frequently Asked Questions: [www.fintrac.gc.ca/questions/FAQ/2-eng.asp?ans=65](http://www.fintrac.gc.ca/questions/FAQ/2-eng.asp?ans=65).

40 Criminal Code of Canada section 2.

41 [www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx](http://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx)

42 R. v. Mann, [2004] 3 SCR 59, 2004 SCC 52.

43 R. v. Simpson (1993), 12 O.R. (3d) 182.

44 R. v. Mann, [2004] 3 SCR 59, 2004 SCC 52.

attention, and is the one at which most money laundering laws and risk mitigation tools are directed, and is therefore one of the hardest stages. Even if just this one stage is accomplished, money is laundered—since the proceeds of crime have been converted. Placement is so critical to money laundering because once nefariously generated funds are in the system, it becomes difficult to distinguish a good dollar from a bad dollar. Placement is sometimes accomplished by simply depositing illicitly generated funds at a financial institution, while others involve converting cash into commodities like gold and diamonds before selling them into the financial system.

More sophisticated schemes also try to create further distance and obscurity between that original transaction and the ultimate use of the money—ideally severing the audit trail, a process called layering. Layering might involve changing the domicile of money, or transferring it in ways that obscures the origin or destination of the funds. Integration is commonly known as the final stage of money laundering—it is the stage during which the proceeds of crime are used to buy assets or pay for further criminal operations. For a money launderer, it is ideal that the assets and payments funded by criminal activities have an alternative legitimate explanation for their origin.

The methods and techniques employed at any of those stages vary in complexity and sophistication and will depend on the jurisdiction, the origins and amount of money that needs to be cleaned. A report issued by the Egmont Group,<sup>45</sup> a worldwide association of Financial Intelligence Units, suggests five general categories of means by which money is laundered (known as “typologies”): Concealment within Business Structures; Misuse of Legitimate Businesses; Use of False Identities, Documents, or Straw Men; Exploiting International Jurisdictional Issues; and the Use of Anonymous Asset Types.

#### **3.1.3.2.1 *Concealment within Business Structures***

Money laundering schemes can involve concealing illicit proceeds of crime within the structure of an existing business owned or controlled by the criminal organization. The funds can be intermingled with legitimate transactions of the business and moved throughout the financial system. Detecting this type of activity is difficult as it may take great amounts of analysis to distinguish between legitimate business transactions and those above and beyond which would be from criminal activities. False invoices and receipts can be utilized to demonstrate to their financial institution that the transactions have in fact “occurred”. However, the funds being deposited are in fact proceeds of crime disguised as legitimate business profits.

45 FIU's in Action: 100 cases from the Egmont Group.

### **3.1.3.2.2 *Misuse of Legitimate Businesses***

A similar scheme is through legitimate businesses which are not controlled by the criminal organization. One advantage over the previous scheme is that this method provides additional separation for the criminal organization as the criminal funds would be linked to the legitimate business and not the criminals misusing the business. For instance, illicit funds may be deposited with a financial institution and transferred to an account held at a foreign financial institution.

### **3.1.3.2.3 *Use of False Identities, Documents, or Straw Men***

False identities, documents and “straw men” are another common method utilized to launder proceeds of crime. This involves separating the assets from a criminal and associating the funds with an individual who had no involvement with the initial criminal activity. For instance, false documents and identities can be used to open bank accounts and create a buffer between the criminal and the illicit funds. Even if the criminal is prosecuted and has all assets under their name seized, the assets held under a false identity will be available.

### **3.1.3.2.4 *Exploiting International Jurisdictional Issues***

On a larger scale, international jurisdictions are exploited for the benefit of laundering money. Criminals will take advantage of differing legislation in foreign jurisdictions to successfully launder illicit proceeds of crime. For instance, identification requirements, disclosure requirements, company formation laws and secrecy laws all provide avenues that are exploited for the benefit of disguising and laundering funds. In favourable jurisdictions, criminals can open bank accounts, form corporations and send funds with ease and secrecy and, therefore, distort the true source and ownership of the illicit funds.

### **3.1.3.2.5 *Use of Anonymous Asset Types***

Similarly, the use of anonymous asset types allows criminals to separate the ownership of the assets from themselves and any law enforcement actions related to those assets. Cash, jewellery and precious metals are all anonymous asset types favoured by criminals. This explains the prevalence of conducting drug trafficking in cash as opposed to other payment methods which can be traced back to the criminal.

### **3.1.3.3 *Indicators of Money Laundering and Terrorist Financing***

In its Guideline 2 in respect to suspicious transaction reports, FINTRAC provides a number of indicators about which Accountants and Accounting Firms should be vigilant.<sup>46</sup> The presence of an indicator is one factor which may lead to the consideration of a suspicious transaction report, but by itself is

46 [www.fintrac.gc.ca/publications/guide/Guide2/2-eng.asp](http://www.fintrac.gc.ca/publications/guide/Guide2/2-eng.asp)



not definitive. Contextual information about the client, the transaction(s) and historical behaviour will assist in determining whether there are sufficient grounds to suspect the transactions are relevant to a money laundering or terrorist financing offence.

- Client appears to be living beyond his or her means.
- Client has cheques inconsistent with sales (i.e., unusual payments from unlikely sources).
- Client has a history of changing bookkeepers or accountants yearly.
- Client is uncertain about location of company records.
- Company carries non-existent or satisfied debt that is continually shown as current on financial statements.
- Company has no employees, which is unusual for the type of business.
- Company is paying unusual consultant fees to offshore companies.
- Company records consistently reflect sales at less than cost, thus putting the company into a loss position, but the company continues without reasonable explanation of the continued loss.
- Company shareholder loans are not consistent with business activity.
- Examination of source documents shows misstatements of business activity that cannot be readily traced through the company books.
- Company makes large payments to subsidiaries or similarly controlled companies that are not within the normal course of business.
- Company acquires large personal and consumer assets (i.e., boats, luxury automobiles, personal residences and cottages) when this type of transaction is inconsistent with the ordinary business practice of the client or the practice of that particular industry.
- Company is invoiced by organizations located in a country that does not have adequate money laundering laws and is known as a highly secretive banking and corporate tax haven.

#### **3.1.3.4 Tipping Off**

It is an offence to disclose that a suspicious transaction report has been filed, or to disclose the content of such a report, with the intent to prejudice a criminal investigation, whether or not a criminal investigation has begun.<sup>47</sup> However, it is common practice in other industries for reporting entities to request clarifying information about transactions for the purpose of enhanced due diligence, without reference to suspicious transaction reporting obligations.

<sup>47</sup> PCMLTFA section 8.

### 3.1.3.5 *Client Identification*

The occurrence of a suspicious transaction gives rise to an obligation to take reasonable measures to ascertain the identity of a person that attempts or conducts the suspicious transaction unless that person has been previously identified according to the AML Legislation standards. Identification should not be attempted if that attempt risks tipping off the client to the consideration or filing of a report. The policy of conducting identification at the engagement stage for a Triggering Activity helps to alleviate both the need to identify following a suspicious transaction and the risk that doing so will tip off a client to the filing of a report.

The purpose of client identification is to verify the identity of the person (name, address and date of birth) with whom you are dealing, in the case of a natural person, and, in the case of an entity, to verify the existence of the entity with which you are dealing and to verify the identity of the individual who is dealing on its behalf (with reference to corporate/other entity documentation).

AML Legislation permits client identification to occur in the following ways:

1. For individuals (natural persons):
  - a. Face-to-face: If the client is met in person, AML Legislation permits Accountants and Accounting Firms to verify their identity with reference to one piece of original government-issued valid and unexpired identification. See Appendix G—Identification of Individuals in Person: Method and Form.
  - b. Non-Face-to-Face: When a client is identified remotely (i.e., they are not physically present when you inspect their original, valid, and unexpired piece of government-issued identification), AML Legislation permits reference to a combination of one necessary and one sufficient identification method. The necessary methods include reference to credit checks or an attestation by a limited class of professionals, and the acceptable sufficient identification methods generally include confirmation against a Canadian deposit account. See Appendix H—Identification of Individuals Non-Face-to-Face: Methods.
  - c. Using an Agent or Mandatary: It is possible to contract a third party to conduct face-to-face identification measures on your behalf (i.e., have a third party pre-contracted to verify the identity of a client with

reference to one piece of original government-issued valid and unexpired identification). See Appendix I—Identification of Individuals by Third Parties: Methods.

Individual client information records must be maintained for five years following the date on which they were created.

2. For entities: Where an entity is the client for Triggering Activities, the Accountant or Accounting Firm must confirm the existence of the entity with reference to its incorporation records, organizing agreements, and retain a copy of the part of official corporate records that contains any provision relating to the power to bind the corporation. See Appendix J—Confirming the Existence of an Entity. Information collected in respect of this obligation must be maintained for five years following the date the last business transaction is conducted.

#### **3.1.3.6 *Completing the Suspicious Transaction Record and Report***

Completed and attempted suspicious transactions can be reported to FINTRAC either electronically, if the Accountant/Accounting Firm has the technical capability to do so, or, otherwise, in paper format. A copy of the paper form is attached in Appendix L—Suspicious Transaction Report Form along with field-by-field guidance on completing the report. A copy must be retained for five years following the transaction(s), and filed with FINTRAC within 30 days of the detection of facts first giving rise to suspicion. All fields marked with an asterisk are mandatory fields. All other fields are “reasonable efforts” fields, which mean that they must be completed if the information is available to the Accountant or Accounting Firm.

Maintaining a copy of the Suspicious Transaction Report can serve as a Suspicious Transaction Record, since the mandatory fields of the report cover all the requirements of the record.

Client identification, if possible, should precede the completion of the record and report to obtain all necessary details (so long as those steps can be completed and the report filed within the 30 day timeline).

FINTRAC has identified the suspicious transaction narrative portion of the report (known as section G) as being the most critical to their intelligence objectives. In addition to detailing reasons for suspicion, FINTRAC desires these information elements in the narrative: the names of individuals and entities involved in transactions; directorships and signing authorities for business entities; account numbers and other key identifiers (e.g., date of birth,

government-issued ID, addresses, telephone numbers); the flow of funds; historical transaction activity; and associated entities and individuals and relationships between them (e.g., family members, business associates).<sup>48</sup>

### **3.1.4 Knowledge of Terrorist Property**

In the context of performing Triggering Activities, Accountants and Accounting Firms are required to report to FINTRAC using the prescribed paper form without delay when they know they are in possession or control of property that is owned or controlled on behalf of a terrorist or terrorist group, and when they believe they are in possession or control of property that is owned or controlled by or on behalf of a designated person. It is an offence to deal with such property, and imperative that it be reported without delay to the RCMP and the Canadian Security Intelligence Service (CSIS). AML Legislation does not impose a duty on Accountants or Accounting Firms to screen the names of their Triggering Activities clients against terrorist lists. An Accountant or Accounting Firm may, for example, become aware of such a situation because of research conducted during engagement acceptance procedures, through press clippings, or based on the advice of law enforcement.

If the Accountant or Accounting Firm is not sure that the property is owned or controlled on behalf of a terrorist, terrorist group or designated person, FINTRAC encourages the filing of a suspicious transaction report (see section 3.1.3) instead of a terrorist property report.

#### **3.1.4.1 Terrorists, Terrorist Groups, and Designated Persons**

Canada's listings of terrorists, terrorist groups, and designated persons are available on the Public Safety Canada website ([www.publicsafety.gc.ca/cnt/ntnl-scr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx](http://www.publicsafety.gc.ca/cnt/ntnl-scr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx)) and from the Office of the Superintendent of Financial Institutions' website ([www.osfi-bsif.gc.ca/Eng/fi-if/amlc-clrpc/atf-fat/Pages/default.aspx](http://www.osfi-bsif.gc.ca/Eng/fi-if/amlc-clrpc/atf-fat/Pages/default.aspx)).

#### **3.1.4.2 Definition of Property**

Property means any type of real or personal property which includes any deed or instrument giving title or right to property, or giving right to money or goods (for example, cash, bank accounts, insurance policies, money orders, real estate, securities, precious metals and stones, and traveler's cheques).

48 FINTRAC Feedback on Suspicious Transaction Reporting.

### **3.1.4.3 Filing a Terrorist Property Report**

The Terrorist Property Form included as Appendix M—Terrorist Property Form<sup>49</sup> must be filed with FINTRAC without delay by faxing it to 1.866.226.2346. A copy must be retained for five years following the transaction, and it is advisable to maintain a record of successful transmission of the fax. Instructions to complete the form are included on the pages following the form. All fields marked with an asterisk are mandatory fields. All other fields are “reasonable efforts” fields, which mean that they must be completed if the information is available to the Accountant or Accounting Firm.

### **3.1.4.4 Advising the RCMP and CSIS**

Concurrent with the filing of a terrorist property report, the Accountant or Accounting Firm must send the information to the RCMP and CSIS without delay. That may be accomplished by faxing the completed terrorist property report to the RCMP Anti-Terrorist Financing Team at 613.949.3113 and to the CSIS Financing Unit at 613.231.0266. It is advisable to maintain a record of the successful transmission of both faxes.

## **3.2 Ongoing Monitoring of Triggering Activity Business Relationships**

Pursuant to regulatory amendments known as SOR/2013-15, Accountants and Accounting Firms must recognize the establishment of a “business relationship” with any client for which two or more Triggering Activities are performed and client identification is required after January 31, 2014, within any rolling five year period. That is, a business relationship is established for every client for which two or more transactions occur involving the creation of a receipt of funds record and a large cash or suspicious transaction report is filed within any rolling five year period. The establishment of a business relationship gives rise to the immediate obligation to keep a record that sets out the “purpose and intended nature of the business relationship”, and then the ongoing obligations to periodically monitor the business relationship, on a risk-sensitive basis, for the purpose of:

1. Detecting any reportable suspicious transactions or attempted suspicious transactions.
2. Keeping client identification information up-to-date.
3. Reassessing the level of risk associated with the client's transactions and activities.

<sup>49</sup> An electronic version can be obtained from FINTRAC's website by following this link: [www.fintrac.gc.ca/publications/TPR-2008-eng.pdf](http://www.fintrac.gc.ca/publications/TPR-2008-eng.pdf).

4. Determining whether transactions or activities are consistent with the information obtained about the client, including the risk assessment of the client.

All of the measures and the definition of purpose and intended nature of the business relationship are with reference only to Triggering Activities. Non-Triggering Activities (such as the performance of an audit engagement) are to be excluded from the analysis.

Measures undertaken to conduct ongoing monitoring, as well as findings and outcomes, must be documented. Ideally, all ongoing monitoring for any given client is conducted on the same cycle to achieve efficiencies.

### **3.2.1 Defining the Purpose and Intended Nature of a Business Relationship**

In FINTRAC's Guideline 6D, a non-exhaustive list of three potential "Purpose and Intended Nature of Business Relationship" descriptions is suggested:

- transferring funds or securities
- paying or receiving funds on behalf of a client
- purchasing or selling assets or entities

The Purpose and Intended Nature of Business Relationship must be recorded in a Business Relationship Record created at the inception of the business relationship. FINTRAC guidance suggests that the information recorded is meant to assist in understanding the client's activities over time, and that a determination could be achieved through a combination of information on hand and inquiries of the client. In professional accounting scenarios, the engagement letter typically documents the client's objectives (purpose of the business relationship) and services to be offered (nature of the business relationship). It is critical that policies and procedures reflect the adoption of that information source for the determination if that is the approach taken by the Accountant or Accounting Firm.

### **3.2.2 Ongoing Monitoring: Detecting Suspicious Transactions and Assessing Consistency of Transactions with Client Knowledge and Risk**

An ongoing monitoring exercise to detect suspicious transactions for a client with which an Accountant or Accounting Firm has established a business relationship for Triggering Activities would generally involve a historical review of Triggering Activities conducted in the period under the review. The review frequency and scope would depend on the assessment of the client's risk, and should be documented. Triggering Activity transactions would generally

be compared against expectations and in view of suspicious transaction indicators, for a perspective that might not have arisen for consideration of each Triggering Activity transaction in isolation.

### **3.2.3 Ongoing Monitoring: Keeping Client Identification Information Up-To-Date**

Keeping client identification up-to-date for clients with which the Accountant or Accounting Firm has established a business relationship must occur with a frequency commensurate with the client's money laundering risk. Updating client information does not involve re-identifying the client—re-identification should generally occur only when the veracity of identification is in question, or when a client is not recognized in the course of a transaction attempt. Client information updates, rather, involve re-confirming and updating information regarding client identification which might change over time, such as legal name, address and occupation. The measures taken and outcomes must be documented contemporaneously.

### **3.2.4 Ongoing Monitoring: Reassessing Client Risk Levels**

As explained in the section titled 3.3.2 *Risk Assessment and Mitigation*, client risk levels are determined with reference to their characteristics, products and services, relevant geographies and other relevant factors. Through ongoing monitoring with a frequency determined by the pre-existing risk level, client risk is re-evaluated against risk factors established by the Accountant or Accounting Firm. Based upon a review of the client's activities and transactions and the updated client information, it may result in a higher or lower risk assessment for the client. For instance, if the client has reduced the amount of activity and their transactions have become less frequent, all else being equal, their risk level may be reduced to low from medium. The opposite is also true where based on a change in client information and activity, the level of risk can be raised from low to medium or high. The rationale for changes to the risk level should reflect the risk assessment methodology established when the risk assessment documentation was created.

### 3.3 Implementing and Maintaining a Program to Ensure Performance of Compliance Tasks

AML Legislation requires that Accountants and Accounting Firms implement and keep an up-to-date program to achieve compliance with required tasks. The Compliance Regime is comprised of five mandatory components:

1. a designated compliance officer
2. an inherent risk assessment and risk mitigation plan
3. policies and procedures
4. an ongoing training program
5. an effectiveness review

#### 3.3.1 Designated Compliance Officer

As part of the Compliance Regime, you are required to appoint a person who is responsible for the implementation of the Compliance Regime. The Compliance Officer has an overall accountability for the Compliance Regime. The person that is appointed the role of the Compliance Officer should be adequately qualified and maintain relevant anti-money laundering and counter terrorist financing knowledge.

##### 3.3.1.1 *Sample Role Description of a Compliance Officer*

- The Compliance Officer is to ensure that the AML policies and procedures are kept up-to-date and that all changes are approved by Senior Management and the Board of Directors.
- The Compliance Officer is to ensure that the risk-based training program is documented and tailored to meet the AML roles and responsibilities of different staff.
- The Compliance Officer is to ensure that the effectiveness review of the organization's Compliance Regime will be conducted at least every two years.
- The Compliance Officer is to conduct an assessment of the inherent risk of money laundering and terrorist financing on an ongoing basis.
- The Compliance Officer should understand and monitor the effectiveness of the technology used to enable AML compliance to ensure that transactional alerts and regulatory reports generated are accurate, complete and reflect the actual operations of the organization.



### **3.3.1.2 Sample Qualifications of a Compliance Officer**

The person that is appointed the role of the Compliance Officer should be adequately qualified and maintain relevant anti-money laundering and counter terrorist financing knowledge. The Compliance Officer should have the following:

- Thorough working knowledge of money laundering and counter terrorist financing risks and controls of the organization.
- Knowledge of the anti-money laundering and counter terrorist financing regulatory requirements.
- Broad knowledge of the operations of the organization.
- Appropriate professional qualifications, experience and strong leadership skills.

The appointment of the Compliance Officer, and any changes to that appointment, should be formally documented.

## **3.3.2 Risk Assessment and Mitigation**

### **3.3.2.1 Accountants and Accounting Firms' Risk of Money Laundering/Terrorist Financing**

Accountants are considered “gatekeepers” of the financial system. Gatekeepers, as defined by the Financial Action Task Force (FATF), are individuals that protect the gates to the financial system through which potential users of the system, including launderers, must pass in order to be successful.

According to studies conducted by international organizations, accountants are highly susceptible to money laundering risk and have been exploited by money launderers, with and without the accountant's knowledge of the illicit operations or objectives. Money launderers increasingly rely on the advice or services of specialized professionals to help facilitate their financial operations. Accountants have specific skills and expertise and can provide specialized services, advice and access to industry insiders.

Accountants provide a wide range of services that are most useful to potential money launderers. These services include:

- buying and selling real estate
- management of client money, securities or other assets
- management of bank, savings or securities accounts
- organization of contributions for the creating, operation or management of companies
- creation, operation or management of legal person or arrangements, and buying and selling of business entities

According to the *Global Money Laundering and Terrorist Financing Threat Assessment* published by the FATF in 2010, the most significant cases involved sophisticated schemes that were only possible with the assistance of skilled professionals that were able to set up corporate structures to disguise the source and ownership of the money.

### **3.3.2.2 Requirement for a Risk Assessment**

Accountants and Accounting Firms are obligated to include in their Compliance Regimes the conduct and documentation of a money laundering and terrorist financing risk assessment, and to adopt measures which mitigate identified risks.

Risk assessment requirements are prescribed at subsection 9.6(2) of the PCMLTFA, and paragraph 71(1)(c) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR). Those provisions require that Accountants and Accounting Firms assess and document the risk (likelihood and significance) of money laundering or terrorist financing activity occurring in the course of their activities. It must take into account the organization's:

1. clients and business relationships
2. products and delivery channels
3. geographic location of activities
4. other relevant factors

Neither the FATF nor FINTRAC advocate a particular method or format for risk assessments, but expect that the risk-based approach will lead to greater diversity in practice which can lead to innovation and improved compliance.

The PCMLTFA at subsection 9.6(3) and the PCMLTFR at section 71.1 require that prescribed special measures be taken for higher risk activities, including policies and procedures for periodic client identification updates, ongoing monitoring for the purpose of detecting suspicious transactions, and others that mitigate identified risks.

Ultimately, risk assessments should lead to controls designed to make it more difficult for criminal elements to use Accountants and Accounting Firms to launder their illicit proceeds.

### **3.3.2.3 Risk Assessment Process**

The risk assessment process is a consultative process throughout the organization which allows for a thorough understanding of the business structure along with all areas of risk. The first step in the risk assessment process is identifying where within your organization Triggering Activities are being

conducted and classifying those activities into the correct category. For instance, the business consulting team at an Accounting Firm may purchase and sell businesses on behalf of their clients. To determine what activities are being conducted can involve interviews with partners or service line leads to obtain an adequate understanding of the business to determine if Qualifying Activities are being conducted or could be conducted in the future. A questionnaire can be used if the organization is large with offices across the country. Once it has been determined where the activities are being conducted and which specific ones they are, a risk rating can be completed on each specific Qualifying Activity.

FINTRAC guidance provides assistance with the risk rating process and allows for objective classification using established criteria. For instance, services that allow for client anonymity are recommended to be rated as high risk services. This criterion can be applied to Triggering Activities because it is not a requirement to identify a client unless they have provided funds of \$3,000 and above, conducted a large cash transaction or conducted/attempted a suspicious transaction. Therefore, any Triggering Activity that does not involve a trigger for ascertaining identification may be classified as high risk. This example is meant as a guide and, in practice, many other factors can be considered in the risk rating process of all products and services.

Regardless of the risk rating, it is important to provide rationale for the rating and to ensure that the reasons provided are reasonable. The level of risk associated to each Triggering Activity will determine if any additional enhanced due diligence needs to be taken. For activities deemed to be low or medium risk, it is not a requirement to have enhanced due diligence measures, but if the risk of the activity is high, enhanced due diligence measures are mandatory. In the example above, if the transaction is conducted without requiring identification and it is deemed high risk, additional enhanced due diligence measures should be documented and conducted.

#### **3.3.2.4 Risk Assessment**

The Compliance Regime is to include a documented risk assessment of the risk of money laundering and the terrorist financing offence. The risk assessment involves assessing and documenting the risks, taking into consideration the following risk categories:

##### **3.3.2.4.1 Clients and business relationships**

This factor should fully explain all clients that you are dealing with and it should consider the nature of the relationship with the clients. It is about understanding your clients and the types of activities and transactions that

they normally conduct. The nature of the relationships should consider things such as the length of the relationship and how the client was acquired or introduced. Certain client industries are considered a higher risk of money laundering and/or terrorist financing such as cash-intensive businesses, and these elements should be considered within the risk of each client. For instance, the risk level of a client with a convoluted legal structure based in a known client offshore secrecy jurisdiction would, all else being equal, be a higher risk client than an individual client engaged in a personal tax return service. It is recommended that a list of low, medium and high risk business types be created that can be used objectively for all future clients. The same process is recommended for occupation types.

#### **3.3.2.4.2 *Products and delivery channels***

Elements to consider within this factor include itemizing all products and services that are offered and assessing the risk of money laundering and/or terrorist financing associated with each specific product and service. For instance, the risk associated with a short tax engagement may be lower than the risk of an extensive investment advisory engagement spanning several years. The delivery channels through which products and services are offered also need to be analyzed within this risk factor. Specifically, you need to consider how the products and services are actually delivered to your clients. For instance, are all clients serviced through face-to-face meetings or are there any offerings available through non-face-to-face methods. The risk of having non-face-to-face delivery methods would, all else being equal, be higher than face-to-face as the ability to disguise identification becomes easier with the increase in distance between the service/product supplier and the client. It is recommended that a list of all products and services be created along with their associated risk. Any products or services that are determined to be a high risk of money laundering and/or terrorist financing would require your organization to document enhanced due diligence measures when those products or services are offered.

#### **3.3.2.4.3 *Geographic location of the activities***

It is important to consider the geographic locations in which your organization operates in addition to the geographic location of your clients. Specific to area of operations, the level of detail may be as high-level as a breakdown by province or as granular as an office-by-office risk assessment. The crime level and prevalence of specific criminal activities are elements to consider when completing the assessment of geographic risk of your operations. As well, the same framework will guide your organization in assessing the geographic

location of your clients. However, the geographic location of the client may be included in their specific risk assessment. It is recommended that a risk scoring be done on all office locations to rank them according to risk.

#### **3.3.2.4.4 Any other relevant factor**

Within this “catch-all” remaining factor, things to consider include all elements outside of the first three factors. For instance, what is the level of turnover within your organization? Is there a restriction placed on staff members before they successfully complete AML training? The risk of money laundering and/or terrorist financing will increase for these elements if the turnover is high and there are no restrictions to staff responsibilities prior to completing training. It is recommended that for staff working in areas more prone to money laundering and/or terrorist financing risks, restrictions or oversight be placed upon their day-to-day activities until such a time as their training has been successfully completed.

#### **3.3.2.4.5 Risk Mitigation**

The purpose of the risk assessment is to apply a risk-based approach where resources are appropriately allocated to address high risk areas. The risk assessment should also include risk mitigation measures. This means that where you have identified areas of high risk, you have to take special measures to mitigate the risks to a level to which you are comfortable.

The AML Legislation prescribes special measures that are to be applied for identified areas of high risk, also known as enhanced due diligence measures. These measures can be specific to the prescribed factor or can be applied directly to the clients if they are deemed high risk.

### **3.3.3 Enhanced Due Diligence and Ongoing Monitoring**

Where a client conducts a transaction that requires you to identify them, there are specific AML obligations that require you to conduct ongoing monitoring. Where you have identified a client to be high risk, you must also conduct enhanced due diligence measures to mitigate those risks.

Where you have identified the client to be high risk based on your ongoing monitoring, you must apply enhanced due diligence measures to mitigate the risk. The AML Legislation prescribes specific enhanced due diligence measures that are to be applied where there are high risk clients. This includes applying the following:

- Taking enhanced measures to ascertain client identification that are in addition to the standard client identification requirements.

- Taking any other enhanced measures to mitigate the identified risks including:
  - keeping client identification information and beneficial ownership information up-to-date
  - enhanced ongoing monitoring of business relationships for the purpose of detecting suspicious transactions to be reported to FINTRAC

### **Enhanced Due Diligence—Client Specific**

The following enhanced due diligence measures can be utilized for high risk clients:

- Requiring that only an acceptable **photo** identification be accepted when required to ascertain the client's identification.
- Requiring a second piece of identification when required to ascertain the client's identification.
- Confirming the address of the client by requesting affirming documentation such as a utility bill or cable bill with a matching name.
- Confirming the occupation by requesting affirming documentation such as an employment letter or recent pay stub to confirm the current occupation.
- When dealing with an entity:
  - requiring that a status of corporation be provided instead of articles of incorporation to ensure the corporation is still active
  - ascertaining the identification of all directors or authorized signers of the entity
  - confirming the entity's operations by conducting a physical drive-by of the premises
  - asking for beneficial ownership information on all clients
- Reviewing the client's activity on a pre-determined frequency, such as every six months or annually, for any suspicious transactions.
- Internet searches for any negative news matches on individual clients or directors/signing officers from an entity client.
- Checking names against a reputable names list such as World-Check for potential Politically Exposed Foreign Persons (PEFP) upon the creation of an engagement.
- Extending the PEFP determination to include any domestic positions.

### **Enhanced Due Diligence—Products, Services, Delivery Channels, Geographical**

The following enhanced due diligence measures can be utilized for high risk factors:

- For geographical areas ranked high risk, require secondary approval of all transactions.
- Prohibiting certain transactions if the client is domiciled in a high risk geographical area.
- Requesting source of funds/source of wealth documentation for clients in high risk areas.
- Requesting additional identification when offering products or services deemed high risk.

Ultimately the enhanced due diligence taken is a measure that goes above and beyond what is required for regular transactions to satisfy standard legislative requirements. It should be noted that a combination of measures may be used depending on the specific situation and when warranted.

## **3.3.4 Policies and Procedures**

Accountants and Accounting Firms are required to have written and up-to-date compliance policies and procedures in support of the Compliance Regime. The compliance policies and procedures should document applicable legislative requirements and the organization's procedures to satisfy those requirements. Procedures should also include those that were developed as part of the risk-based approach program.

The compliance policies and procedures should be approved by a Senior Officer and kept up to date, taking into consideration:

- changes to AML legislative requirements
- changes to internal processes and procedures
- changes in products and services that have an effect on AML requirements (for example, new services that will trigger a qualifying activity)
- changes in organizational structures that could affect reporting procedures

### **3.3.4.1 Minimum Policies**

Considering the parameters and organization of AML Legislation in respect to Accountants and Accounting Firms, we would expect that, at a minimum, the policies listed below would form part of their compliance program. In the immediately following section, we have listed expected headers in a set of policies and procedures for an Accountant or Accounting Firm.

#### **3.3.4.1.1 General Policies**

- “We will identify all Qualifying Activities as they occur within our organization.”
- Definitions of Qualifying Activities along with explanations of where within the organization such activities are being conducted.

#### **3.3.4.1.2 Reporting**

- “All large cash transactions will be reported to FINTRAC within 15 calendar days of receipt whether received at one time or within 24 hours.”
- “All suspicious transactions, whether completed or attempted, will be reported to FINTRAC within 30 days of suspicion.”
- A listing of all suspicious transaction indicators which will lead to reporting.
- “Any terrorist property will be reported to FINTRAC immediately upon knowing.”

#### **3.3.4.1.3 Record Keeping**

- “All required records will be documented and stored for at least five years.”
- “All records will be stored in such a way that allows for their retrieval within 30 days of notice by FINTRAC.”
- “A receipt of funds record will be kept for every transaction where we accept \$3,000 or more from a client.”
- “A large cash transaction record will be kept for every transaction where we accept \$10,000 or more in cash from a client, whether at one time or within 24 hours.”
- “Copies of official corporate records will be kept for all transactions that require the confirmation of the existence of a corporation.”
- “All suspicious transaction reports will be stored on file.”

#### **3.3.4.1.4 Ascertaining Identification**

- “When a large cash transaction is conducted, the identity of the conductor will be ascertained.”
- “All clients who are the subject of suspicious transactions will have their identification ascertained except when doing so would tip off the client that a suspicious report is being sent to FINTRAC.”
- “When a receipt of funds record is created, the client’s identification will be ascertained and if the individual is acting on behalf of an entity, the entity’s existence will also be confirmed.”



#### 3.3.4.1.5 *Third Party Determination*

- “For every large cash transaction, a third party determination will be made and if there is a third party connected to the transaction, a record will be kept documenting their details.”

#### 3.3.4.2 *Sample List of Policies and Procedure Headings*

Policies and Procedures need to include all legislative requirements under the PCMLTFA and be specific to your organization. The factors below can be used to determine the framework of a complete set of Policies and Procedures.

- Policy Statement
  - *Objective*—explains the objective of the policy.
  - *Responsibility*—explains who is responsible for the compliance program.
  - *Background* (including relevant legislative requirements and guidance)—provides a summary of legislation that is applicable to the document.
  - *Policy application*—explains to whom the policies are applicable.
- Procedures
  - *Responsibilities*—explanation of all accountable parties.
  - *Appointment of Compliance Officer*—statement explaining how the appointment is made and who is the current compliance officer.
  - *Procedure Application*—explains to whom the procedures are applicable.
  - *Foreign Currency Translation*—explanation of how transactions in a foreign currency will be treated.
- Compliance Operations
  - *Identifying Triggering Activities*—explanation of how these activities will be found in the organization.
  - *Receipt of funds of \$3,000 or more*—explains the record keeping and ascertaining identification steps taken when these occur.
  - *Receipt of cash of \$10,000 or more*—explains the record keeping, ascertaining identification and reporting steps taken when these occur.
  - *Completed and Attempted Suspicious Transactions*—explains how these transactions are initially detected and the measures taken when they are detected.

- *Terrorist Property Reports*—explains the process for determining if property is held and the steps taken when a positive match is found.
- *Business Relationship Establishment and Ongoing Monitoring*—explains the concept and what measures are taken to satisfy the requirements.
- *Enhanced Due Diligence*—establishes the measures taken and when they would be applicable.
- Risk-Based Approach
  - *Responsibility and Application*—explains who is accountable for this and how it applies.
  - *Risk Assessment*—includes the four prescribed factors and classifies all areas into a specific risk category.
  - *Risk Mitigation*—explains the enhanced due diligence measures taken for areas deemed to be high risk.
- Training Program
  - *Responsibility and Application*—explains who this applies to and the person/team accountable for this program.
  - *Program Content*—summarizes the training material.
- Effectiveness Review
  - *Responsibility and Application*—explains who is accountable for this program component.
  - *Requirements*—explains the methodology and frequency that will apply.

### 3.3.5 Ongoing Training Program

If you have employees, agents or other persons authorized to act on the company's behalf, you must develop and maintain a written ongoing compliance training program for those employees, agents or persons.

#### 3.3.5.1 Who Must Take the AML Training?

- Anyone who interacts with clients.
- Anyone who sees client transaction activities.
- Anyone who handles cash or funds in any way.
- Anyone who is responsible for implementing or overseeing the Compliance Regime.

### **3.3.5.2 What Should Be Included in the Ongoing Training Program?**

The ongoing compliance training program is required to be in writing. Although the AML Legislation does not state what specifically is to be included in the written training program, there are certain expectations of what the ongoing training program should cover. Below are sample headings to include in the ongoing training program:

- content of training material
- how training is to be delivered
- frequency of training
- how training is to be tracked and documented
- who is to receive training
- new hire training and any restrictions on their responsibilities prior to completion of training
- how to address individuals that were not present for training

The actual content of the training program should focus on the areas of greatest importance, and would ideally be role-specific. In an Accounting Firm, the most important concept to teach all staff members is the definition of a Triggering Activity and how to recognize one when it occurs. This key piece of information is a prerequisite to all requirements that come as a result of the Triggering Activity being conducted and should be understood by all staff at your organization. The various indicators of suspicious transactions should be taught to all staff as well. Staff members are the first line of defense in regards to flagging suspicious transactions to the compliance team and being aware of what types of transactions to flag will go a long way in the goal of having an effective Compliance Regime. Finally, the training material should also include a step-by-step process for all staff upon receiving funds for an engagement that includes Triggering Activities. These three areas are a must for all staff to understand and should be expanded on depending on the specific role that the staff member has at your organization.

### **3.3.5.3 Sample Training Schedule**

A training schedule shows that you have ongoing training in place. It also provides a summary of your ongoing training program that can be used to manage internal resources when it comes to training. The training schedule should align with your ongoing training program and indicate who is to receive training and when training is to roll out. It is important to ensure that the material provided to staff is in context to their role within the organization. The following is a sample training schedule. It is recommended that the date of each training effort be documented.

Type of Staff	Identifying Triggering Activities	Ascertaining Identification and Record Keeping	Money Laundering Methods and Detection	Reporting Transactions	FINTRAC Exam Process
Leadership	Annual		Annual		
Compliance Administrators	Annual	Annual	Annual	Annual	Annual
Professional Staff	Annual	Bi-Annual	Annual	Bi-Annual	
Administrators	Annual	Annual	Annual	Annual	

### 3.3.6 Effectiveness Review

Accountants and Accounting Firms are required to have an effectiveness review done every two years. The review can be conducted by your internal or external auditor or by you or the firm if you do not have an auditor.

*Important Note: The effectiveness review should be reported to a Senior Officer within 30 days after the assessment and is to include:*

- *The findings of the review.*
- *Any updates made to the policies and procedures based on the assessment.*
- *The status of the implementation of the updates that were made to those policies and procedures.*

#### 3.3.6.1 What Does the Effectiveness Review Cover?

The effectiveness review is a documented review of the effectiveness of the following areas of the Compliance Regime:

- policies and procedures
- risk assessment
- training program

The review must be documented into a report that includes information about the methodology that was used to conduct the review; the scope of the review; what was reviewed; and the findings. When testing the effectiveness of each specific Compliance Regime element above, there are several factors to consider.

Within the Policies and Procedures, testing the effectiveness should include:

- Checking for the presence of all legislative requirements within the document and that they include a policy statement.
- Checking for the presence of specific procedures that satisfy each policy statement.
- Verifying that the procedures are actually being adhered to by staff on a consistent basis throughout the organization.
- Reviewing documentation such as client information records and transaction records to test the procedures.
- Reviewing reported transactions such as LCTRs and STRs to verify the timing and quality component.

The Risk Assessment can be tested in a similar method except the verification process would be tailored with different documentation reviews:

- Checking for the presence of all four prescribed factors within the risk assessment documentation.
- Checking for the presence of inherently low, medium and high risk factors and analyzing whether the risk rankings are current and accurate to the organization.
- Checking for the presence of policy statements related to the risk-based approach specific to high risk areas that require mitigation measures.
- Testing high risk areas through a review of client information and transactions to verify whether the risk mitigation measures have been followed.
- Reviewing reported STRs and any transactions flagged as unusual to verify the process specific to high risk clients.

The Training Program is tested for effectiveness through several measures including:

- Comparing the training material against the specific recipient role within the organization to test the applicability.
- Testing whether all applicable staff are receiving training and whether any gaps exist through a comparison of current and past employees against a training tracking sheet.
- Reviewing any testing materials in place to ensure that appropriate questioning is being used.
- Checking staff quiz/test scores to test the process of adequate retention of material.
- Interviewing staff to test their understanding and retention of training material along with the practical applicability of the material specific to their role.

3.3.6.2 *Sample Scope*

The effectiveness review should include the scope of the review that takes into account the required component of the Compliance Regime. Below is a sample scope that can be used to ensure that all components are being covered in the effectiveness review:

Required Components	Scope	Items to Test
Policies and Procedures	Document Evaluation	AML Policies and Procedures
	Operational Evaluation	Client identification records FINTRAC reports Receipt of funds records
Risk Assessment	Document Evaluation	Risk assessment document <ul style="list-style-type: none"><li>Procedures/methodology of risk assessment</li><li>Procedures on enhanced due diligence for high risk clients</li><li>Documented risk assessment of organization</li></ul>
	Operational Evaluation	High risk clients Application of enhanced due diligence Monitoring processes
Training Program	Document Evaluation	Ongoing training program Training materials
	Operational Evaluation	Training log Interviews with staff to test knowledge of AML

Included in Appendix N—Self-Review Checklist is a checklist against which an Accountant or Accounting Firm can evaluate their progress towards an effective compliance program.



# CHAPTER 4

## AML and Privacy Obligations

In Canada, Accountants and Accounting Firms have both AML and privacy obligations. One of the privacy principles is to “minimize collection.” This means Accountants and Accounting Firms must only collect personal information that you need.

The AML Legislation requires certain information to be collected by reporting entities and prescribes certain measures for “Know Your Client” (KYC) and “Customer Due Diligence” (CDD). These measures align with privacy principles as the information that is required is for KYC purposes.

### 4.1 Summary of KYC/CDD Requirements

KYC/CDD Requirements	Not Required for KYC/CDD
<ul style="list-style-type: none"><li>• Identification information (type of identification document, identification reference number, place of issue)</li><li>• Occupation information</li><li>• Date of birth</li><li>• Address</li></ul>	<ul style="list-style-type: none"><li>• Copy of the identification document</li><li>• The inclusion of your client's Social Insurance Number in a report to FINTRAC</li></ul>

### 4.2 Where AML and Privacy Get Complicated

The AML legislation requires that reporting entities apply a risk-based approach. This means that resources are allocated to areas of high risk in order to mitigate the risks. Based on the risk assessment that is required to be conducted and documented by all reporting entities, clients that have been identified as a high risk for money laundering or a terrorist financing offence should be subjected to enhanced due diligence (EDD) measures. However, the AML Legislation is not prescriptive when it comes to defining EDD measures.



### 4.3 What Does the AML Legislation Say About EDD Measures?

The AML Legislation requires enhanced measures be applied and prescribes certain measures that should be included as part of EDD. The Legislation also states that “any other enhanced measures” are to be applied to mitigate the risks. This allows reporting entities to apply their own controls, on top of the prescribed EDD.

### 4.4 What Is Required for EDD Measures?

When applying “other enhanced measures” for high risk clients, it is important that these measures be defined in the compliance policies and procedures and that these measures are clearly articulated with documented reasoning for collecting additional information.

### 4.5 What Information Should Be Documented?

1. Rationale—For collecting information that is in addition to the standard request.
2. Process—What information is to be collected for EDD, when EDD is to be applied, and when and how information is to be collected.

The Privacy Commissioner of Canada has issued two publications about privacy obligations and the PCMLTFA, a guide for point of service workers ([www.priv.gc.ca/information/pub/faqs\\_pcmltfa\\_02\\_e.asp](http://www.priv.gc.ca/information/pub/faqs_pcmltfa_02_e.asp)), and a questions and answers page ([www.priv.gc.ca/information/pub/faqs\\_pcmltfa\\_01\\_e.asp#001](http://www.priv.gc.ca/information/pub/faqs_pcmltfa_01_e.asp#001)).

*Important Notes: Remember that it is acceptable to let the client know that the information that you are asking for is required under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, unless disclosing this would tip off the client about a completed or attempted suspicious transaction report.*

## CHAPTER 5

# Interactions with Other Reporting Entities

There are several things to keep in mind when you are dealing with other reporting entities. All reporting entities, as defined in the AML Legislation, have specific AML obligations that are unique to their type of entity, as with Accountants and Accounting Firms. In the course of your interactions with other financial entities, when you are conducting services on behalf of your clients, you may be called upon to provide other information based on the activities of your clients.

Be aware that AML obligations require that reporting entities are adequately identifying their clients, understanding their clients' activities and are applying a risk based approach to their clients' activities. Information that may be requested will have to do with complying with these obligations.



## CHAPTER 6

# FINTRAC Examinations

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is Canada's financial intelligence unit. It is an independent agency that was established to ensure compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA). The PCMLTFA allows FINTRAC to conduct examinations on reporting entities.

The exam involves a review of records and inquiries into the business for the purpose of ensuring compliance with the AML Legislation.

### 6.1 FINTRAC's Powers

FINTRAC examinations are legislated under section 62(1) of the PCMLTFA. It specifically states that "An authorized person may, from time to time, examine the records and inquire into the business and affairs of any person or entity referred to in section 5 for the purposes of ensuring compliance with Part 1..."

This power includes allowing an authorized person to enter any premises where there are records related to the business and access any computer system to examine any data and to reproduce those records. Authorized persons would be FINTRAC Compliance Officers who have been authorized by the Director to ensuring compliance under the legislation. In section 62(2) of the PCMLTFA, it explicitly states that reasonable assistance shall be given to authorized persons.

### 6.2 How to Prepare

FINTRAC may select you or your firm to conduct a compliance exam. These exams are to ensure that you are complying with the PCMLTFA and its enacted Regulations. When you receive confirmation from FINTRAC that

they will be conducting an exam, there are a few points to keep in mind. The FINTRAC Compliance Officer will call and explain the process after notification of a compliance examination. A notification letter will be received shortly after the initial conversation outlining what documentation FINTRAC will require. Before receiving the letter, it is suggested that all compliance documentation be assembled and a review of past FINTRAC interactions be completed. The logistics of the examination should be finalized to ensure all documentation is assembled as quickly as possible and that sufficient staff is available to answer any regulator questions. A room should be set aside for FINTRAC staff if they are coming to the premises and a photocopier should be made available for their use. Here are some additional things to keep in mind if you are having a FINTRAC compliance examination:

- Be aware of the deadlines that are noted in the letter from FINTRAC.
- If uncertain of any process, do not hesitate to call the FINTRAC Officer conducting the exam.
- Provide all documents and transactions that are listed in the letter from FINTRAC.
- Answer all questions calmly and honestly. Have resources available on hand during the exam.

### 6.3 What to Expect

The following list provides a summary of the exam process that you can expect during the exam.

1. Notification of Exam: You will receive a call from FINTRAC notifying that they will be conducting a compliance exam. The call may include questions regarding your "Triggering Activities."
2. Information Request: Following the call, FINTRAC will send a letter requesting specific information.

*Important Note: You have 30 days from the date of the letter to provide all the information to FINTRAC.*

3. Date of Exam: The letter will also indicate the date when they will be conducting the exam. This can be either via conference call or on-site.

4. Exam: During the exam, FINTRAC will be asking the Compliance Officer specific questions. These questions can range from the following about your organization:
  - general business information
  - compliance regime
  - AML policies and procedures
  - risk assessment
  - ongoing training program
  - effectiveness compliance review
  - receipt of funds transactions
5. Exit Interview: At the end of the exam, FINTRAC will summarize deficiencies that were noted from the exam. They will also mention that a letter summarizing the deficiencies will be sent to you. Any questions stemming from deficiencies should be asked at this time including obtaining suggestions on how best to remedy all deficiencies.

## 6.4 Follow Up

After FINTRAC's exam, you should expect to receive a letter from FINTRAC summarizing all deficiencies found during the exam. The language of the letter will clearly communicate the expectations that FINTRAC has from you in addition to any further actions being considered by FINTRAC. An action plan should be developed and implemented internally to rectify all deficiencies in a timely manner. At a later date, FINTRAC may decide to conduct a follow-up exam to ensure that you have addressed the deficiencies and have implemented your action plan. Therefore, it is important that you follow your action plan and that you document what has been done to address those deficiencies.

The consequences of non-compliance vary from minor such as the issuance of a findings letter asking for continued cooperation to the severe with the issuance of a monetary penalty and a public naming summarizing all areas of non-compliance. The penalty amounts can be quite severe and it is not uncommon to see penalties in the six figure range. When egregious non-compliance has been observed by FINTRAC, the findings letter will explicitly state that administrative monetary penalties (AMPs) are being considered. Regardless of the decision, FINTRAC will send additional correspondence notifying your organization of their final decision. Should no AMP be pursued, the letter will state that fact explicitly. However if, FINTRAC decides to pursue an AMP based on its analysis, a notice of violation will be issued to your organization.

If a notice of violation is received, your organization has several options available. Paying the penalty would close the proceedings and result in an admission of all violations from the non-compliance, and give FINTRAC the right to publically report the penalty in most cases. Another option is to appeal the penalty directly with FINTRAC's Director by providing explanations or arguments for any or all violations cited. This involves a secondary review of all violations to determine if any of the reasons within the appeal are reasonable. However, the request for a review must be in writing and submitted within 30 days of receiving the notice of violation. If this appeal is unsuccessful, a second appeal can be made to the Federal Court. It is prudent to obtain legal advice and professional AML assistance to help manage responses and appeals.

*Important Note: Always document your progress. Documentation is important when it comes to showing FINTRAC that you are complying with the AML Legislation and that you have addressed those deficiencies as stated in your action plan letter to FINTRAC.*

## 6.5 Compliance Assessment Report

All reporting entities, including Accountants and Accounting Firms, may be asked by FINTRAC to complete a compliance assessment report (CAR). The CAR is essentially a questionnaire which attempts to obtain a high level overview of your organization's operations and if applicable, current level of compliance. The first section of the questionnaire will ask questions related to your scale of operations including financial information. The next section will ask questions regarding Qualifying Activities to determine whether your organization is subject to the PCMLTFA. If the response to the Qualifying Activities questions is positive, the remainder of the questionnaire will be specific to your legislative obligations and whether a Compliance Regime has been developed and implemented. It is important to answer these questions truthfully as FINTRAC relies on this to populate their understanding of your organization and may contact your organization in the future to verify any information. If any part of the CAR is not fully understood, it is recommended that your organization contacts FINTRAC for clarification.

## CHAPTER 7

# Appendix A — Canada's AML Legislation

### 7.1 Provenance

Canada is a founding member of the Financial Action Task Force (FATF), the international standard setting body for anti-money laundering and anti-terrorist financing activities. The objective of the FATF is to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

As a member of the FATF, Canada has made a political commitment to implement the FATF Recommendations that includes implementing measures to ensure that the financial institutions and intermediaries are adequately able to identify their customers; to understand their activities; and to conduct ongoing scrutiny of customers' activities.

The PCMLTFA and its enacted Regulations sets out Canada's AML regime whereby designated financial and non-financial entities that provide access to Canada's financial system are obligated to comply with these standards.

### 7.2 Purpose

The objective of the PCMLTFA is to implement specific measures to detect and deter money laundering and the financing of terrorist activities and to facilitate the investigation and prosecution of money laundering offences and terrorist activity financing offences.



Canada’s AML regime was developed to respond to the threat posed by organized crime by providing law enforcement officials with the resources they need and to assist Canada in fulfilling its international commitment in protecting the integrity of the international financial system.

7.3

Players

There are a wide range of players that are part of Canada’s AML regime. They range from individuals to entities and from federal departments to international entities. Below is summary of the players:

Who has reporting requirements to FINTRAC?	<div>Reporting Entities:</div> <ul style="list-style-type: none"><li>• financial institutions</li><li>• life insurance companies and life insurance brokers or agents</li><li>• legal counsel and legal firms</li><li>• securities dealers</li><li>• money service businesses</li><li>• Accountants and Accounting Firms</li><li>• British Columbia notaries</li><li>• real estate brokers, sales representatives and developers</li><li>• dealers in precious metals and stones</li><li>• casinos</li></ul> <div>Entities that may also report:</div> <ul style="list-style-type: none"><li>• public</li><li>• federal agencies (e.g. Canada Border Services Agency, Canada Revenue Agency, Canadian Security Intelligence Service)</li><li>• foreign financial intelligence units</li></ul>
What is FINTRAC?	<div>All reporting entities have reporting requirements to FINTRAC.</div> <div>FINTRAC is Canada’s financial intelligence unit and is responsible for the overall supervision of reporting entities to determine compliance with Canada’s AML regime.</div> <div>FINTRAC reports to the Department of Finance and is overseen by the following departments:</div> <ul style="list-style-type: none"><li>• Office of the Privacy Commissioner of Canada</li><li>• Office of the Auditor General of Canada</li></ul>

Who does FINTRAC share information with?	<p>FINTRAC may disclose information if it has reasonable grounds to suspect that the information would be relevant to an investigation or prosecution of a money laundering or terrorist activity financing offence, or relevant to threats to the security of Canada.</p> <p>The following is a list of agencies FINTRAC may disclose information to:</p> <ul style="list-style-type: none"> <li>• law enforcement</li> <li>• Canadian Security Intelligence Service</li> <li>• Canada Revenue Agency</li> <li>• Canada Border Services Agency</li> <li>• foreign financial intelligence units</li> </ul>
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## 7.4 Penalties and Criminal Fines for Non-Compliance

FINTRAC has legislative authority to issue criminal and administrative penalties against the entity and other persons where non-compliance has been identified.

### Administrative Monetary Penalty (AMPs)

AMPs allow for a measured and proportionate response to particular instances of non-compliance. Violations are classified as follows:

Classification	Penalty
Minor	Carries maximum penalties up to \$1,000
Serious	Carries maximum penalties up to \$100,000
Very Serious	Carries maximum penalties up to \$500,000

Penalties are determined in relation to the degree at which the violation obstructs the ability to detect and deter money laundering and terrorist activities.

### Criminal Penalties

FINTRAC may disclose cases of non-compliance to law enforcement when there is excessive non-compliance or little expectation of immediate or future compliance. Criminal penalties include:

- Failure to report suspicious transactions: up to \$2 million and/or five years imprisonment.
- Failure to report a large cash transaction: up to \$500,000 for the first offence, and \$1 million for subsequent offences.
- Failure to meet record keeping requirements: up to \$500,000 and/or five years imprisonment.

- Failure to provide assistance or provide information during compliance investigation: up to \$500,000 and/or five years imprisonment.
- Disclosing a fact that a suspicious transaction report was made, or disclosing contents or the report, with the intent to prejudice a criminal investigation: up to two years imprisonment.

## CHAPTER 8

# Appendix B— Links to FINTRAC Guidance<sup>50</sup>

FINTRAC Guidelines for the accounting sector are divided into separate sections specific to the subject matter. The following Guidelines are applicable to Accountants and Accounting Firms:

Guideline 1—Backgrounder:

[www.fintrac-canafe.gc.ca/publications/guide/Guide1/1-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide1/1-eng.asp)

Guideline 2—Suspicious Transactions:

[www.fintrac-canafe.gc.ca/publications/guide/Guide2/2-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide2/2-eng.asp)

Guideline 3A—Submitting Suspicious Transaction Reports to FINTRAC Electronically:

[www.fintrac-canafe.gc.ca/publications/guide/Guide3A/str-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide3A/str-eng.asp)

Guideline 3B—Submitting Suspicious Transaction Reports to FINTRAC by Paper:

[www.fintrac-canafe.gc.ca/publications/guide/Guide3B/3b-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide3B/3b-eng.asp)

Guideline 4—Implementation of a Compliance Regime:

[www.fintrac-canafe.gc.ca/publications/guide/Guide4/4-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide4/4-eng.asp)

Guideline 5—Submitting Terrorist Property Reports:

[www.fintrac-canafe.gc.ca/publications/guide/Guide5/5-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide5/5-eng.asp)

Guideline 6—Record Keeping and Client Identification:

[www.fintrac-canafe.gc.ca/publications/guide/Guide6/6-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide6/6-eng.asp)

<sup>50</sup> Please note that the information on FINTRAC's website is subject to change and is not intended to replace the PCMLTFA and associated Regulations.

Guideline 7A — Submitting Large Cash Transaction Reports to FINTRAC Electronically:

[www.fintrac-canafe.gc.ca/publications/guide/Guide7A/lctr-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide7A/lctr-eng.asp)

Guideline 7B — Submitting Large Cash Transaction Reports to FINTRAC by Paper:

[www.fintrac-canafe.gc.ca/publications/guide/Guide7B/7b-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide7B/7b-eng.asp)

Please note that the Guidelines are periodically updated to reflect any changes in the legislation or any significant guidance that FINTRAC issues.

## CHAPTER 9

# Appendix C— Summary of Changes Effective February 1, 2014

Regulatory amendments known as SOR/2013-15 were published on January 31, 2013 in the *Canada Gazette* (<http://gazette.gc.ca/rp-pr/p2/2013/2013-02-13/html/sor-dors15-eng.html>) with an effective date of February 1, 2014. They have created new requirements for Accountants and Accounting Firms which have been incorporated into this guidance that include:

1. The requirement to recognize the establishment of a “business relationship” with clients for which a first Triggering Activity is performed following the effective date of the amendments, and to document the “purpose and intended nature of the business relationship.”
2. The requirement to conduct and document “ongoing monitoring” measures in respect of all business relationships established following the effective date of the amendments for the purpose of:
  - Detecting reportable transactions.
  - Keeping client identification up-to-date.
  - Re-assessing the level of risk associated with the client’s transactions and activities.
  - Determining if the transactions and activities are consistent with the information received from the client (including the “purpose and intended nature of the business relationship”).







publications

Multimedia

Frequently asked questions

Careers

Giving instructions versus providing advice

When you **give instructions** for any of the above-mentioned activities, it means that you actually direct the movement of funds. By contrast, when you **provide advice** to your clients, it means that you make recommendations or suggestions to them. Providing advice is not considered to be giving instructions.

**Example of giving instructions:** "Based on my client's instructions, I request that you transfer \$15,000 from my client's account, account number XXX, to account number YYY at Bank X in Country Z."

**Example of providing advice:** "For tax purposes, we recommend that you transfer your money into a certain investment vehicle."

For more information about the requirements applicable to accountants and accounting firms, see the series of guidelines prepared by FINTRAC.

Date Modified: 2011-09-20

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CHAPTER 11

# Appendix E— FINTRAC Interpretation Notice No. 7


Source: [www.fintrac-canafe.gc.ca/publications/FINS/2011-02-17-eng.asp](http://www.fintrac-canafe.gc.ca/publications/FINS/2011-02-17-eng.asp)



Financial Transactions and Reports  
Analysis Centre of Canada



Centre d'analyse des opérations  
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**FINTRAC Interpretation Notice no. 7**

February 17, 2011

**Insolvency Practitioners Providing Trustee in Bankruptcy Services**

Paragraph 5(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and subsections 34(1), sections 35 and 36 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*.

The purpose of this notice is to clarify the application of the PCMLTFA relating to insolvency practitioners offering bankruptcy services.

Insolvency practitioners provide trustee in bankruptcy services. These services are not triggering activities for any obligations under the PCMLTFA. Trustee in bankruptcy services or insolvency practitioners are not covered as services or as an entity under our legislation. However, if you are an insolvency practitioner and you are an accountant or an accounting firm, you may have obligations relating to other activities.

**Insolvency practitioners who are accountants:**


If you are an individual accountant or an accounting firm offering trustee in bankruptcy services or acting as an insolvency practitioner, you may have obligations under the PCMLTFA if you engage in certain triggering activities other than bankruptcy services. However, as explained above, bankruptcy services you provide as an insolvency practitioner, including acting as a trustee in bankruptcy, do not fall within the triggering activities under our legislation.

**Definition of accountants**

An accountant means a chartered accountant, a certified general accountant or a certified management accountant. An accounting firm means an entity that provides accounting services to the public that has at least one partner, employee or administrator that is an accountant.

<a href="#">Multimedia</a> <a href="#">Frequently asked questions</a> <a href="#">Careers</a>	<p>In this context, if you are an insolvency practitioner, whether a chartered insolvency and restructuring professional or otherwise, you would not be considered to be "providing accounting services to the public" if you only provide such services as follows:</p> <ul style="list-style-type: none"> <li>• As receiver, pursuant to the provisions of a Court order or by way of a private letter appointment pursuant to the terms of a security interest;</li> <li>• As trustee in bankruptcy;</li> <li>• As monitor under the provisions of the Companies' Creditors Arrangement Act or any other proceeding that results in the dissolution or restructuring of an enterprise or individual and to which the firm, individual or insolvency practitioner serves as an officer of the Court or agent to a creditor(s) or the debtor.</li> </ul> <p><b>Triggering activities for accountants</b></p> <p>If you are an accountant or an accounting firm, as explained above, you have obligations under the PCMLTFA if you engage in any of the following activities on behalf of any individual or entity (other than your employer) or give instructions in respect of those activities on behalf of any individual or entity (other than your employer):</p> <ul style="list-style-type: none"> <li>• receiving or paying funds;</li> <li>• purchasing or selling securities, real property or business assets or interests; or</li> <li>• transferring funds or securities by any means.</li> </ul> <p>In this context, an accountant or an accounting firm appointed by a Court, or acting as a trustee in bankruptcy, is not considered to be acting on behalf of any other individual or entity.</p> <p>Obligations under the PCMLTFA, as referred to throughout this interpretation notice, include reporting, client identification, record keeping, and implementing a compliance regime. For more information about these, see FINTRAC's guidelines.</p>
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Date Modified: 2011-09-20


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# **CHAPTER 12** Appendix F— Sample Receipt of Funds Record

RECEIPT OF FUNDS RECORD					
The following information must be collected, retained and recorded for each prescribed transaction where the organization receives funds with a value of CAD 3,000 or more in any form from a client in respect of Triggering Activities.					
INFORMATION ON THE INDIVIDUAL FROM WHOM YOU RECEIVED THE FUNDS					
Last Name			First Name		
Street Address				Apartment/Unit #	
City	Prov.		Postal Code		
Date of Birth	Nature of Principal Business or Occupation				
TRANSACTION INFORMATION					
Transaction Date		Amount		Currency	
Purpose, Details and Type of Transaction			Other Persons or Entities Involved		
If funds were received in cash, how the cash was received					
IF AN ACCOUNT WAS AFFECTED BY THE TRANSACTION					
Account #			Type of Account		
Accountholder's Full Name			Currency of Transaction		
ENTITY INFORMATION, IF APPLICABLE					
Name of Entity			Nature of Principal Business		
Street Address			Apartment/Unit #		
City	Prov.		Postal Code		
If the receipt of funds record is about a corporation, you also need to keep a copy of the part of the official corporate records showing the provisions relating to the power to bind the corporation regarding the transaction.					

## Instructions on completing the Receipt of Funds Record

Information on the person providing the funds should be included on this form and be as specific as possible. Specifically:

- The address should be their physical location and not a PO Box.
- The occupation should be as specific as possible and should avoid vague occupations such as “self-employed,” “consultant” and “import export.”
- The purpose of the transaction should explain the whole transaction such as “received funds from client to wire.”
- If the funds are in cash form, this should be explained using such wording as “in person” “mailed” or “courier.”
- The sections on accounts would be applicable if the funds were received in a form other than cash. For instance, if the client gave you a cheque, the account information related to that cheque should be recorded.
- The section on entity information would be applicable if the client is not an individual. In that case, information on the individual conducting the transaction on behalf of the entity and the information on the entity would both be required.

If the client is an entity that is incorporated, a copy of their record that binds them to the transaction needs to be kept.

## CHAPTER 13

# Appendix G— Identification of Individuals in Person: Method and Form

### 13.1 Requirements

A client's identification must be ascertained when any of the following occur as part of an engagement for which Triggering Activities have occurred.

- receipt of funds of \$3,000 or above
- large cash transaction
- suspicious transaction (completed or attempted)

When dealing with an entity, both the entity and the individual conducting the transaction on the entity's behalf must be identified.

### 13.2 Method

Face-to-face client identification means that you can physically meet the client and can refer to their identification document. For an identification document to be valid, it must include the following:

- Not be prohibited by provincial or territorial legislation for identification purposes.
- Must have a unique identifier number.
- Must have been issued by a provincial, territorial or federal government.
- Cannot have been expired.
- Must be an original and not a copy of the document.

Some examples of identification documents that FINTRAC has provided include:

- Insurance Corporation of British Columbia
- Alberta Registries
- Saskatchewan Government Insurance
- Department of Service Nova Scotia and Municipal Relations
- Department of Transportation and Public Works of the Province of Prince Edward Island
- Service New Brunswick
- Department of Government Services and Lands of the Province of Newfoundland and Labrador
- Department of Transportation of the Northwest Territories
- Department of Community Government and Transportation of the Territory of Nunavut

**What information needs to be collected when referring to the identification document?**

When you refer to a client's identification document, you must keep a record of the following information:

- The type of identification document.
- The reference number on the identification document.
- The place of issue of the identification document.

You do not need to take a copy of the identification document, as long as you keep the required information about the identification document.

### 13.3 Form

Collect the following information for each individual (personal) client or for individuals who can authorize a transaction on behalf of the entity.

Acceptable identification must be an original (not a copy), valid (not expired), bear a unique reference number and be issued by a provincial, federal or similar government.

The name and address information here must match the identification documents and the address must be a physical address and not a PO Box or general delivery address.

Last Name			First		
Home Address				Apartment/Unit #	
City		Prov.		Postal Code	
Date of Birth		Occupation			
ID Type		<input type="checkbox"/> Driver's License		<input type="checkbox"/> Passport	
		<input type="checkbox"/> Other (Specify)			
ID number			Place of issue		
			(Province or Country)		

#### EXAMPLES OF ACCEPTABLE IDENTIFICATION DOCUMENTS

- Insurance Corporation of British Columbia
- Alberta Registries
- Saskatchewan Government Insurance
- Department of Service Nova Scotia and Municipal Relations
- Department of Transportation and Public Works of the Province of Prince Edward Island
- Service New Brunswick
- Department of Government Services and Lands of the Province of Newfoundland and Labrador
- Department of Transportation of the Northwest Territories
- Department of Community Government and Transportation of the Territory of Nunavut





## CHAPTER 14

# Appendix H— Identification of Individuals Non-Face-to-Face: Methods

### 14.1 Requirements

A client's identification must be ascertained when any of the following occur as part of an engagement for which Triggering Activities have occurred.

- receipt of funds of \$3,000 or above
- large cash transaction
- suspicious transaction (completed or attempted)

When dealing with an entity, both the entity and the individual conducting the transaction on the entity's behalf must be identified.

### 14.2 Methods

If you are unable to identify a client face-to-face, there are prescribed non-face-to-face methods that can be used. Non-face-to-face identification involves a combination method that gives you the option of selecting two of the following five options.

1. Identification Product Method: Refer to an independent and reliable identification product that is based on personal information and Canadian credit history about the individual of at least six months duration.
2. Credit File Method: With the individual's permission, refer to a credit file. The credit file must have been in existence for at least six months.

3. Attestation Method: Obtain an attestation that an original identification document for the individual has been seen by a commissioner of oaths or a guarantor.
4. Cleared Cheque Method: Confirm that a cheque drawn on a deposit account that the individual has with a financial entity has cleared.
5. Deposit Account Method: Confirm that the individual has a deposit account with a financial entity. This requirement would be specific to an account held with a Canadian financial institution and it must be a deposit account (e.g., a chequing or savings account and not a credit card account). To confirm that a client has a deposit account, you can either receive confirmation from the financial institution or ask your client for a copy of their deposit account statement (paper or electronic versions are both acceptable).

The AML Legislation restricts the type of combinations that you can use depending on the options. The following is a list of combinations that can be used for non-face-to-face client identification:

- identification product and attestation
- identification product and cleared cheque
- identification product and confirmation of deposit account
- credit file and attestation
- credit file and cleared cheque
- credit file and confirmation of deposit account
- attestation and cleared cheque

## CHAPTER 15

# Appendix I— Identification of Individuals by Third Parties: Methods

### 15.1 Requirements

A client's identification must be ascertained when any of the following occur as part of an engagement for which Triggering Activities have occurred.

- receipt of funds of \$3,000 or above
- large cash transaction
- suspicious transaction (completed or attempted)

When dealing with an entity, both the entity and the individual conducting the transaction on the entity's behalf must be identified.

### 15.2 Methods

You can also rely on an agent or mandatary (a person engaged to perform a mandate on your behalf) to conduct client identification for you using the face-to-face method. This requires that you have in place a written agreement with the agent or mandatary that sets out what you expect from them and that you obtain from them the client identification information prior to the performance of the identification function. It is recommended that the effective date of the agreement and the signature of the agent/mandatary and the Accountant or Accounting Firm also be included on the agreement. An agent or mandatary can be any individual or entity.

An agent/mandatary agreement should explicitly state that the agreement is for the purpose of ascertaining client identification on behalf of the Accountant or Accounting Firm under the obligations of the PCMLTFA. It should also describe what will be done to confirm the identification (e.g., original ID will be reviewed and compared to the client to confirm that it is the person in question). It should also obligate the agent/mandatary to remit to the Accountant or Accounting Firm details collected in respect of each identification conducted.

When an agent/mandatary ascertains the client's identification under the agreement, a record should document the client's personal information including their name, address, occupation and date of birth, and details of the identification include the identification type, reference number and place of issue. The form included in Appendix G—Identification of Individuals in Person: Method and Form can be adapted for that purpose.

## CHAPTER 16

# Appendix J— Confirming the Existence of an Entity

### 16.1 Requirements

A client's identification must be ascertained when any of the following occur as part of an engagement for which Triggering Activities have occurred.

- receipt of funds of \$3,000 or above
- large cash transaction
- suspicious transaction (completed or attempted)

When dealing with an entity, both the entity and the individual conducting the transaction on the entity's behalf must be identified.

### 16.2 Method

Where you are required to identify an entity, you must identify that entity within 30 days of the transaction associated to the record. Identifying an entity involves the following:

1. Confirming the existence of the entity.
2. For entities that are corporations
  - a. obtain the corporation's name, address
  - b. the names of its directors

To confirm the existence of the entity, you can refer to following documents:

- partnership agreement
- articles of association
- business registration
- trust agreement

To confirm the existence of a corporation, and the corporation's name and address, you can refer to the following documents:

- corporation's certificate status
- record that has to be filed annually under provincial securities legislation
- letter or notice of assessment for the corporation from a municipal, provincial, territorial or federal government
- corporation's published annual report signed by an independent audit firm

If you received funds from an entity, you must obtain and keep a copy of the official corporate records that contains any provisions relating to the power to bind the corporation.

## 16.3 Form

ENTITY INFORMATION		
Name of Entity		
Street Address		Apartment/Unit #
City	Prov.	Postal Code
Country		
Principal Business		
Names of Directors (if entity is a corporation)		
COPY OF RECORD CONFIRMING EXISTENCE OF ENTITY		
To confirm the existence of a Corporation, refer to the articles of incorporation, certification of corporate status, published annual report or government notice of assessment.		
To confirm the existence of an entity that is not a corporation, refer to partnership agreement, articles of association or applicable documentation that confirms the formation/existence of the entity.		
If record is paper format, a copy must be kept. If electronic version, a record of the entity's registration number and type and source of record must be indicated on this form.		
If you received funds from an entity, you must obtain and keep a copy of the official corporate records that contains any provisions relating to the power to bind the corporation.		
Type of entity		
Type of verification record		
Source of verification record		
Registration number of entity		

**CHAPTER 17**

# Appendix K— Large Cash Transaction Report Form

This form is reproduced with permission from the Financial Transactions and Reports Analysis Centre of Canada and was up-to-date at the time of printing. As this form may change, we recommend you check the website to ensure you are using the latest version.

Source: [www.fintrac-canafe.gc.ca/publications/LCTR-2008-eng.pdf](http://www.fintrac-canafe.gc.ca/publications/LCTR-2008-eng.pdf)



Financial Transactions and  
Reports Analysis Centre of CanadaCentre d'analyse des opérations  
et déclarations financières du Canada

# Large Cash Transaction Report

If you have the capability to report electronically, DO NOT use this paper form.

Refer to the reporting section of FINTRAC's Web site — <http://www.fintrac-canafe.gc.ca>

Use this form if you are a reporting entity and you have to report a large cash transaction to FINTRAC. A large cash transaction is the receipt of an amount of \$10,000 or more in cash in the course of a single transaction. A large cash transaction also includes the receipt of two or more cash amounts of less than \$10,000 made by or on behalf of the same individual or entity within 24 consecutive hours of each other that total \$10,000 or more.

For more information about this or about who is considered a reporting entity and for instructions on how to complete this form, see *Guideline 7B: Submitting Large Cash Transaction Reports to FINTRAC by Paper* or call FINTRAC's toll-free enquiries line at 1-866-346-8722.

Send completed form by mail: FINTRAC, Section A, 234 Laurier Avenue West, 24th Floor, Ottawa, Ontario K1P 1H7  
or send completed form by fax: 1-866-226-2346

## 24-hour rule

Is this report about a transaction of **less than \$10,000** that is part of a group of two or more such cash transactions made **within 24 consecutive hours** of each other that **total \$10,000 or more**?

☐ **NO**

Include each large cash transaction in a separate report.

☐ **YES**

Include each transaction that is part of a 24-hour rule group in the same large cash transaction report, unless they were conducted at different locations.

Is this Report a correction to a Report previously submitted?

☐ **NO**

☐ **YES** • Enter the original Report's Date and Time

Date (2) 0 YEAR MONTH DAY Time HOUR MINUTE

- COMPLETE PART A – whether the information has changed or not
- Provide the new information ONLY for the affected fields in Part B through Part G
- If removing information from a field, strike a line through the field

**REPORTING DATE** (2) 0 YEAR MONTH DAY **TIME** HOUR MINUTE

All fields of the report marked with an asterisk (\*) must be completed. The ones that are also marked "if applicable" must be completed if they are applicable to you or the transaction being reported. For all other fields, you have to make reasonable efforts to get the information.

## PART A — Information about where the transaction took place

1. Reporting entity's identifier number\* (if applicable)

\_\_\_\_\_

2. Reporting entity's full name\*

\_\_\_\_\_

**Where did the transaction take place?**

3. Street address\*

\_\_\_\_\_

4. City\*

\_\_\_\_\_

5. Province\*

\_\_\_\_\_

6. Postal code\*

**Whom can FINTRAC contact about this report?**

6A. Reporting entity report reference number

\_\_\_\_\_

7. Contact – Surname\*

\_\_\_\_\_

8. Contact – Given name\*

\_\_\_\_\_

9. Contact – Initial/Other

\_\_\_\_\_

10. Contact – Telephone number (with area code)\*

\_\_\_\_\_

10A. Contact – Telephone extension number

\_\_\_\_\_

11. Which one of the following types of reporting entities best describes you?\*

- |  |   |   |  |
|--|---|---|--|
| <input type="checkbox"/> Accountant              | <input type="checkbox"/> Casino               | <input type="checkbox"/> Dealer in Precious Metals and Stones | <input type="checkbox"/> Provincial Savings Office |
| <input type="checkbox"/> Bank                    | <input type="checkbox"/> Co-op Credit Society | <input type="checkbox"/> Life Insurance Broker or Agent       | <input type="checkbox"/> Real Estate               |
| <input type="checkbox"/> British Columbia Notary | <input type="checkbox"/> Credit Union         | <input type="checkbox"/> Life Insurance Company               | <input type="checkbox"/> Securities Dealer         |
| <input type="checkbox"/> Caisse Populaire        | <input type="checkbox"/> Crown Agent          | <input type="checkbox"/> Money Services Business              | <input type="checkbox"/> Trust and/or Loan Company |
| (Sells/Redeems Money Orders)                     |   |   |  |

Revised December 2008

→  
**Canada**

## Appendix L

**NOTE: Please copy this page for each additional, related, disposition (per transaction) (if required).**

Transaction ☐ Disposition ☐ of ☐

### PART B2 — Information about how the transaction was completed

Indicate whether this transaction was conducted on behalf of anyone other than the individual who conducted it. If not, indicate "not applicable."

On behalf of: ☐ not applicable ☐ an entity (other than an individual) (also complete PART F) ☐ another individual (also complete PART G) ☐ employee depositing cash to employer's business account

#### 8. Disposition of funds\*

<input type="checkbox"/> Cash out	<input type="checkbox"/> Outgoing electronic funds transfer	<input type="checkbox"/> Purchase of jewellery	<input type="checkbox"/> Purchase of traveller's cheques
<input type="checkbox"/> Conducted currency exchange	<input type="checkbox"/> Purchase of bank draft	<input type="checkbox"/> Purchase of money order	<input type="checkbox"/> Real estate purchase/deposit
<input type="checkbox"/> Deposit to an account	<input type="checkbox"/> Purchase of casino chips	<input type="checkbox"/> Purchase of precious metals	<input type="checkbox"/> Securities purchase/deposit
<input type="checkbox"/> Life insurance policy purchase/deposit	<input type="checkbox"/> Purchase of diamonds	<input type="checkbox"/> Purchase of precious stones (excluding diamonds)	<input type="checkbox"/> Other <input type="text"/>
POLICY NUMBER <input type="text"/>		DESCRIPTION (OTHER) <input type="text"/>	

#### 9. Amount of disposition\*

10. Disposition currency code\* — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

#### Additional information about the funds described in field 8 above

11. Other institution name and number or other entity or person name\* (if applicable)

12. Other entity or person account number or policy number\* (if applicable)



**NOTE: Please copy this page for each additional disposition (if applicable).**

**PART C — Account information, if the transaction involved an account**

Transaction ☐

Disposition ☐

**Complete this Part ONLY if the transaction involved an account.**

1. Branch or transit number where the account is held\* (if this part is applicable)

\_\_\_\_\_

2. Account number\* (if this part is applicable)

\_\_\_\_\_

3. Type of account\* (if this part is applicable)

☐ Personal

☐ Business

☐ Trust

☐ Other

DESCRIPTION (OTHER)

\_\_\_\_\_

4. Account currency code\* (if this part is applicable) — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

\_\_\_\_\_

5. Full name of each account holder (the individual(s) or the entity that hold the account)\* (if this part is applicable)

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_



**NOTE: Please copy this page for each additional transaction (if applicable).**

Transaction   

**PART D — Information about the individual conducting the transaction if it is not a deposit into a business account (if applicable)**

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for any mandatory fields in this part was not obtained at the time of the transaction (and is not available from your records), you can leave those fields blank.

1. Surname* (if this part is applicable) _____	2. Given name* (if this part is applicable) _____	3. Other/Initial _____
4. Client number assigned by reporting entity* (if applicable and if this part is applicable) _____		
5. Street address* (if this part is applicable) _____		
6. City* (if this part is applicable) _____		
7. Province or State* (if this part is applicable) _____	8. Country* (if this part is applicable) _____	
9. Postal or Zip code* (if this part is applicable) _____		
10. Country of residence _____		
11. Home telephone number (with area code) _____		
12. Individual's identifier* (if this part is applicable)		
<input type="checkbox"/> Birth certificate <input type="checkbox"/> Driver's licence <input type="checkbox"/> Passport <input type="checkbox"/> Provincial health card <input type="checkbox"/> Record of landing / Permanent resident card <input type="checkbox"/> Other _____ <small>DESCRIPTION (OTHER)</small>		
13. ID number (from question 12)* (if this part is applicable) _____		
14. Place of issue – Province or State* (if this part is applicable) _____		15. Place of issue – Country* (if this part is applicable) _____
16. Individual's date of birth* (if this part is applicable) <div style="display: flex; justify-content: space-between;"> <span>YEAR</span> <span>MONTH</span> <span>DAY</span> </div>		
17. Individual's occupation* (if this part is applicable) _____		
18. Individual's business telephone number (with area code) _____	18A. Telephone extension number _____	



NOTE: Please copy this page for each additional transaction (if applicable).

Transaction

PART E — Information about the individual conducting the transaction if it is a deposit into a business account — other than a night deposit or quick drop (if applicable)

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for any mandatory fields in this part was not obtained at the time of the transaction (and is not available from your records), you can leave those fields blank.

1. Surname\* (if this part is applicable)

2. Given name\* (if this part is applicable)

3. Other/Initial



**NOTE: Please copy this page for each additional disposition (if required).**

Transaction ☐ Disposition ☐

**PART F — Information about the entity on whose behalf the transaction was conducted (if applicable)**

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for any mandatory fields in this part was not obtained at the time of the transaction (and is not available from your records), you can leave those fields blank.

1. Name of corporation, trust or other entity\* (if this part is applicable)

2. Type of business\* (if this part is applicable)

3. Street address\* (if this part is applicable)

4. City\* (if this part is applicable)

5. Province or state\* (if this part is applicable)

6. Country\* (if this part is applicable)

7. Postal or Zip code\* (if this part is applicable)

8. Business telephone number (with area code)

8A. Telephone extension number

9. Incorporation number\* (if applicable and if this part is applicable)

10. Place of issue – Province or State\* (if applicable and if this part is applicable)

11. Place of issue – Country\* (if applicable and if this part is applicable)

12. Individual(s) authorized to bind the entity or act with respect to the account (up to three)

1

2

3



**NOTE: Please copy this page for each additional disposition (if required).**

Transaction ☐ Disposition ☐

**PART G — Information about the individual on whose behalf the transaction was conducted (if applicable)**

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for any mandatory fields in this part was not obtained at the time of the transaction (and is not available from your records), you can leave those fields blank.

1. Surname* (if this part is applicable)	2. Given name* (if this part is applicable)	3. Other/Initial						
<input type="text"/>	<input type="text"/>	<input type="text"/>						
4. Street address* (if this part is applicable)								
<input type="text"/>								
5. City* (if this part is applicable)								
<input type="text"/>								
6. Province or State* (if this part is applicable)	7. Country* (if this part is applicable)							
<input type="text"/>	<input type="text"/>							
8. Postal or Zip code* (if this part is applicable)								
<input type="text"/>								
9. Home telephone number (with area code)								
<input type="text"/>								
10. Business telephone number (with area code)	10A. Telephone extension number							
<input type="text"/>	<input type="text"/>							
11. Individual's date of birth								
<table border="0"> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>YEAR</td> <td>MONTH</td> <td>DAY</td> </tr> </table>			<input type="text"/>	<input type="text"/>	<input type="text"/>	YEAR	MONTH	DAY
<input type="text"/>	<input type="text"/>	<input type="text"/>						
YEAR	MONTH	DAY						
12. Individual's identifier								
<input type="checkbox"/> Birth certificate <input type="checkbox"/> Driver's licence <input type="checkbox"/> Passport <input type="checkbox"/> Provincial health card <input type="checkbox"/> Record of landing / Permanent resident card								
<input type="checkbox"/> Other <input type="text"/>								
13. ID number (from question 12)								
<input type="text"/>								
14. Country of residence								
<input type="text"/>								
15. Place of issue of individual's identifier – Province or State								
<input type="text"/>								
16. Place of issue of individual's identifier – Country								
<input type="text"/>								
17. Individual's occupation								
<input type="text"/>								
<b>Relationship</b>								
18. Relationship of the individual named in Part D or Part E to the individual named above (fields 1 to 3)								
<input type="checkbox"/> Accountant <input type="checkbox"/> Borrower <input type="checkbox"/> Customer <input type="checkbox"/> Friend <input type="checkbox"/> Relative								
<input type="checkbox"/> Agent <input type="checkbox"/> Broker <input type="checkbox"/> Employee <input type="checkbox"/> Legal counsel <input type="checkbox"/> Other <input type="text"/>								

The information on this form is collected under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act). It will be used for analytical purposes and may also be used for the purposes of ensuring compliance with the Act. Any personal information is protected under the provisions of the *Privacy Act*. For more information, consult the Financial Transactions and Reports Analysis Centre of Canada chapter in the *Sources of Federal Government Information* publication, available on the Government of Canada Info Source Web site (<http://www.infosource.gc.ca>).

Large Cash Transaction Report



Source: [www.fintrac-canafe.gc.ca/publications/guide/Guide7B/7b-eng.asp#s441](http://www.fintrac-canafe.gc.ca/publications/guide/Guide7B/7b-eng.asp#s441)

## 5. Instructions for Completing a Large Cash Transaction Report

The fields in this section correspond with the paper form called the Large Cash Transaction Report. As explained in section 3.4, completing a paper report is only permitted if you do not have the capability to report electronically.

Fields in reports are either mandatory, mandatory where applicable, or require "reasonable efforts" to complete, as follows:

- **Mandatory:** All fields of a report marked with an asterisk (\*) **have to be completed**.
- **Mandatory where applicable:** The fields that have both an asterisk and "where applicable" next to them have to be completed if they are applicable to you or the transaction being reported.
- **Reasonable efforts:** For all other fields that do not have an asterisk, you have to make reasonable efforts to get the information. "Reasonable efforts" means that you tried to get the information requested on the report. If the information is available to you, you must provide it in the report. If the information was not available at the time of the transaction, and it is not contained in your files or records, the field may be left blank.

In certain circumstances, only as directed in the instructions for certain fields, if you need to indicate that a required field in a report is not applicable, enter "N/A" or "n/a". Do not substitute any other abbreviations, special characters (e.g., "x", "\*", or "\*\*") or words (e.g., unknown).

As explained in subsection 3.1, a large cash transaction report can be about multiple transactions of less than \$10,000 each conducted within 24 consecutive hours of each other that add up to \$10,000 or more. Because those individual transactions were under \$10,000, the information for some mandatory fields in the report may not be available in your records or from the time of the transaction. In this case, "reasonable efforts" applies to those otherwise mandatory fields.

There are eight parts to the large cash transaction report, but some are only to be completed if applicable. To report a large cash transaction follow the following four steps:

- **Step 1** - Complete Part A to provide information about the reporting entity and about where the transaction took place.
- **Step 2** - Complete Part B1 to provide details about the transaction. If you have to include more than one transaction in your report (for cash transactions of less than \$10,000 each made within 24 consecutive hours of each other that total \$10,000 or more), repeat steps 2, 3 and 4 for each one.

If the transaction was a night deposit or a quick drop to a business account, make sure to indicate this in field B3.

- **Step 3** - Complete Part B2 to provide details about the transaction's disposition. If the transaction's disposition was related to an account, also complete Part C. If the transaction's disposition was on behalf of a corporation or other entity (other than an employee depositing cash into his or her employer's business account), also complete Part F. If the transaction's disposition was on behalf of an individual (other than an employee depositing cash into his or her employer's business account), complete Part G.

If there was more than one disposition for the transaction, repeat this step for each disposition.

- **Step 4** - Complete Part D or E to provide information about the individual conducting the transaction, depending on whether or not the transaction's disposition was a deposit to a business account. If the transaction had no other dispositions than deposits to a business account, complete Part E. If the transaction involved a disposition that was **not** a deposit to a business account, complete Part D. However, if the transaction was a night deposit or a quick drop to a business account, **neither** Part D nor Part E is required.

The rest of this section will cover each part of the Large Cash Transaction Report form.

When completing the paper form, enter the date and time when you begin completing it at the top of the form. If you have to file a correction to a report on paper, follow the instructions on the first page of the form. If you need to get a paper form, see [section 4](#).

### 24-hour-rule

If this report is about one transaction of \$10,000 or more, answer **no** to the 24-hour-rule question. In this case, your report should only include one transaction.

If this report is about a transaction that is part of a group of two or more cash transactions of less than \$10,000 each made within 24 consecutive hours of each other that total \$10,000 or more, answer **yes** to the 24-hour-rule question. Include each such transaction in the same large cash transaction report, unless they were not all conducted at the same location. If the transactions in such a group were conducted at different locations, separate large cash transaction reports would be required to group them for each location.

### Part A: Information about where the transaction took place

This part is for information about the reporting entity required to report the transaction to FINTRAC. It is also for information about the physical location where the transaction took place.

If you need more information about what type of individual or entity is a reporting entity, see section 2 of this guideline.

If you have multiple branch or office locations, the information in this part should refer to the branch or office location where the transaction took place. Transactions that happened at different branch or office locations should be reported on separate reports.

Some reporting entities have contractual arrangements with someone outside their entity to conduct transactions on their behalf. For example, a money services business arranges for transactions, such as electronic funds transfers, to be conducted for them at a grocery store. If you have this type of arrangement, as the reporting entity, your name belongs in Part A. However, since the transaction was conducted at someone else's place of business, it is that address that must appear in Part A.

#### Field A1\* Reporting entity's identifier number (if applicable)

This is the institution or licence number, or other identification number for the reporting entity, as outlined below. If you are a reporting entity that has multiple branch or office locations, the identification number should refer to the branch or office where the transaction took place.

- If you are an **accountant**, enter your provincial chartered accountant (CA), provincial certified management accountant (CMA), or provincial certified general accountant (CGA) number.
- If you are a **bank, caisse populaire, cooperative credit society or credit union**, enter your financial institution number issued by the Canadian Payments Association (CPA).
- If you are an **agent of the Crown that sells or redeems money orders**, enter your post office or similar number.
- If you are a **life insurance broker or agent**, enter your provincial broker or agent licence number.
- If you are a **federally regulated life insurance company**, enter your Office of the Superintendent of Financial Institutions (OSFI) Institution Code.
- If you are a **life insurance company that is not federally regulated**, enter your provincial licence number.
- If you are a **provincial savings office**, enter your financial institution number issued by the CPA.
- If you are a **real estate broker or sales representative**, enter your provincial broker number.
- If you are a **securities dealer**, enter your provincial dealer licence number.
- If you are a **trust and loan company**, enter your financial institution number issued by the CPA.
- If you are a **provincial trust and loan** that is not a member of the CPA, enter your registration number.
- If you are a **money services business**, enter your money services business registration number issued by FINTRAC.
- If you are a **dealer in precious metals and stones**, leave this field blank.
- If you are a **British Columbia public notary**, enter your membership number. If you are a **notary corporation of British Columbia**, enter your permit number.
- If you are a **real estate developer**, enter your provincial licence number if you have one. Otherwise, leave this field blank.

#### Field A2\* Reporting entity's full name

Enter the full legal name of the business or corporation that is the reporting entity. If you are a reporting entity that does not have a business name (for example, you are a reporting entity that is an individual), enter your full name.

#### Fields A3\* to A6\* Reporting entity's full address

Enter the civic address, town or city, province and postal code where the transaction took place. If you have more than one location, this information should refer to where the transaction took place. As explained above, transactions that happened at different branch or office locations should be reported on separate reports.

#### Field A6A Reporting entity report reference number

If you use a reference number for your own internal purposes, you can enter it in your report to FINTRAC. This field can contain up to 20 alpha or numeric characters and must be unique for each of your reporting entity's reports.

If you do not wish to use such an internal reference number, leave this field empty.

#### Fields A7\*, A8\* and A9 Contact name

Enter the name of the individual FINTRAC can contact for clarification about this report.

#### Field A10\* Contact telephone number

Enter the telephone number, including the area code, of the individual FINTRAC can contact for clarification. Include the extension, if applicable, in field A10A.

**Field A11\* Which one of the following types of reporting entities best describes you?**

Enter the type of activity applicable to you. If you are involved in more than one activity type, indicate the one applicable to the transaction being reported. If there is more than one activity for one or more transactions on the report, check only one box to indicate your principal type of activity.

**Part B1: Information about how the transaction was initiated**

This part is for information about how the transaction was initiated (i.e., where the money came from).

You should make separate large cash transaction reports for each single transaction of \$10,000 or more.

If you are reporting two or more cash transactions of less than \$10,000 each made by or on behalf of the same individual within 24 consecutive hours of each other that total \$10,000 or more, you should group those in the same report. If the information in Part A is different for any of those multiple transactions, however, you will have to send separate reports to group them by location.

When you need to report more than one transaction, complete a separate Part B1 for each transaction. To do this, you can copy Part B1. Fill in the "Transaction \_\_\_\_ of \_\_\_\_" area at the top of Part B1 to distinguish between each transaction. When you provide the details of the transaction in Part D or E, the details of disposition in Part B2, as well as the additional details of disposition in Parts C, F and G, as applicable, indicate to which transaction that information applies.

**Fields B1\*, B2 and B3\* When the transaction took place**

Enter the date (yyyy-mm-dd) and time (hh:mm:ss) of the large cash transaction. Use a 24-hour format for time. For example, enter "15:30:00" to represent 3:30 p.m.

The time of the transaction (field B2) can be left blank if it is not available from the moment of the transaction or in your records.

The date of transaction (field B1) is mandatory. However, if the transaction was a night deposit, and you do not provide the date, you can leave field B1 blank. In this case, make sure to use the night deposit indicator at field B3 and make sure to provide the date of posting in field B4.

If the transaction was either a **night deposit** or a **quick drop** to a business account, make sure to select the appropriate indicator at field B3. In this case, neither of Parts D, E, F or G will apply to the transaction.

**Field B4 Date of posting**

Enter the date (yyyy-mm-dd) the transaction cleared, if this differs from the date of the transaction provided in field B1. In the case of a night deposit, if you do not provide the date of transaction at field B1, you must provide the date of posting for the transaction in field B4.

**Field B5\* Amount of transaction**

Enter the total amount of cash involved in the transaction. This is the total cash amount received to start the transaction. What happens as a result of that cash amount will be explained in Part B2 as one or more dispositions.

If this cash was not in Canadian funds, you do not have to convert it, but you have to provide the currency information in field B6.

**Field B6\* Transaction currency code**

Enter the code for the type of currency for the transaction. Enter CAD if Canadian dollars, or USD for United States dollars. If the transaction was in another type of currency, see the list of currency codes in Appendix 1 in *Guideline 38: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

**Field B7\* How was the transaction conducted?**

Check the appropriate box to indicate how the transaction was conducted. For example, if the transaction was done through an automated banking machine, check that box. If the selections provided do not cover this particular transaction, indicate "Other" and provide details in the field provided.

**Part B2: How the transaction was completed**

This part is for information about how the transaction was completed (i.e., where the money went).

**"On behalf of" indicator**

At the top of Part B2, you have to indicate whether the individual who conducted the transaction was doing so on anyone else's behalf. You have to select one of the following for this entry:

- **Not applicable**

This means that **neither** Part F **nor** Part G applies to this report. "Not applicable" indicates that none of the other "On behalf of" selections is applicable to the transaction. For example, the disposition was not on anyone else's behalf (i.e., it was on behalf of the individual that conducted it).



- **On behalf of an entity**

This indicates that the disposition was on behalf of an entity, such as a business, a partnership, a corporation, a trust or other entity, but was **not** an employee depositing cash to his or her employer's business account. For a transaction that was conducted on behalf of an entity, complete Part F for this report to provide the information about that entity.

- **On behalf of another individual**

This indicates that the disposition was on behalf of another individual but was **not** an employee depositing cash to his or her employer's business account. For a transaction that was conducted on behalf of another individual, complete Part G to provide the information about that other individual.

- **Employee depositing cash to employer's business account**

This indicates that the disposition was an employee depositing cash to his or her employer's **business** account. If it was an employee depositing cash to his or her employer's business account, **neither** Part F **nor** Part G of this report applies. Do not use this indicator if the employee deposited other than cash or if the employer's account was other than a business account.

Unless the transaction was a night deposit or a quick drop, you have to provide information about the individual conducting the transaction in Part D or Part E. If the transaction had no other dispositions than a deposit to a business account, complete Part E. If the transaction involved a disposition that was **not** a deposit to a business account, complete Part D. If the transaction was a night deposit or a quick drop, neither of Parts D, E, F or G applies.

#### **More than one disposition**

There could be more than one disposition for a particular transaction. For example, your client could initiate a transaction in cash, send an electronic funds transfer (EFT) for part of it (disposition 1), order a bank draft for another part (disposition 2) and deposit the rest (disposition 3). In that case, make sure you include the information for each disposition. If you are including more than one transaction in this report (for cash transactions of less than \$10,000 each made within 24 consecutive hours of each other that total \$10,000 or more), you have to complete Part B2 for all dispositions for each transaction.

If you have to include more than one disposition, complete a separate Part B2 for each one. To do this, you can copy Part B2. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_ of \_\_\_\_" area at the top of Part B2 to distinguish between each disposition. If you have to include more than one transaction in this report, indicate to which transaction the disposition information applies, based on the number you assigned the transaction in Part B1. When you provide the details of disposition in Parts C, F and G, as applicable, also indicate to which disposition and which transaction that information applies.

#### **Field B8\* Disposition of funds**

This describes what happened to the funds involved in the transaction.

If the disposition of funds was a life insurance policy purchase or deposit, check that box and provide the life insurance policy number in the appropriate field. If the selections provided do not cover this particular disposition, indicate "Other" and provide details in the appropriate field.

If the transaction being reported was an employee depositing cash to an employer's business account (as indicated by the "on behalf of" indicator at the top of Part B2), the disposition of funds in field B8 should be "deposit to an account".

If you are a dealer in precious metals and stones, select the disposition of funds in field B8 that best describes what your client purchased.

#### **Field B9\* Amount of disposition**

Enter the amount of funds involved in the disposition. If the amount was not in Canadian funds, you do not have to convert it but you have to provide the currency code in field B10.

#### **Field B10\* Disposition currency code**

Enter the code for the type of currency for the disposition. Enter CAD if Canadian dollars, or USD for United States dollars. If the transaction was in another type of currency, see the list of currency codes in Appendix 1 in *Guideline 38: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

#### **Fields B11\* and 12\* Other institution, entity or person name, number and account or policy number (if applicable)**

These fields are for additional information about the disposition described in field B8. Where applicable, in field B11, provide the name (including the institution identification number if applicable) of any other institution, individual or entity involved in the disposition. In addition, where applicable, in field B12, provide the account number of any other individual or entity involved in the disposition. Also provide any policy number related to the other entity or individual in field B12, if applicable.

**Part C : Account information, if the transaction involved an account**

This part is for information about the account involved in the transaction, if it in fact involved an account. As explained earlier, it is possible to have more than one transaction per report and more than one disposition per transaction. Provide the account information, if applicable, for each disposition included in the report.

If you have to include account information for more than one disposition, complete a separate Part C to provide information for each account involved. To do this, you can copy Part C. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part C to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Field C1\* Branch or transit number where the account is held (if this part is applicable)**

Enter the branch number, transit number or other appropriate identifying number of the entity where the relevant account is held, if an account is applicable to the transaction.

**Field C2\* Account number (if this part is applicable)**

Enter the number of the relevant account.

**Field C3\* Type of account (if this part is applicable)**

Indicate the type of the relevant account. For example, a business account would be one that, at the time it was opened, was for a business or for a non-profit organization, etc. (i.e., other than a personal or trust account). If the selections "personal, business or trust" do not cover this particular account, indicate "Other" and provide details in the appropriate field.

If the transaction being reported was an employee depositing cash to an employer's business account (as indicated by the "on behalf of" indicator at the top of Part B2), the account type in field C3 should be "business".

**Field C4\* Account currency code (if this part is applicable)**

Enter the code for the type of currency for the relevant account. Enter CAD if Canadian dollars, or USD for United States dollars. If the account is another type of currency, see the list of currency codes in Appendix 1 in Guideline 38: *Submitting Reports to FINTRAC by Paper*.

**Field C5\* Full name of the individual(s) or entity that hold the account (if this part is applicable)**

Enter the full name of each account holder (up to three).

This is for information about each individual or entity that holds the account. For example, in the case of a joint account for husband and wife, include the names of each spouse at field C5.

The account holder might be different from the individual(s) authorized to give instructions for the account. For example, an account for a corporation will have one or more individuals authorized to give instructions for that account. In this case, it is the name of the corporation that holds the account that is required in field C5. Information about individuals authorized to bind the entity or to act with respect to the account belongs in Part F, if applicable, in field F12.

**Part D: Information about the individual conducting the transaction if it is not a deposit into a business account (if applicable)**

This part is for information about the individual who conducted the transaction if any of this transaction's dispositions was **not** a deposit into a business account. If the transaction involved nothing other than deposits to a business account, complete Part E.

If the transaction was a night deposit or a quick drop to a business account, neither of Parts D, E, F or G applies.

As explained earlier, it is possible to have more than one transaction per report. Provide information about the individual who conducted the transaction in either Part D or Part E, as appropriate, for each transaction included in the report. Fill in the "Transaction \_\_\_\_" area at the top of Part D to distinguish between each transaction, based on the number you assigned the transaction in Part B1.

If you are a dealer in precious metals and stones, the conductor of the transaction is the individual from whom you bought or to whom you sold precious metals or stones.

**Fields D1\*, D2\* and D3 Individual's full name (if this part is applicable)**

Enter the last name, first name and middle initial (if applicable) of the individual who conducted the transaction.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields D1 and D2 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field D4\* Entity client number (if applicable and if this part is applicable)**

Enter the client number you issued to the individual who conducted the transaction, if applicable.

**Fields D5\* to D9\* Individual's full address (if this part is applicable)**

Enter the civic address, town or city, province or state, country and postal code of the individual who conducted the transaction.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields D5 to D9 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field D10 Country of residence**

Enter the country of permanent residence of the individual who conducted the transaction.

**Field D11 Home telephone number**

Enter the home telephone number, including the area code, of the individual who conducted the transaction.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field D12\* Individual's identifier (if this part is applicable)**

Check the appropriate box to show the document used to identify the individual who conducted the transaction.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in the appropriate field.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field D12, but do not provide the number in field D13.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field D12 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field D13\* ID Number (if this part is applicable)**

Enter the number of the document described in field D12 that was used to identify the individual who conducted the transaction. Remember that a health card number is not acceptable for this purpose in some provinces. Furthermore, as explained above, a SIN should not be provided on this form. If the identifier document in field D12 (and D12A) is a SIN card, enter "N/A" in field D13 to indicate the number is not applicable.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field D13 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Fields D14\* and D15\* Place of issue (if this part is applicable)**

Enter the province or state and country of issue of the document used to identify the individual who conducted the transaction. If the document was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields D14 and D15 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field D16\* Individual's date of birth (if this part is applicable)**

Enter the date (yyyy-mm-dd) of birth of the individual who conducted the transaction.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field D16 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.



**Field D17\* Individual's occupation (if this part is applicable)**

Enter the occupation of the individual who conducted the transaction.

Be as descriptive as possible regarding occupation. Provide information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation should reflect the area of consulting, such as "IT consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If the individual is not employed or engaged in any type of business or profession, provide information that best describes their situation, such as "student", "unemployed", "retired", etc.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field D17 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field D18 Individual's business telephone number**

Enter the business telephone number, including the area code, of the individual who conducted the transaction. Include the extension if applicable in field D18A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Part E: Information about the individual conducting the transaction if it is a deposit into a business account - other than a quick drop or night deposit (if applicable)**

This part is for information about the individual who conducted the transaction if this transaction had no other dispositions than **deposits into a business account**. As explained earlier, it is possible to have more than one transaction per report. Provide this information for each transaction included in the report. Fill in the "Transaction \_\_\_\_" area at the top of Part E to distinguish between each transaction, based on the number you assigned the transaction in Part B1.

If the transactions involved any disposition that was not a deposit to a business account, complete Part D. If the transaction was a night deposit or a quick drop to a business account, neither of Parts D or E applies.

**Fields E1\*, E2\* and E3 Individual's full name (if this part is applicable)**

Enter the last name, first name and middle initial (if applicable) of the individual who conducted the transaction.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields E1 and E2 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Part F: Information about the entity on whose behalf the transaction was conducted (if applicable)**

This part only applies if the transaction's disposition was conducted on behalf of a third party that is an entity, as indicated in Part B2. If an employee deposited cash in his or her employer's business account, or if the transaction was a deposit to a business account by night deposit or quick drop, Part F does not apply.

Complete a separate Part F for each disposition that was conducted on behalf of an entity. To do this, you can copy Part F. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part F to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Field F1\* Name of corporation, trust or other entity (if this part is applicable)**

Enter the full name of the business, corporation, trust or other entity on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field F1 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field F2\* Type of business (if this part is applicable)**

Describe the type of business or entity on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field F2 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field F2\* Type of business (if this part is applicable)**

Describe the type of business or entity on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field F2 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Fields F3\* to F7\* Full address of entity (if this part is applicable)**

Enter the civic address, town or city, province or state, country and postal code of the business, corporation or other entity on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields F3 to F7 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field F8 Business telephone number**

Enter the telephone number, including the area code, of the business, corporation or other entity on whose behalf the transaction was conducted. Include the extension, if applicable, at field F8A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Fields F9\* to F11\* Incorporation information (if applicable and if this part is applicable)**

If the transaction was conducted on behalf of an entity that is a corporation, provide the incorporation number. Also provide the province or state, and country of the incorporation number's place of issue. If an incorporation number does not exist for the corporation, enter "N/A" in fields F9, F10 and F11. If the incorporation number was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields F9, F10 and F11 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field F12 Individual(s) authorized to bind the entity or act with respect to the account (up to three)**

Provide the names of up to three individuals who have authority to bind the entity or conduct transactions through the account.

**Part G: Information about the individual on whose behalf the transaction was conducted (if applicable)**

This part only applies when the transaction's disposition was conducted on behalf of a third party that is an individual, as indicated in Part B2.

If the individual conducted the transaction's disposition on his or her own behalf, this part does not apply. In that case, see Part D or Part E.

If an employee deposited cash in his or her employer's business account, or if the transaction was a deposit to a business account by night deposit or quick drop, Part G does not apply. If the transaction's disposition was conducted on behalf of an entity (such as a business, a partnership, a corporation, etc.), see Part F.

Complete a separate Part G for each disposition that was conducted on behalf of an individual. To do this, you can copy Part G. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part G to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Fields G1\*, G2\* and G3 Individual's full name (if this part is applicable)**

Enter the last name, first name and middle initial (if applicable) of the individual on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields G1 and G2 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Fields G4\* to G8\* Individual's full address (if this part is applicable)**

Enter the civic address, town or city, province or state, country and postal code of the individual on whose behalf the transaction was conducted.



If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields G4 to G11 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

#### **Field G9 Home telephone number**

Enter the home telephone number, including the area code, of the individual on whose behalf the transaction was conducted.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

#### **Field G10 Business telephone number**

Enter the business telephone number, including the area code, of the individual on whose behalf the transaction was conducted. Include the extension if applicable at field G10A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

#### **Field G11 Individual's date of birth**

Enter the date of birth (yyyy-mm-dd) of the individual on whose behalf the transaction was conducted.

#### **Field G12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual on whose behalf the transaction was conducted.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in the appropriate field.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field G12, but do not provide the number in field G13.

#### **Field G13 ID number**

Enter the number of the document described in field G12 that was used to identify the individual on behalf of whom the transaction was conducted. Remember that a health card number is not acceptable for this purpose in some provinces. Furthermore, as explained above, a SIN should not be provided on this form. If the identifier document in field G12 (and G12A) is a SIN card, enter "N/A" in field G13 to indicate the number is not applicable.

#### **Field G14 Country of residence**

Enter the country of permanent residence of the individual on whose behalf the transaction was conducted.

#### **Fields G15 and G16 Place of issue of the individual's identifier**

Enter the province or state, and country of issue of the document used to identify the individual on whose behalf the transaction was conducted. If the document was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

#### **Field G17 Individual's occupation**

Enter the occupation of the individual on whose behalf the transaction was conducted.

Be as descriptive as possible regarding occupation. Provide information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation should reflect the area of consulting, such as "IT consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If the individual is not employed or engaged in any type of business or profession, provide information that best describes their situation, such as "student", "unemployed", "retired", etc.

**Field G18 Relationship of the individual named in Part D or Part E to the individual named above**

Check the appropriate box to indicate the relationship of the individual conducting the transaction to the individual on whose behalf the transaction was conducted.

If the selections provided do not cover the relationship, indicate "Other" and provide details in the appropriate field.



**CHAPTER 18**

# Appendix L— Suspicious Transaction Report Form

This form is reproduced with permission from the Financial Transactions and Reports Analysis Centre of Canada and was up-to-date at the time of printing. As this form may change, we recommend you check the website to ensure you are using the latest version.

Source: [www.fintrac-canafe.gc.ca/publications/STR-2008-eng.pdf](http://www.fintrac-canafe.gc.ca/publications/STR-2008-eng.pdf)



# Suspicious Transaction Report

**If you have the capability to report electronically, DO NOT use this paper form.**

Refer to the reporting section of FINTRAC's Web site — <http://www.fintrac-canafe.gc.ca>

Use this form if you are a reporting entity and you have reason to suspect that a financial transaction is related to money laundering or terrorist activity financing. For more information about who is considered a reporting entity and for instructions on how to complete this form, see *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper* or call FINTRAC's toll-free enquiries line at 1-866-346-8722.

Send completed form by mail: FINTRAC, Section A, 234 Laurier Avenue West, 24th Floor, Ottawa, Ontario K1P 1H7  
or send completed form by fax: 1-866-226-2346

Is this Report a correction to a Report previously submitted?

☐ **NO**☐ **YES**

- Enter the original Report's Date and Time

Date 20 Time   
YEAR MONTH DAY HOUR MINUTE

- COMPLETE PART A – whether the information has changed or not

- Provide the new information **ONLY** for the affected fields in Part B through Part H

- If removing information from a field, strike a line through the field

**REPORTING DATE** 2 0              
YEAR MONTH DAY

**TIME**              
HOUR MINUTE

All fields of the report marked with an asterisk (\*) must be completed. The ones that are also marked "if applicable" must be completed if they are applicable to you *or* the transaction being reported. For all other fields, you have to make reasonable efforts to get the information.

**PART A — Information about where the transaction took place**

1. Reporting entity's identifier number\* (if applicable)

\_\_\_\_\_

2. Reporting entity's full name\*

\_\_\_\_\_

**Where did the transaction take place?**

3. Street address \*

\_\_\_\_\_

4. City\*

\_\_\_\_\_

5 Province\*

[illegible]

**Whom can FINTRAC contact about this report?**

6A. Reporting entity report reference number

\_\_\_\_\_

7. Contact – Surname\*

\_\_\_\_\_

10. Contact – Telephone number (with area code)\*

\_\_\_\_\_

11. Which one of the following types of reporting entities best describes you? \*

<input type="checkbox"/> Accountant	<input type="checkbox"/> Casino	<input type="checkbox"/> Dealer in Precious Metals and Stones	<input type="checkbox"/> Provincial Savings Office
<input type="checkbox"/> Bank	<input type="checkbox"/> Co-op Credit Society	<input type="checkbox"/> Life Insurance Broker or Agent	<input type="checkbox"/> Real Estate
<input type="checkbox"/> British Columbia Notary	<input type="checkbox"/> Credit Union	<input type="checkbox"/> Life Insurance Company	<input type="checkbox"/> Securities Dealer
<input type="checkbox"/> Caisse Populaire	<input type="checkbox"/> Crown Agent	<input type="checkbox"/> Money Services Business	<input type="checkbox"/> Trust and/or Loan Company

(Sells/Redeems Money Orders)

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you **did not** report to your superior, there are special instructions for you to complete several of the fields in this part. Please refer to the instructions for completing a suspicious transaction report in *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

Revised December 2008

Canada

**NOTE: Please copy this page for each additional, related, suspicious transaction (if required).**

Transaction  of

### PART B1 — Information about how the transaction was initiated

If the transaction being reported was attempted and, because of this, information for any mandatory fields in this part is not available, you can leave those fields blank.

1. Date of the transaction*		2. Time of the transaction		4. Date of posting (if different from date of transaction)																	
YEAR <input type="text"/> 2 <input type="text"/> 0 <input type="text"/> MONTH <input type="text"/> DAY <input type="text"/> or		HOUR <input type="text"/> MINUTES <input type="text"/> SECONDS <input type="text"/> YEAR <input type="text"/> 2 <input type="text"/> 0 <input type="text"/> MONTH <input type="text"/> DAY <input type="text"/>																			
3. Night deposit indicator*																					
<input type="checkbox"/> If the transaction was <b>not</b> a night deposit, leave this box empty.																					
5. Detail of funds involved in initiating the transaction*																					
<table border="0"> <tr> <td><input type="checkbox"/> Cash in</td> <td><input type="checkbox"/> Negotiated bank draft</td> <td><input type="checkbox"/> Negotiated securities</td> <td><input type="checkbox"/> Real estate</td> </tr> <tr> <td><input type="checkbox"/> Diamonds</td> <td><input type="checkbox"/> Negotiated cheque</td> <td><input type="checkbox"/> Negotiated traveller's cheques</td> <td><input type="checkbox"/> Redeemed casino chips</td> </tr> <tr> <td><input type="checkbox"/> Incoming electronic funds transfer</td> <td><input type="checkbox"/> Negotiated life insurance policy</td> <td><input type="checkbox"/> Precious metals</td> <td><input type="checkbox"/> Withdrawal from account</td> </tr> <tr> <td><input type="checkbox"/> Jewellery</td> <td><input type="checkbox"/> Negotiated money order</td> <td><input type="checkbox"/> Precious stones (excluding diamonds)</td> <td><input type="checkbox"/> Other <input type="text"/></td> </tr> </table>						<input type="checkbox"/> Cash in	<input type="checkbox"/> Negotiated bank draft	<input type="checkbox"/> Negotiated securities	<input type="checkbox"/> Real estate	<input type="checkbox"/> Diamonds	<input type="checkbox"/> Negotiated cheque	<input type="checkbox"/> Negotiated traveller's cheques	<input type="checkbox"/> Redeemed casino chips	<input type="checkbox"/> Incoming electronic funds transfer	<input type="checkbox"/> Negotiated life insurance policy	<input type="checkbox"/> Precious metals	<input type="checkbox"/> Withdrawal from account	<input type="checkbox"/> Jewellery	<input type="checkbox"/> Negotiated money order	<input type="checkbox"/> Precious stones (excluding diamonds)	<input type="checkbox"/> Other <input type="text"/>
<input type="checkbox"/> Cash in	<input type="checkbox"/> Negotiated bank draft	<input type="checkbox"/> Negotiated securities	<input type="checkbox"/> Real estate																		
<input type="checkbox"/> Diamonds	<input type="checkbox"/> Negotiated cheque	<input type="checkbox"/> Negotiated traveller's cheques	<input type="checkbox"/> Redeemed casino chips																		
<input type="checkbox"/> Incoming electronic funds transfer	<input type="checkbox"/> Negotiated life insurance policy	<input type="checkbox"/> Precious metals	<input type="checkbox"/> Withdrawal from account																		
<input type="checkbox"/> Jewellery	<input type="checkbox"/> Negotiated money order	<input type="checkbox"/> Precious stones (excluding diamonds)	<input type="checkbox"/> Other <input type="text"/>																		
6. Amount of transaction*																					
<input type="text"/>																					
7. Transaction currency code* — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in <i>Guideline 38: Submitting Suspicious Transaction Reports to FINTRAC by Paper</i> .																					
<input type="text"/>																					
<b>Additional information about the funds described in field 5 above</b>																					
8. Other institution name and number or other entity or person name* (if applicable)																					
<input type="text"/>																					
9. Other entity or person account number* (if applicable)																					
<input type="text"/>																					
10. How was the transaction conducted?*																					
<table border="0"> <tr> <td><input type="checkbox"/> Armoured car</td> <td><input type="checkbox"/> In-branch/Office/Store</td> <td><input type="checkbox"/> Quick drop</td> </tr> <tr> <td><input type="checkbox"/> Automated banking machine</td> <td><input type="checkbox"/> Mail deposit</td> <td><input type="checkbox"/> Telephone</td> </tr> <tr> <td><input type="checkbox"/> Courier</td> <td><input type="checkbox"/> Night deposit</td> <td><input type="checkbox"/> Other <input type="text"/></td> </tr> </table>						<input type="checkbox"/> Armoured car	<input type="checkbox"/> In-branch/Office/Store	<input type="checkbox"/> Quick drop	<input type="checkbox"/> Automated banking machine	<input type="checkbox"/> Mail deposit	<input type="checkbox"/> Telephone	<input type="checkbox"/> Courier	<input type="checkbox"/> Night deposit	<input type="checkbox"/> Other <input type="text"/>							
<input type="checkbox"/> Armoured car	<input type="checkbox"/> In-branch/Office/Store	<input type="checkbox"/> Quick drop																			
<input type="checkbox"/> Automated banking machine	<input type="checkbox"/> Mail deposit	<input type="checkbox"/> Telephone																			
<input type="checkbox"/> Courier	<input type="checkbox"/> Night deposit	<input type="checkbox"/> Other <input type="text"/>																			
11. ID number of the person initially identifying a suspicious transaction																					
<input type="text"/>																					

**NOTE: Please copy this page for each additional, related, disposition (per transaction) (if required).**

Transaction ☐ Disposition ☐ of ☐

### PART B2 — Information about how the transaction was completed

If the transaction being reported was attempted and, because of this, information for any mandatory fields in this part is not available, you can leave those fields blank.

Indicate whether this transaction was conducted on behalf of anyone other than the individual who conducted it. If not, indicate "not applicable."

On behalf of: ☐ not applicable ☐ another individual (also complete PART F)  
☐ an entity (other than an individual) (also complete PART E) ☐ employee depositing cash to employer's business account

12. Disposition of funds \*

<input type="checkbox"/> Cash out	<input type="checkbox"/> Outgoing electronic funds transfer	<input type="checkbox"/> Purchase of jewellery	<input type="checkbox"/> Purchase of traveller's cheques
<input type="checkbox"/> Conducted currency exchange	<input type="checkbox"/> Purchase of bank draft	<input type="checkbox"/> Purchase of money order	<input type="checkbox"/> Real estate purchase/deposit
<input type="checkbox"/> Deposit to an account	<input type="checkbox"/> Purchase of casino chips	<input type="checkbox"/> Purchase of precious metals	<input type="checkbox"/> Securities purchase/deposit
<input type="checkbox"/> Life insurance policy purchase/deposit	<input type="checkbox"/> Purchase of diamonds	<input type="checkbox"/> Purchase of precious stones (excluding diamonds)	<input type="checkbox"/> Other <input type="text"/>
<small>DESCRIPTION (OTHER)</small>			
<input type="text"/>			
<small>POLICY NUMBER</small>			

13. Amount of disposition \*

14. Disposition currency code \* — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

#### Additional information about the funds described in field 12 above

15. Other institution name and number or other entity or person name \* (if applicable)

16. Other entity or person account number or policy number \* (if applicable)



**NOTE: Please copy this page for each additional disposition (if applicable).**

**PART C—Account information, if the transaction involved an account**

If the transaction being reported was attempted and, because of this, information for any mandatory fields in this part is not available, you can leave those fields blank.

Transaction ☐ Disposition ☐

**Complete this Part ONLY if the transaction involved an account.**

1. Branch or transit number where the account is held\* (if this part is applicable) 2. Account number\* (if this part is applicable)

\_\_\_\_\_

3. Type of account\* (if this part is applicable)

☐ Business

☐ Personal

☐ Trust

☐ Other

DESCRIPTION (OTHER)

4. Account currency code\* (if this part is applicable) — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

\_\_\_\_\_

5. Full name of each account holder (the individual (s) or entity that hold the account)\* (if this part is applicable)

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

6. Date opened

YEAR MONTH DAY

7. Date closed

2 | 0 YEAR MONTH DAY

8. Status of the account at the time the transaction was initiated\* (if this part is applicable)

☐ Active

☐ Inactive

☐ Dormant





**NOTE: Please copy this page for each additional transaction (if applicable).**

**PART D — Information about the individual conducting the transaction**

Transaction   

<p>1. Surname</p> <p>_____</p>	<p>2. Given name</p> <p>_____</p>	<p>3. Other/Initial</p> <p>_____</p>
<p>4. Client number assigned by reporting entity* (if applicable)</p> <p>_____</p>		
<p>5. Street address</p> <p>_____</p>		
<p>6. City</p> <p>_____</p>		
<p>7. Province or State</p> <p>_____</p>	<p>8. Country</p> <p>_____</p>	
<p>9. Postal or Zip code</p> <p>_____</p>		
<p>10. Country of residence</p> <p>_____</p>	<p>10A. Country of citizenship</p> <p>_____</p>	
<p>11. Home telephone number (with area code)</p> <p>_____</p>		
<p>12. Individual's identifier</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p> <input type="checkbox"/> Birth certificate              <input type="checkbox"/> Driver's licence              <input type="checkbox"/> Passport              <input type="checkbox"/> Provincial health card              <input type="checkbox"/> Record of landing / Permanent resident card         </p> <p> <input type="checkbox"/> Other _____  <small>DESCRIPTION (OTHER)</small> </p> </div>		
<p>13. ID number (from question 12)</p> <p>_____</p>		
<p>14. Place of issue – Province or State</p> <p>_____</p>	<p>15. Place of issue – Country</p> <p>_____</p>	
<p>16. Individual's date of birth</p> <p>           YEAR _____ MONTH _____ DAY _____         </p>		
<p>17. Individual's occupation</p> <p>_____</p>		
<p>18. Individual's business telephone number (with area code)</p> <p>_____</p>	<p>18A. Telephone extension number</p> <p>_____</p>	
<p><b>Information about individual's employer</b></p>		
<p>19. Individual's employer</p> <p>_____</p>		
<p>20. Employer's street address</p> <p>_____</p>		
<p>21. Employer's city</p> <p>_____</p>		
<p>22. Employer's province or state</p> <p>_____</p>	<p>23. Employer's country</p> <p>_____</p>	
<p>24. Postal or Zip code</p> <p>_____</p>		
<p>25. Employer's business telephone number (with area code)</p> <p>_____</p>	<p>25A. Telephone extension number</p> <p>_____</p>	



Suspicious Transaction Report

**NOTE: Please copy this page for each additional disposition (if required).**

Transaction ☐ Disposition ☐

**PART E — Information about the entity on whose behalf the transaction was conducted (if applicable)**

1. Name of corporation, trust or other entity

2. Type of business

3. Street address

4. City

5. Province or State

6. Country

7. Postal or Zip code

8. Business telephone number (with area code)

8A. Telephone extension number

9. Incorporation number

10. Place of issue – Province or State

11. Place of issue – Country

12. Individual(s) authorized to bind the entity or act with respect to the account (up to three)

- 1
- 2
- 3



**NOTE: Please copy this page for each additional disposition (if required).**

Transaction ☐

Disposition ☐

**PART F — Information about the individual on whose behalf the transaction was conducted (if applicable)**

1. Surname _____	2. Given name _____	3. Other/Initial _____
4. Street address _____		
5. City _____		
6. Province or State _____	7. Country _____	
8. Postal or Zip code _____		
9. Home telephone number (with area code) _____		
10. Business telephone number (with area code) _____	10A. Telephone extension number _____	
11. Individual's date of birth YEAR MONTH DAY ____		
12. Individual's identifier		

☐ Birth certificate   
 ☐ Driver's licence   
 ☐ Passport   
 ☐ Provincial health card   
 ☐ Record of landing/Permanent resident card  
☐ Other \_\_\_\_\_  
DESCRIPTION (OTHER)

13. ID number (from question 12) _____	14A. Country of citizenship _____
14. Country of residence _____	16. Place of issue of individual's identifier — Country _____
15. Place of issue of individual's identifier — Province or State _____	
17. Individual's occupation _____	

**Information about individual's employer**

18. Individual's employer _____	
19. Employer's street address _____	
20. Employer's city _____	
21. Employer's province or state _____	22. Employer's country _____
23. Postal or Zip code _____	
24. Employer's business telephone number (with area code) _____	24A. Telephone extension number _____

**Relationship**

25. Relationship of the individual named in Part D to the individual named above (fields 1 to 3)

☐ Accountant   
 ☐ Borrower   
 ☐ Customer   
 ☐ Friend   
 ☐ Relative  
☐ Agent   
☐ Broker   
☐ Employee   
☐ Legal counsel   
☐ Other \_\_\_\_\_  
DESCRIPTION (OTHER)



Suspicious Transaction Report

**PART G — Description of suspicious activity**

1. Please describe clearly and completely the factors or unusual circumstances that led to the suspicion of money laundering or terrorist activity financing.\*  
Provide as many details as possible to explain what you found suspicious.

If this report is about one or more transactions that were attempted, also describe why each one was not completed.

**PART H — Description of action taken (if applicable)**

1. Please describe what action, if any, was or will be taken by you as a result of the suspicious transaction(s).\* (if this part is applicable)

The information on this form is collected under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act). It will be used for analytical purposes and may also be used for the purposes of ensuring compliance with the Act. Any personal information is protected under the provisions of the *Privacy Act*. For more information, consult the Financial Transactions and Reports Analysis Centre of Canada chapter in the *Sources of Federal Government Information* publication, available on the Government of Canada Info Source Web site (<http://www.infosource.gc.ca>).

Suspicious Transaction Report

Source: [www.fintrac-canafe.gc.ca/publications/guide/Guide3B/3b-eng.asp#s441](http://www.fintrac-canafe.gc.ca/publications/guide/Guide3B/3b-eng.asp#s441)

## 5. Instructions for Completing a Suspicious Transaction Report

The fields in this section correspond with the paper form called the *Suspicious Transaction Report*. As explained in subsection 3.3, completing a paper report is only permitted if you do not have the capability to report electronically.

Fields in reports are either mandatory, mandatory if applicable, or require "reasonable efforts" to complete, as follows:

- **Mandatory:** All fields of a report marked with an asterisk (\*) **have to be completed.**
- **Mandatory if applicable:** The fields that have both an asterisk and "if applicable" next to them have to be completed if they are applicable to you or the transaction being reported.
- **Reasonable efforts:** For all other fields that do not have an asterisk, you have to make reasonable efforts to get the information. "Reasonable efforts" means that you tried to get the information requested on the report. If the information is available to you, you must provide it in the report. If the information was not available at the time of the transaction, and it is not contained in your files or records, the field may be left blank.

In certain circumstances, only as directed in the instructions for certain fields, if you need to indicate that a required field in a report is not applicable, enter "N/A" or "n/a". Do not substitute any other abbreviations, special characters (for example, "x", "." or "\*\*") or words (for example, "unknown").

When completing the paper form, enter the date and time when you begin completing it at the top of the form. If you have to file a correction to a report on paper, follow the instructions on the first page of the form. If you need to get a paper form, see section 4.

There are eight parts on the *Suspicious Transaction Report* form, but some are only to be completed if applicable. To report a suspicious transaction, follow the following five steps:

- Step 1 - Complete [Part A](#) to provide information about the reporting entity and about where the transaction took place or was attempted.
- Step 2 - Complete [Part B1](#) to provide details about the transaction.
- Step 3 - Complete [Part B2](#) to provide details about the transaction's disposition. If the transaction's disposition was related to an account, also complete [Part C](#). If the transaction's disposition was on behalf of a business, a corporation or other entity (other than an employee depositing cash into his or her employer's business account), also complete [Part E](#). If the transaction's disposition was on behalf of an individual (other than an employee depositing cash into his or her employer's business account), complete [Part F](#).  
  
If there was more than one disposition for the transaction, repeat this step for each disposition.
- Step 4 - Complete [Part D](#) to provide information about the individual conducting or attempting to conduct the transaction.
- Step 5 - Complete [Part G](#) to explain the reason for your suspicion. In the case of a report about attempted transactions, this must include the reason why they were not completed. Also, complete [Part H](#) to provide information about any action taken, if applicable.

If you have to include more than one transaction in your report, repeat steps 2, 3 and 4 for each one. You may need to use extra copies of Parts B1, B2, C, D, E or F to complete your report.

The rest of this section will cover each part of the *Suspicious Transaction Report* form.

### Transaction status indicator

To report a **completed** transaction, check "Completed" as the transaction status indicator. This applies to the entire report, so you should not include any other transactions in this report if they were attempted.

To report an **attempted** transaction, check "Attempted" as the transaction status indicator. This applies to the entire report, so you should not include any other transactions in this report if they were completed.

If you need more information about when a transaction is completed or attempted, see *Guideline 2: Suspicious Transactions*.

### Part A : Information about where the transaction took place

This part is for information about the reporting entity required to report the transaction to FINTRAC. It is also for information about the physical location where the transaction took place or was attempted.

If you need more information about what type of individual or entity is a reporting entity, see section 2 of this guideline.

If you have multiple branch or office locations, the information in this part should refer to the branch or office location where the transaction took place or was attempted. Transactions that happened or were attempted at different branch or office locations should be reported on separate reports.

Some reporting entities have contractual arrangements with someone outside their entity to conduct transactions on their behalf. For example, a money services business arranges for transactions, such as electronic funds transfers, to be conducted for them at a grocery store. If you have this type of arrangement, as the reporting entity, your name belongs in Part A. However, since the transaction was conducted at someone else's place of business, it is that address that must appear in Part A.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, there are special instructions for you to complete several of the fields in this part.

#### Field A1\* Reporting entity's identifier number (if applicable)

This is the institution or licence number, or other identification number for the reporting entity, as outlined below. If you are a reporting entity that has several branch locations, the identification number should refer to the branch or office where the transaction occurred.

- If you are an **accountant**, enter your provincial chartered accountant (CA), provincial certified management accountant (CMA), or provincial certified general accountant (CGA) number.
- If you are a **bank, caisse populaire, cooperative credit society or credit union**, enter your financial institution number issued by the Canadian Payments Association (CPA).
- If you are an **agent of the Crown that sells or redeems money orders**, enter your post office or similar number.
- If you are a **life insurance broker or agent**, enter your provincial broker or agent licence number.
- If you are a **federally regulated life insurance company**, enter your Office of the Superintendent of Financial Institutions (OSFI) Institution Code.
- If you are a **life insurance company that is not federally regulated**, enter your provincial licence number.
- If you are a **provincial savings office**, enter your financial institution number issued by the CPA.
- If you are a **real estate broker or sales representative**, enter your provincial broker number.
- If you are a **securities dealer**, enter your provincial dealer licence number.
- If you are a **trust and loan company**, enter your financial institution number issued by the CPA.
- If you are a **provincial trust and loan** that is not a member of the CPA, enter your registration number.
- If you are a **money services business**, enter your money services business registration number issued by FINTRAC.
- If you are a **dealer in precious metals and stones**, leave this field blank.
- If you are a **British Columbia public notary**, enter your membership number. If you are a **notary corporation of British Columbia**, enter your permit number.
- If you are a **real estate developer**, enter your provincial licence number if you have one. Otherwise, leave this field blank.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter **"EMPLOYEE"** in field A1.

#### Field A2\* Reporting entity's full name

Enter the full legal name of the business or corporation that is the reporting entity. If you are a reporting entity that does not have a business name (for example, you are a reporting entity that is an individual), enter your full name.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter your **own** name in field A2.

#### Fields A3\* to A6\* Reporting entity's full address

Enter the civic address, town or city, province and postal code where the transaction took place or was attempted. If you have more than one location, this information should refer to where the transaction took place or was attempted. As explained above, transactions that happened at different branch or office locations should be reported on separate reports.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter the complete address of where the transaction took place or was attempted in fields A3 to A6.

#### Field A6A Reporting entity report reference number

If you use a reference number for your own internal purposes, you can enter it in your report to FINTRAC. This field can contain up to 20 alpha or numeric characters and must be unique for each of your reporting entity's reports.

If you do not wish to use such an internal reference number, leave this field empty.

#### Fields A7\*, A8\* and A9 Contact name

Enter the name of the individual FINTRAC can contact for clarification about this report.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter your **own** contact information in these fields.



**Field A10\* Contact telephone number**

Enter the telephone number, including the area code, of the individual FINTRAC can contact for clarification. Include the extension if applicable in field A10A.

**Field A11\* Which one of the following types of reporting entities best describes you?**

Enter the type of activity applicable to you. If you are involved in more than one activity type, indicate the one applicable to the transaction being reported. If there is more than one activity for one or more transactions on the report, check only one box to indicate your principal type of activity, and provide additional details in Part G.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter the type of reporting entity **for your employer** in this field.

**Part B1 : Information about how the transaction was initiated**

This part is for information about how the transaction was initiated (i.e., where the money came from) for the transaction that led you to the suspicion of a connection to money laundering or terrorist financing. In the case of an attempted transaction, this would include information about how it was proposed to be initiated.

Your suspicion could be based on a series of transactions. In that case, include in this report the information for each transaction that led to the suspicion.

When you need to report more than one transaction, complete a separate Part B1 for each transaction. To do this, you can copy Part B1. Fill in the "Transaction \_\_\_\_ of \_\_\_\_" area at the top of Part B1 to distinguish between each transaction. When you provide the details of the transaction in Part D, the details of disposition in Part B2, as well as the additional details of disposition in Parts C, E, and F, as applicable, indicate to which transaction that information applies.

**Fields B1\*, B2 and B3\* When the transaction took place**

Enter the date (yyyy-mm-dd) and time (hh:mm:ss) of the suspicious transaction. Use a 24-hour format for time. For example, enter "15:30:00" to represent 3:30 p.m.

The time of the transaction (field B2) can be left blank if it is not available from the moment of the transaction or in your records.

The date of the transaction (field B1) is mandatory. However, if the transaction was a night deposit, and you do not provide the date, you can leave field B1 blank. In this case, make sure to indicate that it was a night deposit at field B3.

If the transaction being reported was attempted and, because of this, information for field B1 or B3 is not available, you can leave the field blank.

**Field B4 Date of posting**

Enter the date (yyyy-mm-dd) the transaction cleared, if this differs from the date of the transaction provided above. In the case of an attempted transaction, this field would not apply.

**Field B5\* Detail of funds involved in initiating transaction**

Check the appropriate box to describe the type of funds involved in initiating the transaction. For example, if your client brought in cash, "Cash in" is the type of funds, or if your client is cashing in a life insurance policy, "Negotiated life insurance policy" is the description of funds. If the selections provided do not cover the particular transaction, indicate "Other" and provide details in the field provided. For example, if annuities were involved in initiating the transaction, indicate "Other" and provide information about the type of annuity in the "Other" field.

If there was more than one type of funds, indicate only one that best represents how the transaction was initiated. Provide information about the rest of the types of funds in Part G.

If the transaction being reported was attempted and, because of this, information for field B5 is not available, you can leave the field blank.

If you are a dealer in precious metals and stones, select the type of funds in field B5 that best describes what you received in the transaction, or what you were supposed to receive in an attempted transaction. If you were buying precious metals or stones, indicate the type of funds that best describes what you bought or attempted to buy. The same would apply if you were to receive precious metals or stones from a client for a trade-in sale. If you were selling precious metals or stones to a client, indicate the type of funds based on how the client paid or attempted to pay. For example, if the client paid cash, indicate "cash in" or if the client paid by debit card or credit card, indicate "Other" and provide details in the "Other" field.

**Field B6\* Amount of transaction**

Enter the total amount of funds involved in the transaction. This is the total amount received to start the transaction. What happens as a result of that amount will be explained in Part B2 as one or more dispositions.

If this amount was not in Canadian funds, you do not have to convert it but you have to provide the currency information in field B7.

If the transaction being reported was attempted and, because of this, information for field B6 is not available, you can leave the field blank.

#### Field B7\* Transaction currency code

Enter the currency code applicable to the transaction, even if it was in Canadian funds. Enter CAD for Canadian dollars or USD for United States dollars. If the transaction was in another type of currency, see the list of currency codes in Appendix 1 at the end of this guideline.

If the transaction being reported was attempted and, because of this, information for field B7 is not available, you can leave the field blank.

#### Fields B8\* and B9\* Other institution, entity or person name, number and account number (if applicable)

These fields are for additional information about the funds described in field B5. Where applicable, in field B8, provide the name (including the institution identification number if applicable) of any other institution, entity or individual involved in the transaction. In addition, where applicable, in field B9, provide the account number of any other individual or entity involved in the disposition. If more than one other individual or institution was involved, put the information about the others in Part G.

#### Field B10\* How was the transaction was conducted?

Check the appropriate box to indicate how the transaction was conducted or attempted. For example, if the transaction was done through an automated banking machine, check that box. If the selections provided do not cover this particular transaction, indicate "Other" and provide details in the field provided.

If the transaction being reported was attempted and, because of this, information for field B10 is not available, you can leave the field blank.

#### Field B11 ID number of the person initially identifying a suspicious transaction

Enter the identification number of the individual who first identified the suspicious behaviour leading to the report. If that individual does not have an ID number, this field may be left blank.

### Part B2: Information about how the transaction was completed

This part is for information about how the transaction was completed (i.e., where the money went). In the case of an attempted transaction, this would include information about how it was proposed to be completed.

#### "On behalf of" indicator

At the top of Part B2, you have to indicate whether the individual who conducted or attempted the transaction was doing so on anyone else's behalf. You have to select one of the following for this entry:

- **Not applicable**  
This means that **neither** Part E **nor** Part F applies to this report. "Not applicable" indicates that, to your knowledge, none of the other "On behalf of" selections is applicable to the transaction. For example, the transaction was a night deposit or a quick drop, or the disposition was not on anyone else's behalf (i.e., it was on behalf of the individual that conducted or attempted it).
- **On behalf of an entity**  
This indicates that the disposition was on behalf of an entity, such as a business, a partnership, a corporation, a trust or other entity, but was **not** an employee depositing cash to his or her employer's business account. For a transaction that was conducted or attempted on behalf of an entity, complete Part E for this report to provide the information about that entity.
- **On behalf of another individual**  
This indicates that the disposition was on behalf of another individual but was **not** an employee depositing cash to his or her employer's business account. For a transaction that was conducted or attempted on behalf of another individual, complete Part F to provide the information about that other individual.
- **Employee depositing cash to employer's business account**  
This indicates that the disposition was an employee depositing cash to his or her employer's **business** account. If it was an employee depositing cash to his or her employer's business account, **neither** Part E **nor** Part F applies for this report. Do not use this indicator if the employee deposited other than cash or if the employer's account was other than a business account.

#### More than one disposition

There could be more than one disposition for a particular transaction. For example, your client could initiate a transaction in cash, send an electronic funds transfer (EFT) for part of it (disposition 1), order a bank draft for another part (disposition 2) and deposit the rest (disposition 3). In that case, make sure you include the information for each disposition. If you are including more than one transaction in this report, you have to complete Part B2 for all dispositions for each transaction.



If you have to include more than one disposition, complete a separate Part B2 for each one. To do this, you can copy Part B2. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_ of \_\_\_\_" area at the top of Part B2 to distinguish between each disposition. If you have to include more than one transaction in this report, indicate to which transaction the disposition information applies, based on the number you assigned the transaction in Part B1. When you provide the details of disposition in Parts C, E, and F, as applicable, also indicate to which disposition and which transaction that information applies.

#### **Field B12\* Disposition of funds**

This describes what happened to the funds involved in the transaction.

If the disposition of funds was a life insurance policy purchase or deposit, check that box and provide the life insurance policy number in the appropriate field. If the selections provided do not cover this particular disposition, indicate "Other" and provide details in the appropriate field.

If the transaction being reported was an employee depositing cash to an employer's business account (as indicated by the "on behalf of" indicator at the top of Part B2), the disposition of funds in field B12 should be "deposit to an account".

If the transaction being reported was attempted and, because of this, information for field B12 is not available, you can leave the field blank.

If you are a dealer in precious metals and stones, select the disposition of funds in field B12 that best describes what you paid or sold (or what you attempted to pay or sell) to the conductor of the transaction. If you were buying precious metals or stones, select the disposition of funds that best describes how you paid or attempted to pay for them. For example, if you paid in cash, indicate "cash out" or if you paid by cheque, indicate "Other" and provide details in the "Other" field. If you were selling precious metals or stones (including a trade-in sale), select the disposition of funds that best describes what your client purchased or attempted to purchase.

#### **Field B13\* Amount of disposition**

Enter the amount of funds involved in the disposition. If the amount was not in Canadian funds, you do not have to convert it but you have to provide the currency information in field B14.

If the transaction being reported was attempted and, because of this, information for field B13 is not available, you can leave the field blank.

#### **Field B14\* Disposition currency code**

Enter the code for the currency of the disposition, even if it was in Canadian funds. Enter CAD for Canadian dollars or USD for United States dollars. If the transaction was in another type of currency, see the list of currency codes in Appendix 1 at the end of this guideline.

If the transaction being reported was attempted and, because of this, information for field B14 is not available, you can leave the field blank.

#### **Fields B15\* and B16\* Other institution, entity or person name, number and account or policy number (if applicable)**

These fields are for additional information about the disposition described in field B12. Where applicable, in field B15, provide the name (including the institution identification number if applicable) of any other institution, individual or entity involved in the disposition. In addition, where applicable, in field B16, provide the account number of any other individual or entity involved in the disposition. Also provide any policy number related to the other entity or individual in field B16, if applicable.

If more than one other individual, entity or institution was involved, put the information about the others in Part G.

#### **Part C: Account information, if the transaction involved an account**

This part is for information about the account involved in the transaction, if it in fact involved an account. In the case of an attempted transaction, this would include information about the account that was proposed to be involved.

As explained earlier, it is possible to have more than one transaction per report, and more than one disposition per transaction. Provide the account information, if applicable, for each disposition included in the report.

If you have to include account information for more than one disposition, complete a separate Part C to provide information for each account involved. To do this, you can copy Part C. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part C to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

#### **Field C1\* Branch or transit number where the account is held (if this part is applicable)**

Enter the branch number, transit number, or other appropriate identifying number of the entity where the relevant account is held, if an account is applicable to the transaction.

If the transaction being reported was attempted and, because of this, information for field C1 is not available, you can leave the field blank.

**Field C2\* Account number (if this part is applicable)**

Enter the number of the relevant account.

If the transaction being reported was attempted and, because of this, information for field C2 is not available, you can leave the field blank.

**Field C3\* Type of account (if this part is applicable)**

Indicate the type of the relevant account. For example, a business account would be one that, at the time it was opened, was for a business or for a non-profit organization, etc. (i.e., other than a personal or trust account). If the selections "personal, business or trust" do not cover this particular account, indicate "Other" and provide details in the field provided.

If the transaction being reported was an employee depositing cash to an employer's business account (as indicated by the "on behalf of" indicator at the top of Part B2), the account type in field C3 should be "business".

If the transaction being reported was attempted and, because of this, information for field C3 is not available, you can leave the field blank.

**Field C4\* Account currency code (if this part is applicable)**

Enter the code of the currency for the relevant account. Enter CAD for Canadian dollars or USD for United States dollars. If the account is in another type of currency, see the list of currency codes in Appendix 1 at the end of this guideline.

If the transaction being reported was attempted and, because of this, information for field C4 is not available, you can leave the field blank.

**Field C5\* Full name of the individual(s) or entity that hold the account (if this part is applicable)**

Enter the full name of each account holder (up to three).

This is for information about each individual or entity that holds the account. For example, in the case of a joint account for husband and wife, include the names of each spouse at field C5.

The account holder might be different from the individual(s) authorized to give instructions for the account. For example, an account for a corporation will have one or more individuals authorized to give instructions for that account. In this case, it is the name of the corporation that holds the account that is required in field C5. Information about individuals authorized to bind the entity or to act with respect to the account belongs in Part E, if applicable, in field E12.

If the transaction being reported was attempted and, because of this, information for field C5 is not available, you can leave the field blank.

**Field C6 Date opened**

Enter the date (yyyy-mm-dd) the account was opened.

**Field C7 Date closed**

Enter the date (yyyy-mm-dd) the account was closed, if applicable.

**Field C8\* Status of the account at the time the transaction was initiated (if this part is applicable)**

Indicate whether the account was active, inactive or dormant at the time the transaction was initiated.

The status of an account is determined by your policies and procedures. For example, your policy may be to assign inactive status to all accounts if there is no client activity for an account over a certain period of time, and dormant status if that inactivity is prolonged.

If you do not have such policies or procedures to assign inactive or dormant status to unused accounts, simply leave this field blank.

If the transaction being reported was attempted and, because of this, information for field C8 is not available, you can leave the field blank.

**Part D: Information about the individual conducting the transaction**

This part is for information about the individual who conducted or attempted to conduct the transaction. As explained earlier, it is possible to have more than one transaction per report. Provide this information for each transaction included in the report.

If you need to report more than one transaction, complete a separate Part D for each transaction. To do this, you can copy Part D. Fill in the "Transaction \_\_\_\_" area at the top of Part D to distinguish between each transaction, based on the number you assigned the transaction in Part B1.

If you are a dealer in precious metals and stones, the individual who conducted or attempted to conduct the transaction is the one from whom you were buying or to whom you were selling precious metals or stones.

**Fields D1 to D3 Individual's full name**

Enter the last name, first name and middle initial (if applicable) of the individual who conducted or attempted to conduct the transaction.

**Field D4\* Entity client number (if applicable)**

Enter the client number you issued to the individual who conducted or attempted to conduct the transaction, if applicable.

**Fields D5 to D9 Individual's full address**

Enter the civic address, town or city, province or state, country and postal code of the individual who conducted or attempted to conduct the transaction.

**Field D10 Country of residence**

Enter the country of permanent residence of the individual who conducted or attempted to conduct the transaction.

**Field D10A Country of citizenship**

Enter the country of citizenship of the individual who conducted or attempted to conduct the transaction.

**Field D11 Home telephone number**

Enter the home telephone number, including the area code, of the individual who conducted or attempted to conduct the transaction.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field D12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual who conducted or attempted to conduct the transaction.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in the field provided.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field D12, but do not provide the number in field D13.

**Field D13 ID Number**

Enter the number of the document described in field D12 that was used to identify the individual who conducted or attempted to conduct the transaction. Remember that a health card number is not acceptable for this purpose in some provinces. Furthermore, as explained above, a SIN should not be provided on this form. If the identifier document in field D12 (and D12A) is a SIN card, enter "N/A" in field D13 to indicate the number is not applicable.

**Fields D14 and D15 Place of issue of individual's identifier**

Enter the province or state and country of issue of the document used to identify the individual who conducted or attempted to conduct the transaction. If the document was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

**Field D16 Individual's date of birth**

Enter the date (yyyy-mm-dd) of birth of the individual who conducted or attempted to conduct the transaction.

**Field D17 Individual's occupation**

Enter the occupation of the individual who conducted or attempted to conduct the transaction.

Be as descriptive as possible regarding occupation. Provide information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation should reflect the area of consulting, such as "IT consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If the individual is not employed or engaged in any type of business or profession, provide information that best describes their situation, such as "student", "unemployed", "retired", etc.



**Field D18 Individual's business telephone number**

Enter the business telephone number, including the area code, of the individual who conducted or attempted to conduct the transaction. Include the extension if applicable at field D18A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field D19 Individual's employer**

Enter the name of the entity or individual who is the employer of the individual who conducted or attempted to conduct the transaction.

**Fields D20 to D24 Employer's business address**

Enter the civic address, town or city, province or state, country and postal code of the employer of the individual who conducted or attempted to conduct the transaction.

**Field D25 Employer's business telephone number**

Enter the business telephone number, including the area code, of the employer of the individual who conducted or attempted to conduct the transaction. Include the extension if applicable at field D25A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Part E: Information about the entity on whose behalf the transaction was conducted (if applicable)**

This part only applies if the transaction's disposition was conducted or attempted on behalf of a third party that is an entity, as indicated in Part B2. If an employee deposited cash in his or her employer's business account, Part E does not apply.

Complete a separate Part E for each disposition that was conducted or attempted on behalf of a business, corporation or other entity. To do this, you can copy Part E. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part E to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Field E1 Name of corporation, trust or other entity**

Enter the full name of the business, corporation, trust or other entity on whose behalf the transaction was conducted or attempted.

**Field E2 Type of business**

Describe the type of business or entity on whose behalf the transaction was conducted or attempted.

**Fields E3 to E7 Full address of business or corporation**

Enter the civic address, town or city, province or state, country and postal code of the business, corporation or other entity on whose behalf the transaction was conducted or attempted.

**Field E8 Business telephone number**

Enter the telephone number, including the area code, of the business, corporation or other entity on whose behalf the transaction was conducted or attempted. Include the extension, if applicable, at field E8A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Fields E9 to E11 Incorporation information**

If the transaction was conducted or attempted on behalf of an entity that is a corporation, provide the incorporation number. Also provide the province or state and country of the incorporation number's place of issue. If an incorporation number does not exist for the corporation, enter "N/A" in fields E9, E10 and E11. If the incorporation number was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

**Field E12 Individual(s) authorized to bind the entity or act with respect to the account (up to three)**

Provide the names of up to three individuals who have authority to conduct transactions through the account.

**Part F: Information about the individual on whose behalf the transaction was conducted (if applicable)**

This part only applies when the transaction's disposition was conducted or attempted on behalf of a third party that is an individual, as indicated in Part B2.

If the individual conducted or attempted the transaction's disposition on his or her own behalf, this Part does not apply. In that case, information about the individual should be put in Part D.

If an employee deposited cash in his or her employer's business account, Part F does not apply. If the transaction's disposition was conducted or attempted on behalf of a business, corporation or other entity, Part E should be completed.

Complete a separate Part F for each disposition that was conducted or attempted on behalf of an individual. To do this, you can copy Part F. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part F to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Fields F1 to F3 Individual's full name**

Enter the last name, first name and middle initial (if applicable) of the individual on whose behalf the transaction was conducted or attempted.

**Fields F4 to F8 Individual's full address**

Enter the civic address, town or city, province or state, country and postal code of the individual on whose behalf the transaction was conducted or attempted.

**Field F9 Home telephone number**

Enter the home telephone number, including the area code, of the individual on whose behalf the transaction was conducted or attempted.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field F10 Business telephone number**

Enter the business telephone number, including the area code, of the individual on whose behalf the transaction was conducted or attempted. Include the extension if applicable in field F10A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field F11 Individual's date of birth**

Enter the date of birth (yyyy-mm-dd) of the individual on whose behalf the transaction was conducted or attempted.

**Field F12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual on whose behalf the transaction was conducted or attempted.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in the field provided.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field F12, but do not provide the number in field F13.

**Field F13 ID number**

Enter the number of the document described in field F12 that was used to identify the individual on behalf of whom the transaction was conducted or attempted. Remember that a health card number is not acceptable for this purpose in some provinces. Furthermore, as explained above, a SIN should not be provided on this form. If the identifier document in field F12 (and F12A) is a SIN card, enter "N/A" in field F13 to indicate the number is not applicable.

**Field F14 Country of residence**

Enter the country of permanent residence of the individual on whose behalf the transaction was conducted or attempted.

**Field F14A Country of citizenship**

Enter the country of citizenship of the individual on whose behalf the transaction was conducted or attempted.

**Fields F15 and F16 Place of issue**

Enter the province or state and country of issue of the document used to identify the individual on whose behalf the transaction was conducted or attempted. If the document was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

**Field F17 Individual's occupation**

Enter the occupation of the individual on whose behalf the transaction was conducted or attempted.

Be as descriptive as possible regarding occupation. Provide information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation should reflect the area of consulting, such as "IT consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If the individual is not employed or engaged in any type of business or profession, provide information that best describes their situation, such as "student", "unemployed", "retired", etc.

**Field F18 Individual's employer**

Enter the name of the entity or individual who is the employer of the individual on whose behalf the transaction was conducted or attempted.

**Fields F19 to F23 Employer's business address**

Enter the civic address, town or city, province or state, country and postal code of the employer of the individual on whose behalf the transaction was conducted or attempted.

**Field F24 Employer's business telephone number**

Enter the business telephone number, including the area code, of the employer of the individual on whose behalf the transaction was conducted or attempted. Include the extension if applicable in field F24A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (") to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field F25 Relationship of the individual named in Part D to the individual named above**

Check the appropriate box to indicate the relationship of the individual conducting or attempting the transaction to the individual on whose behalf the transaction was conducted or attempted.

If the selections provided do not cover the relationship, indicate "Other" and provide details in the appropriate field.

**Part G: Description of Suspicious Activity**

This Part is to provide details of why you suspected that the transaction or the series of transactions were related to money laundering or terrorist financing.

**Field G1\* Description of suspicious activity**

This section explains what led you to believe there was something suspicious about the transaction. The more information that you provide to explain the basis of your suspicion, the more valuable your report will be. The ideal response would clearly and completely describe all of the factors or unusual circumstances which led you to a suspicion of money laundering or terrorist financing, and would provide as many relevant details as possible to support this determination.

Do not leave information about the description of suspicious activity out of your report by referring to any other files or documents. FINTRAC will not have access to that information unless you provide the details in your report.

If this report is about one or more transactions that were attempted, also describe why each one was not completed.

**Part H: Action Taken (if applicable)**

This Part is for you to describe what action, if any, was taken by you, as a result of the suspicious transaction.

**Field H1\* Action taken (if this part is applicable)**

Identify whether you have taken or will take any action as a result of the suspicious transaction, in addition to reporting to FINTRAC. For example, if you are also making a report to a law enforcement agency, indicate this in Part H.

**CHAPTER 19**

# Appendix M— Terrorist Property Form

This form is reproduced with permission from the Financial Transactions and Reports Analysis Centre of Canada and was up-to-date at the time of printing. As this form may change, we recommend you check the website to ensure you are using the latest version.

Source: [www.fintrac-canafe.gc.ca/publications/TPR-2008-eng.pdf](http://www.fintrac-canafe.gc.ca/publications/TPR-2008-eng.pdf)





**NOTE: Please copy this page for each additional, related, suspicious transaction (if required).**

Transaction  of

### PART B — Reason for filing this report

1. Please describe clearly and completely what led you to file this report about terrorist property.\*  
Provide as many details as possible to explain how you came to be in possession or control of the property.  
If there is not enough room on the form, attach a separate sheet to provide all the relevant information.  
Make sure to indicate that this information belongs in field 1 of Part B.

2. Provide as many details as possible about how you know this property is owned or controlled by or on behalf of a terrorist or a terrorist group or about how you believe that this property is owned or controlled by or on behalf of a listed person.

Also include details of what other action you have taken regarding the property, in addition to sending this report to FINTRAC.  
If there is not enough room on the form, attach a separate sheet to provide all the relevant information. Make sure to indicate that this information belongs in field 2 of Part B.

*Note: You must disclose this property's existence to the Royal Canadian Mounted Police and the Canadian Security Intelligence Service, along with any information about a transaction or proposed transaction for that property. See Guideline 5: Submitting Terrorist Property Reports to FINTRAC for more information.*

### Information about the terrorist, terrorist group or listed entity

Name of terrorist group, listed person or individual that owns or controls the property (or that the property is owned or controlled on behalf of). If it is an entity, complete field 3. If it is an individual, complete fields 3A-B-C.

3. Full name of terrorist group or listed person

- 3A. Surname of terrorist or listed person

- 3B. Given name of terrorist or listed person

- 3C. Other/Initial

4. Street address

5. City

6. Province or State

7. Country

8. Postal or Zip code

9. Phone number (with area code)

- 9A. Phone extension number

### Information about anyone who owns or controls the property on behalf of the terrorist or listed person above (where applicable)

Name of entity or individual that owns or controls the property on behalf of the terrorist or listed person named in field 3 or fields 3A-B-C (above). If it is an entity, complete field 10. If it is an individual, complete fields 10A-B-C.

10. Full name of terrorist group or listed person

- 10A. Surname of individual

- 10B. Given name

- 10C. Other/Initial

11. Street address

12. City

13. Province or State

14. Country

15. Postal or Zip code

16. Phone number (with area code)

- 16A. Phone extension number

Terrorist Property Report



**NOTE: Please copy this page for each additional property (if applicable).**

**PART C — Information about the property**

Property  of

1. Type of property \*

<input type="checkbox"/> <b>A Cash</b>	Indicate the type of currency in property identifier (field 2) below. Indicate the actual or approximate value of the cash in field 4 below and provide the currency code applicable in field 4A. Provide any additional information about the cash in the description of property (field 5) below.
<input type="checkbox"/> <b>B Bank account</b>	Indicate the name of the financial institution in property identifier (field 2) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide the account number(s) and other account information in Part D. If you need to provide any additional information about the account, you can use the description of property (field 5) below.
<input type="checkbox"/> <b>C Insurance policy</b>	Indicate the name of the insurance policy issuer in property identifier (field 2) below, and policy number(s) in property identifier number (field 3) below. Indicate the actual or approximate value in field 4 below and provide the currency code applicable in field 4A. Provide any additional information about the insurance policy in the description of property (field 5) below, such as the names of beneficiaries, etc.
<input type="checkbox"/> <b>D Money order</b>	Indicate the name of issuer in property identifier (field 2) below, and any number(s) in property identifier number (field 3) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the money order in the description of property (field 5) below, such as the name of the bearer, etc.
<input type="checkbox"/> <b>E Real estate</b>	Indicate the type of real estate (such as single family home, condo, commercial, land only, etc.) in property identifier (field 2) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the real estate in the description of property (field 5) below, such as the municipal address and name of registered owner, and description of the property.
<input type="checkbox"/> <b>F Securities</b>	Indicate the name of the securities issuer in property identifier (field 2) below, and any securities number(s) in property identifier number (field 3) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the type of securities (such as stocks, bonds, mutual funds, etc.) in the description of property (field 5) below. If the property involves an account, complete Part D to provide information about the account.
<input type="checkbox"/> <b>G Traveller's cheques</b>	Indicate name of issuer of the traveller's cheques in property identifier (field 2) below, and any number(s) in property identifier number (field 3) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the traveller's cheques in the description of property (field 5) below, such as the currency, name of the bearer, etc.
<input type="checkbox"/> <b>H Other</b>	<p>DESCRIPTION (OTHER)</p> <p>For example, this could include the commercial assets of a business or partnership. Indicate property identifier (field 2) below, and property identifier number (field 3) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the property in the description of property (field 5) below. If the property involves an account, complete Part D to provide information about the account.</p>

2. Property identifier (see instructions above for type of property)

If there is not enough room to provide all the property identifier information for this property, attach a separate sheet to provide all the relevant information. Make sure to indicate that this information belongs in field 2 of Part C.


3. Property identifier number (see instructions above for type of property)

If there is not enough room to provide all the property identifier numbers for this property, attach a separate sheet to provide them all. Make sure to indicate that this information belongs in field 3 of Part C.


4. Property value (actual or approximate) \*

4A. Currency code Enter CAD if Canadian dollars or USD for United States dollars.

If another type of currency is involved, see Appendix 1 in *Guideline 3: Submitting Reports to FINTRAC*.

--	--

5. Description of property

If there is not enough room to provide all the information to describe this property, attach a separate sheet to provide all the details. Make sure to indicate that this information belongs in field 5 of Part C.


Terrorist Property Report

**NOTE: Please copy this page for each additional account (if applicable).**

**PART D — Account information (if property involves an account)**

Property ☐ Account ☐ of ☐

1. Branch or transit number \* (where applicable)

2. Account number \* (where applicable)

3. Type of account \* (where applicable)

☒ A Personal

☐ B Business

☐ C Trust

☐ D Other

DESCRIPTION (OTHER)

4. Currency code \* (where applicable) Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3: Submitting Reports to FINTRAC*.

5. Full name of each account holder \* (where applicable)

☒ A

☐ B

☐ C

6. Date opened

7. Date closed

YEAR MONTH DAY

YEAR MONTH DAY

8. Status of the account \* (if there was a transaction or a proposed transaction, please provide the status at the time the transaction was initiated or proposed.)

☒ A Active

☐ B Inactive

☐ C Dormant



**NOTE: Please copy this page for each additional, related transaction or proposed transaction (if required).**

**PART E1 — Information about any transaction or proposed transaction (where applicable)**

Property  Transaction  of

If there was a transaction related to the property, indicate how it was initiated, i.e., where the money came from. If there was a proposed transaction related to the property, indicate how it was proposed to be initiated. If there was no transaction related to the property, do not complete this Part, or Parts E2, F, G or H.

1. Date of transaction* (where applicable)		2. Time of transaction	4. Date of posting (if different from date of transaction)																		
YEAR <input type="text"/> <input type="text"/> MONTH <input type="text"/> <input type="text"/> DAY <input type="text"/> <input type="text"/>		HOUR <input type="text"/> MINUTE <input type="text"/>	YEAR <input type="text"/> <input type="text"/> MONTH <input type="text"/> <input type="text"/> DAY <input type="text"/> <input type="text"/>																		
or 3. Night deposit indicator* (where applicable) <input type="checkbox"/>																					
5. Type of funds or other property involved in initiating the transaction* (where applicable)																					
<table border="0"> <tr> <td><input type="checkbox"/> A Cash</td> <td><input type="checkbox"/> B Jewellery</td> <td><input type="checkbox"/> C Negotiated life insurance policy</td> <td><input type="checkbox"/> D Negotiated traveller's cheques</td> <td><input type="checkbox"/> E Precious stones (excluding diamonds)</td> <td><input type="checkbox"/> F Redeemed casino chips</td> </tr> <tr> <td><input type="checkbox"/> G Diamonds</td> <td><input type="checkbox"/> H Negotiated bank draft</td> <td><input type="checkbox"/> I Negotiated money order</td> <td><input type="checkbox"/> J Precious metals</td> <td><input type="checkbox"/> K Real estate</td> <td><input type="checkbox"/> L Withdrawal from account</td> </tr> <tr> <td><input type="checkbox"/> M Incoming electronic funds transfer</td> <td><input type="checkbox"/> N Negotiated cheque</td> <td><input type="checkbox"/> O Negotiated securities</td> <td><input type="checkbox"/> P Other</td> <td colspan="2">DESCRIPTION (OTHER) <input type="text"/></td> </tr> </table>				<input type="checkbox"/> A Cash	<input type="checkbox"/> B Jewellery	<input type="checkbox"/> C Negotiated life insurance policy	<input type="checkbox"/> D Negotiated traveller's cheques	<input type="checkbox"/> E Precious stones (excluding diamonds)	<input type="checkbox"/> F Redeemed casino chips	<input type="checkbox"/> G Diamonds	<input type="checkbox"/> H Negotiated bank draft	<input type="checkbox"/> I Negotiated money order	<input type="checkbox"/> J Precious metals	<input type="checkbox"/> K Real estate	<input type="checkbox"/> L Withdrawal from account	<input type="checkbox"/> M Incoming electronic funds transfer	<input type="checkbox"/> N Negotiated cheque	<input type="checkbox"/> O Negotiated securities	<input type="checkbox"/> P Other	DESCRIPTION (OTHER) <input type="text"/>	
<input type="checkbox"/> A Cash	<input type="checkbox"/> B Jewellery	<input type="checkbox"/> C Negotiated life insurance policy	<input type="checkbox"/> D Negotiated traveller's cheques	<input type="checkbox"/> E Precious stones (excluding diamonds)	<input type="checkbox"/> F Redeemed casino chips																
<input type="checkbox"/> G Diamonds	<input type="checkbox"/> H Negotiated bank draft	<input type="checkbox"/> I Negotiated money order	<input type="checkbox"/> J Precious metals	<input type="checkbox"/> K Real estate	<input type="checkbox"/> L Withdrawal from account																
<input type="checkbox"/> M Incoming electronic funds transfer	<input type="checkbox"/> N Negotiated cheque	<input type="checkbox"/> O Negotiated securities	<input type="checkbox"/> P Other	DESCRIPTION (OTHER) <input type="text"/>																	
6. Amount of transaction* (where applicable)																					
<input type="text"/>																					
7. Currency code* (where applicable) Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in <i>Guideline 3: Submitting Reports to FINTRAC</i> .																					
<input type="text"/>																					
<b>Additional information about the funds described in field 5 above.</b>																					
8. Other institution, entity or person name and number* (where applicable)																					
<input type="text"/>																					
9. Other institution, entity or person account number* (where applicable)																					
<input type="text"/>																					
10. How was the transaction conducted?* (where applicable)																					
<table border="0"> <tr> <td><input type="checkbox"/> A In-branch/Office/Store</td> <td><input type="checkbox"/> B Automated car</td> <td><input type="checkbox"/> C Mail deposit</td> <td><input type="checkbox"/> D Other</td> <td rowspan="2">DESCRIPTION (OTHER) <input type="text"/></td> </tr> <tr> <td><input type="checkbox"/> E Automated banking machine</td> <td><input type="checkbox"/> F Courier</td> <td><input type="checkbox"/> G Phone</td> <td></td> </tr> </table>				<input type="checkbox"/> A In-branch/Office/Store	<input type="checkbox"/> B Automated car	<input type="checkbox"/> C Mail deposit	<input type="checkbox"/> D Other	DESCRIPTION (OTHER) <input type="text"/>	<input type="checkbox"/> E Automated banking machine	<input type="checkbox"/> F Courier	<input type="checkbox"/> G Phone										
<input type="checkbox"/> A In-branch/Office/Store	<input type="checkbox"/> B Automated car	<input type="checkbox"/> C Mail deposit	<input type="checkbox"/> D Other	DESCRIPTION (OTHER) <input type="text"/>																	
<input type="checkbox"/> E Automated banking machine	<input type="checkbox"/> F Courier	<input type="checkbox"/> G Phone																			
11. ID number of the individual initially identifying a transaction for property described in Part C																					
<input type="text"/>																					



**NOTE: Please copy this page for each additional, related, disposition (per transaction) (if required).**

**PART E2 — Information about the transaction or proposed transaction disposition(s) (where applicable)**

Property ☐ Transaction ☐ Disposition ☐ of ☐

If there was a transaction related to the property, indicate how it was completed, i.e., where the money went. If there was a proposed transaction related to the property, indicate how it was proposed to be completed. If there was no transaction related to the property, do not complete this Part, or Parts E1, F, G or H.

Indicate on whose behalf this transaction was conducted.

On behalf of: ☐ **The individual who conducted the transaction** (described in PART F) ☐ **An entity (other than an individual)** (also complete PART G)  
☐ **Another individual (besides the individual who conducted it)** (also complete PART H)

12. Disposition of funds how the transaction was completed\* (where applicable)

<input type="checkbox"/> <b>A</b> Cash out	<input type="checkbox"/> <b>E</b> Outgoing electronic funds transfer	<input type="checkbox"/> <b>H</b> Purchase of diamonds	<input type="checkbox"/> <b>K</b> Purchase of precious stones (excluding diamonds)	<input type="checkbox"/> <b>N</b> Real estate purchase/deposit
<input type="checkbox"/> <b>B</b> Currency exchange	<input type="checkbox"/> <b>F</b> Purchase of bank draft	<input type="checkbox"/> <b>I</b> Purchase of jewellery	<input type="checkbox"/> <b>L</b> Purchase of money order	<input type="checkbox"/> <b>O</b> Securities purchase/deposit
<input type="checkbox"/> <b>C</b> Deposit to an account	<input type="checkbox"/> <b>G</b> Purchase of casino chips	<input type="checkbox"/> <b>J</b> Purchase of precious metals	<input type="checkbox"/> <b>M</b> Purchase of traveller's cheques	
<input type="checkbox"/> <b>D</b> Life insurance policy purchase/deposit	<input type="checkbox"/> <b>P</b> Other			
POLICY NUMBER		DESCRIPTION (OTHER)		

13. Amount of disposition\* (where applicable)

\_\_\_\_\_

14. Currency code\* (where applicable) Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3: Submitting Reports to FINTRAC*.

\_\_\_\_\_

**Additional information about the funds described in field 12 above**

15. Other institution, entity or person name and number\* (where applicable)

\_\_\_\_\_

16. Account number or policy number of other institution, entity or person\* (where applicable)

\_\_\_\_\_



**NOTE: Please copy this page for each additional transaction (if applicable).**

**PART F — Information about the individual who conducted or proposed to conduct transaction(s) (where applicable)**

Property ☐ Transaction ☐

1. Surname _____	2. Given name _____	3. Other/Initial _____
1A. Alias Surname _____	2A. Alias Given name _____	3A. Alias Other/Initial _____
4. Client number assigned by reporting person or entity (where applicable) _____		
5. Street address _____		
6. City _____		
7. Province or State _____	8. Country _____	
9. Postal or Zip code _____		
10. Country of residence _____		
11. Home phone number (with area code) _____		
12. Individual's identifier		
<input type="checkbox"/> Driver's licence <input type="checkbox"/> Birth certificate <input type="checkbox"/> Provincial health card <input type="checkbox"/> Passport <input type="checkbox"/> Record of Landing or Permanent resident card <input type="checkbox"/> Other _____ <small>DESCRIPTION (OTHER)</small>		
13. ID number (from question 12) _____		13A. Citizenship _____
14. Place of issue Province or State _____		15. Place of issue Country _____
16. Individual's date of birth _____ <small>YEAR MONTH DAY</small>		
17. Individual's occupation _____		
18. Individual's business phone number (with area code) _____		18A. Phone extension number _____
19. Individual's employer _____		
20. Employer's street address _____		
21. Employer's city _____		
22. Employer's province or state _____		23. Employer's country _____
24. Postal or Zip code _____		
25. Employer's business phone number (with area code) _____		25A. Phone extension number _____
Terrorist Property Report		

**NOTE: Please copy this page for each additional disposition (if required).**

Property ☐ Transaction ☐ Disposition ☐

**PART G — Information about the entity on whose behalf transaction was conducted or proposed to be conducted (where applicable)**

1. Name of corporation, trust or other entity

\_\_\_\_\_

2. Type of business

\_\_\_\_\_

3. Street address

\_\_\_\_\_

4. City

\_\_\_\_\_

5. Province or State

\_\_\_\_\_

6. Country

\_\_\_\_\_

7. Postal or Zip code

\_\_\_\_\_

8. Business phone number (with area code)

\_\_\_\_\_

8A. Phone extension number

\_\_\_\_\_

9. Incorporation number (where applicable)

\_\_\_\_\_

10. Place of issue Province or State

\_\_\_\_\_

11. Place of issue Country

\_\_\_\_\_

12. Individual(s) authorized with respect to the account (up to three (3))

A ☐

\_\_\_\_\_

B ☐

\_\_\_\_\_

C ☐

\_\_\_\_\_





**NOTE: Please copy this page for each additional disposition (if required).**

Property ☐ Transaction ☐ Disposition ☐

**PART H — Information about the individual on whose behalf transaction was conducted or proposed to be conducted (where applicable)**

1. Surname _____	2. Given name _____	3. Other/Initial _____
1A. Alias Surname _____	2A. Alias Given name _____	3A. Alias Other/Initial _____
4. Street address _____		
5. City _____		
6. Province or State _____	7. Country _____	
8. Postal or Zip code _____	9. Home phone number (with area code) _____	
10. Office phone number (with area code) _____	10A. Phone extension number _____	11. Individual's date of birth YEAR MONTH DAY ____
12. Individual's identifier <div style="border: 1px solid black; padding: 5px;"> <input type="checkbox"/> Driver's licence    <input type="checkbox"/> Birth certificate    <input type="checkbox"/> Provincial health card    <input type="checkbox"/> Passport    <input type="checkbox"/> Record of Landing or Permanent resident card  <input type="checkbox"/> Other _____  <small>DESCRIPTION (OTHER)</small> </div>		
13. ID number (from question 12) _____		
14. Place of issue Province or State _____		15. Place of issue Country _____
16. Country of residence _____		16A. Citizenship _____
17. Individual's occupation _____		
18. Individual's employer _____		
19. Employer's street address _____		
20. Employer's city _____		
21. Employer's province or state _____		22. Employer's country _____
23. Postal or Zip code _____		
24. Employer's business phone number (with area code) _____		24A. Phone extension number _____
25. Relationship of the individual named in Part F to the individual named above (fields 1 to 3) <div style="border: 1px solid black; padding: 5px;"> <input type="checkbox"/> Accountant    <input type="checkbox"/> Agent    <input type="checkbox"/> Legal counsel    <input type="checkbox"/> Borrower    <input type="checkbox"/> Broker  <input type="checkbox"/> Customer    <input type="checkbox"/> Employee    <input type="checkbox"/> Friend    <input type="checkbox"/> Relative    <input type="checkbox"/> Other _____  <small>DESCRIPTION (OTHER)</small> </div>		

The information on this form is collected under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act). It will be used for analytical purposes and may also be used for the purposes of ensuring compliance with the Act. Any personal information is protected under the provisions of the *Privacy Act*. For more information, consult the Financial Transactions and Reports Analysis Centre of Canada chapter in the *Sources of Federal Government Information* publication, available on the Government of Canada Info Source Web site (<http://www.infosource.gc.ca>).

Terrorist Property Report

Source: [www.fintrac-canafe.gc.ca/publications/guide/Guide5/5-eng.asp#s55](http://www.fintrac-canafe.gc.ca/publications/guide/Guide5/5-eng.asp#s55)

## 5. Instructions for Completing a Terrorist Property Report

The fields in this section refer to the numbered areas on the *Terrorist Property Report* form. As explained in subsection 3.3, these reports can only be completed and sent to FINTRAC on paper. There is no mechanism to report electronically.

Fields of this report are either mandatory, mandatory where applicable, or require "reasonable efforts" to complete, as follows:

- **Mandatory:** All fields of the report marked with an asterisk (\*) **have to be completed.**
- **Mandatory where applicable:** The fields have both an asterisk and "where applicable" next to them have to be completed if they are applicable to you or to the property or the transaction or proposed transaction being reported.
- **Reasonable efforts:** For all other fields that do not have an asterisk, you have to make reasonable efforts to get the information. "Reasonable efforts" means that you tried to get the information requested on the report. If the information is available to you, you must provide it in the report. In the case of a transaction or a proposed transaction, if the information is not contained in your files or records, and it was not available at the time of the transaction, the field may be left blank.

Enter the date and time when you begin completing the report at the top of the form. If you have to file a correction to a report on paper, follow the instructions on the first page of the form. If you need to get a paper form, see section 3.

There are eight parts on the *Terrorist Property Report* form, but some are only to be completed if applicable. To make a terrorist property report, follow the following four steps:

- Step 1 - Complete Part A to provide information about you as the reporting entity.
- Step 2 - Complete Part B to provide details about the terrorist, terrorist group or listed person, and anyone who owns or controls the property on their behalf. Part B is also for you to explain what led you to file the report, as well as how you came to know that the property is owned or controlled by or on behalf of a terrorist or terrorist group or how you came to believe that the property is owned or controlled by or on behalf of a listed person.
- Step 3 - Complete Part C to provide details about the property. If the property involves an account, also complete Part D. If there were no transactions or proposed transactions related to the property, do not complete the rest of the report.
- Step 4 - If there was a transaction relating to the property, complete Parts E1 and E2 to provide information about how the transaction was initiated and completed. Provide the same information if there was a proposed transaction relating to the property. Complete Part F to provide information about the individual who conducted or proposed to conduct the transaction. If the transaction or proposed transaction was on behalf of an entity (such as a corporation or trust), also complete Part G or, if it was on behalf of an individual, complete Part H.

The rest of this section will cover each part of the *Terrorist Property Report* form.

### Part A: Information about the person or entity filing this report

This part is for information about you, the reporting person or entity creating the report. If you have multiple branch or office locations, the information in this Part should be about the branch or office location where you possess or control the property.

#### Field 1\* Reporting person or entity's identifier number (where applicable)

This is your institution or licence number, or other identification number as outlined below. If you have several branch locations, the identification number should refer to the branch or office where you possess or control the property.

- If you are an **accountant**, enter your provincial chartered accountant (CA), provincial certified management accountant (CMA), or provincial certified general accountant (CGA) number.
- If you are a **bank, caisse populaire, cooperative credit society or credit union**, enter your financial institution number issued by the Canadian Payments Association (CPA).
- If you are an **agent of the Crown that sells or redeems money orders**, enter your post office number.
- If you are a **life insurance broker or agent**, enter your provincial broker or agent licence number.
- If you are a **federally regulated life insurance company**, enter your institution code issued by the Office of the Superintendent of Financial Institutions (OSFI).
- If you are a **life insurance company that is not federally regulated**, enter your provincial licence number.
- If you are a **provincial savings office**, enter your financial institution number issued by the CPA.
- If you are a **real estate broker or sales representative**, enter your provincial broker number.
- If you are a **securities dealer**, enter your provincial dealer licence number.
- If you are a **trust and loan company**, enter your financial institution number issued by the CPA.
- If you are a **provincial trust and loan** that is not a member of the CPA, enter your registration number.
- If you are a **money services business**, enter your money services business registration number issued by FINTRAC.
- If you are a **dealer in precious metals and stones**, leave this field blank.
- If you are a **British Columbia public notary**, enter your membership number. If you are a **notary corporation of British Columbia**, enter your permit number.
- If you are a **real estate developer**, enter your provincial licence number if you have one. Otherwise, leave this field blank.

If there was a transaction or a proposed transaction relating to the property at a different location from where you possess or control the property, provide the details about that other location in field 1 of Part B.

**Field 2\* Reporting person or entity's full name**

Enter the full legal name of your business or corporation. If you do not have a business name (for example, you are an individual), enter your full name.

**Fields 3\* to 6\* Reporting person or entity's full address**

Enter your civic address, town or city, province and postal code. If you have more than one location, this information should be about where the property is possessed or controlled.

**Fields 7\*, 8\* and 9 Contact name**

Enter the name of the individual FINTRAC can contact for clarification about this report.

**Field 10\* Contact telephone number**

Enter the telephone number, including the area code, of the individual named in fields 7 to 9 (above). Include the extension if applicable at field 10A.

**Field 11\* Type of reporting person or entity**

Enter the type of activity that best describes you. If you are involved in more than one activity type, indicate the one applicable to the property being reported. If there is more than one activity for one or more properties on the report, check only one box to indicate your principal type of activity, and provide additional details in Part B, field 1.

**Part B: Reason for filing this report**

This part is to provide details of why you are filing a report about property in your possession or control. You have to explain how you came to know or believe that the property is owned or controlled by or on behalf of a terrorist, terrorist group or listed person. This part is also for you to provide information about the terrorist, terrorist group or listed person and anyone (besides you) who possesses or controls the property on their behalf.

**Field 1\* Reason for filing this report**

This section explains what led you to make this report. The more information that you provide to explain this, the more valuable your report will be.

Include a clear and complete description of the events that led you to make this report, with as many details as possible. Include an explanation of how you came to be in possession or control of the property.

If there is not enough room on the form, attach a separate sheet to provide all the relevant information. Make sure you indicate on the separate sheet that this information belongs in field 1 of Part B.

If you can use word-processing software to write out this information, attach the printed text to Part B. Make sure you indicate that it belongs in field 1 of Part B.

**Field 2 How you came to know or believe that the property is terrorist property or believe that property is listed person**

Provide as many details as possible about how you know this property is owned or controlled by or on behalf of a terrorist or a terrorist group or how you believe this property is owned or controlled by or on behalf of a listed person.

If there is not enough room on the form, attach a separate sheet to provide all the relevant information. Make sure you indicate on the separate sheet that this information belongs in field 2 of Part B.

**Field 3 Full name of terrorist, terrorist group or listed person**

Enter the full name of the terrorist, terrorist group or listed person that owns or controls the property, or on whose behalf the property is owned or controlled. As explained in subsection 3.1, a terrorist or a terrorist group can be an individual, a group, a trust, a partnership, or a fund. It can also be an unincorporated association or organization. A listed person can be an individual, a corporation, a trust, a partnership, a fund or an unincorporated association or organization.

If it is an entity (that is, not an individual), enter the complete name of the terrorist group or listed person in field 3. If it is an individual, enter the terrorist's or listed person's surname, given name, and other name or initial (if known) in fields 3A, 3B and 3C.

If the property is owned or controlled by an individual or entity other than the terrorist, terrorist group or listed person, provide the details at fields 10 through 16 below. For example, if you know you are dealing with a terrorist group through a front organization, provide information about the front organization in fields 10 through 16.

**Fields 4 to 8 Terrorist, terrorist group or listed person address**

Enter the civic address, town or city, province, country and postal code for the terrorist, terrorist group or listed person named in field 3 above.



**Field 9 Telephone number**

Enter the telephone number, including the area code, of the terrorist, terrorist group or listed person named in field 3 above. Include the extension, if applicable, at field 9A.

**Field 10 Name of individual or entity that owns or controls the property on behalf of the terrorist, terrorist group or listed person**

Enter the full name of the individual or entity that owns or controls the property on behalf of the terrorist, terrorist group or listed person named in field 3 above.

If it is an entity (that is, not an individual), enter the complete name of the entity in field 10. If it is an individual, enter the individual's surname, given name, and other name or initial (if known) in fields 10A, 10B and 10C.

**Fields 11 to 15 Individual or entity address**

Enter the civic address, town or city, province and postal code for the individual or entity named in field 10 above.

**Field 16 Telephone number**

Enter the telephone number, including the area code, of the individual or entity named in field 10 above. Include the extension if applicable at field 16A.

**Part C: Information about the property**

This part is for information about the property in your possession or control.

If there is more than one property associated with the terrorist, terrorist group or listed person named in field 3 of Part B, complete a separate Part C for each property. To do this, you can copy Part C. At the top of Part C, complete the "Property (number) of (total number of properties in Part C)" area to distinguish between each property. If there was a transaction or a proposed transaction related to a property described in Part C, provide the details of the transaction in Parts E1, E2 and F, as well as Part G or H, as applicable. For each of these, indicate to which property the transaction information applies.

**Field 1\* Type of property**

Check the appropriate box to indicate which of the seven types listed best describes the property. Follow the instructions next to the applicable description on the form for the rest of the fields in Part C.

If none of the seven types is appropriate for the type of property, check the box for "Other". This would include, for example, commercial business assets (other than funds such as bank accounts). Provide a description in the space provided to the right. Follow the instructions underneath for the rest of the fields in Part C.

If the property involves an account, complete Part D to provide information about the account.

**Field 2 Property identifier**

Follow the instructions for the applicable property type in field 1. For example, if the property is "cash", indicate the type of currency in field 2.

If there is not enough room on the form to provide all the property identifier information for this property, attach a separate sheet to provide all the relevant information. It is very important that you indicate clearly on the separate sheet that this information belongs in field 2 of Part C.

**Field 3 Property identifier number**

Follow the instructions for the applicable property type in field 1. For example, if the property is an insurance policy, indicate the policy number in field 3.

If there is not enough room on the form to provide all the property identifier information for this property, attach a separate sheet to provide all the relevant information. It is very important that you indicate clearly on the separate sheet that this information belongs in field 3 of Part C.

**Field 4\* Actual or approximate value**

Provide the actual or approximate value of the property. Provide the currency code applicable to this amount in field 4A. If the amount is in Canadian dollars, enter CAD as the currency code. If it is in United States dollars, enter USD. If the amount is in another type of foreign currency, see Appendix 1 in *Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC* for the code to use.

**Field 5 Description of property**

Provide any additional information about the property that is not already provided in the rest of the fields in Part C (and in Part D if the property involves an account).

If there is not enough room on the form to provide all the property identifier information for this property, attach a separate sheet to provide all the relevant information. It is very important that you indicate clearly on the separate sheet that this information belongs in field 5 of Part C.

**Part D: Account information (if the property involves an account)**

This part is for information about any account associated with the terrorist property. As explained earlier, it is possible to have more than one property per report. Provide the account information, where applicable, for each property included in the report.

If there is more than one account, complete a separate Part D for each one. To do this, you can copy Part D. Complete the "Account (number) of (total number of accounts in Part D)" area at the top to distinguish between each account, and identify the applicable property in the "Property (number)" area.

If none of the property in this report is associated to an account, do not complete Part D.

**Field 1\* Branch or transit number (if this Part is applicable)**

Enter the branch number, transit number or other appropriate identifying number of the entity where the relevant account is held, if applicable to the property.

If the transaction being reported was proposed and, because of this, information for field 1 is not available, you can leave the field blank.

**Field 2\* Account number (if this Part is applicable)**

Enter the number of the relevant account.

If the transaction being reported was proposed and, because of this, information for field 2 is not available, you can leave the field blank.

**Field 3\* Type of account (if this Part is applicable)**

Indicate the type of the relevant account. If the selections provided do not cover this particular account, indicate "Other" and provide details in field 3D.

If the transaction being reported was proposed and, because of this, information for field 3 is not available, you can leave the field blank.

**Field 4\* Currency code (if this Part is applicable)**

Enter the code for the type of currency for the relevant account. Enter CAD if Canadian dollars, or USD for United States dollars. If the account is another type of currency, see Appendix 1 in Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC for the currency code to use.

If the transaction being reported was proposed and, because of this, information for field 4 is not available, you can leave the field blank.

**Field 5\* Full name(s) of account holder(s) (if this Part is applicable)**

Enter the full name of each account holder (up to three). If there are more than three, you do not need to provide more.

If the transaction being reported was proposed and, because of this, information for field 5 is not available, you can leave the field blank.

**Field 6 Date opened**

Enter the date (yyyy-mm-dd) the account was opened.

**Field 7 Date closed**

Enter the date (yyyy-mm-dd) the account was closed, if applicable.

**Field 8\* Status of the account (if this Part is applicable)**

Indicate whether the account was active, inactive or dormant at the time you came to know that the property was terrorist property. If there was a transaction or a proposed transaction relating to the account, indicate the status of the account at the time the transaction was initiated or proposed.

The status of an account is determined by your policies and procedures. For example, your policy may be to assign inactive status to all accounts if there is no client activity for an account over a certain period of time, and dormant status if that inactivity is prolonged.

If you do not have such policies or procedures to assign inactive or dormant status to unused accounts, simply leave this field blank.

If the transaction being reported was proposed and, because of this, information for field 8 is not available, you can leave the field blank.

**Part E1: Information about any transaction or proposed transaction (where applicable)**

If there were any transactions or proposed transactions related to the terrorist property, you will have to complete Parts E1, E2 and F. Part E1 is for information about how the transaction was initiated or proposed to be initiated (that is, where the money or property came from). Part E2 is for information about how the transaction was completed or proposed to be completed (that is, where the money went). Part F is for information about the individual who conducted the transaction or proposed to conduct the transaction.

If the transaction was completed or proposed to be completed on behalf of anyone other than the individual in Part F, you will also have to complete Part G or H, as appropriate.

If there is more than one property in this report, you will have assigned a number to each property at the top of Part C. In this case, indicate to which one each transaction applies by completing the "Property (number)" area at the top of Part E1.

If there is more than one transaction to report, complete a separate Part E1 for each one. To do this, you can copy Part E1. Complete the "Transaction (number) of (total number of transactions in Part E)" area at the top of Part E1 to distinguish between each transaction. When you complete Parts E2 and F, as well as Part G or H, as applicable, indicate to which transaction that information applies.

If there was no transaction or proposed transaction related to any of the property described in Part C, Part E1 is not applicable. In this case, Parts E2, F, G and H would not be applicable either.

**Field 1\* Date of the transaction (if this Part is applicable)**

Enter the date (yyyy-mm-dd) of the transaction. If the transaction was not completed, enter the date that the transaction was proposed.

The date of transaction field is mandatory. If the transaction was outside normal business hours, and you are not certain of the date, use the night deposit indicator field below (field 3).

**Field 2 Time of transaction**

Enter the time (hh:mm) of the transaction. If the transaction was not completed, enter the time that the transaction was proposed. The time of transaction field can be left blank if it is not available after reasonable efforts have been made.

**Field 3\* Night deposit indicator (if this Part is applicable)**

If the transaction was outside normal business hours and you cannot provide the date in field 1, use the night deposit indicator field.

**Field 4 Date of posting**

Enter the date (yyyy-mm-dd) the transaction cleared, if this differs from the date of the transaction provided in field 1.

**Field 5\* Type of funds or other property involved in initiating transaction (if this Part is applicable)**

Check the appropriate box to show the type of funds or other property involved in the transaction or the proposed transaction. For example, if your client brought in cash, "cash" is the type of funds or, if your client wanted to cash a life insurance policy, "negotiated life insurance policy" is the description of funds.

If none of the selections provided cover the particular transaction, indicate "Other" and provide details in field 5P. For example, if annuities were involved in initiating the transaction, indicate "Other" and provide information about the type of annuity in field 5P.

If there was more than one type of funds, indicate the one that best represents how the transaction was initiated or proposed to be initiated. Provide information about the rest of the types of funds on a separate sheet attached to the report. It is very important that you indicate clearly that this information belongs in field 5 of Part E1.

If the transaction being reported was proposed and, because of this, information for field 5 is not available, you can leave the field blank.

If you are a dealer in precious metals and stones, select the type of funds in field 85 that best describes what you received in the transaction, or what you were supposed to receive in a proposed transaction. If you were buying precious metals or stones, indicate the type of funds that best describes what you bought or proposed to buy. The same would apply if you were to receive precious metals or stones from a client for a trade-in sale. If you were selling precious metals or stones to a client, indicate the type of funds based on how the client paid or proposed to pay. For example, if the client paid cash, indicate "cash" or if the client paid by debit card or credit card, indicate "Other" and provide details in field 5P.

**Field 6\* Amount of transaction (if this Part is applicable)**

Enter the total of funds or value of the property involved in the transaction. This is the total amount received to initiate the transaction. If this amount was not in Canadian funds, you do not have to convert it but you must provide the currency information in field 7.



You will provide details about what happened or was proposed to happen to that amount (that is, the disposition(s) of the transaction) in Part E2.

If the transaction being reported was proposed and, because of this, information for field 6 is not available, you can leave the field blank.

**Field 7\* Currency code (if this Part is applicable)**

Enter the code for the currency of the transaction, even if it was in Canadian funds. Enter CAD if Canadian dollars, or USD for United States dollars. If the account is another type of currency, see Appendix 1 in Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC for the currency code to use.

If the transaction being reported was proposed and, because of this, information for field 7 is not available, you can leave the field blank.

**Fields 8\* and 9\* Other institution, entity or individual name, number and account number (if this Part is applicable)**

Provide the name (including the identification number, if applicable) and account number of any other institution or individual related to the funds or other property described in field 5, if applicable. For example, if cheques were involved in initiating the transaction, you would provide the name and number of the financial institution in field 8, and the chequing account number in field 9.

If more than one other individual or institution was involved, attach a separate sheet with the information for fields 8 and 9 for each additional individual or institution. It is very important that you indicate clearly on the separate sheet that this information belongs in Part E1, and clearly indicate what applies to field 8 and what applies to field 9.

**Field 10\* How was the transaction conducted? (if this Part is applicable)**

Check the appropriate box to indicate how the transaction was conducted, or proposed to be conducted. For example, if the transaction was done through an automated banking machine, check the "Automated bank machine" box. If none of the selections provided cover this particular transaction, indicate "Other" and provide details in field 10G.

**Field 11 ID number of the individual initially identifying a transaction for terrorist property**

Enter the identification number of the individual who first identified the transaction relating to property owned or controlled by or on behalf of a terrorist or a terrorist group. If that individual does not have an ID number, this field may be left blank.

**Part E2: Information about the transaction or proposed transaction disposition(s) (where applicable)**

This Part is for information about how the transaction was completed or proposed to be completed.

If there is more than one transaction in this report, indicate to which property and which transaction this disposition applies in the "Property (number) Transaction (number)" area at the top of Part E2. These numbers should be the same as the ones assigned to the transaction in Part E1.

There could be more than one disposition for a particular transaction. For example, your client could propose to initiate a transaction in cash, send half of it as an electronic funds transfer (EFT) (disposition 1), and use the rest to purchase a bank draft (disposition 2). In that case, make sure you include the information for each disposition. If there is more than one disposition to report for any transaction, complete a separate Part E2 for each one. To do this, you can copy Part E2. Complete the "Disposition (number) of (total number of dispositions in this transaction)" area at the top of Part E2 to distinguish between each disposition.

You have to provide information about the individual conducting or proposing to conduct the transaction in Part F. If the disposition was on behalf of that same individual, check that box at the top of this Part.

If the disposition was on behalf of an entity (other than an individual), such as a partnership, corporation, trust or other entity, check that box and complete Part G to provide the information about the entity. If the disposition was on behalf of another individual, check that box and complete Part H to provide the information about the individual.

**Field 12\* Disposition of funds (if this Part is applicable)**

This describes what happened, or what was proposed to happen, to the funds involved in the transaction.

Check the appropriate box to indicate how the transaction was completed, or proposed to be completed. If the disposition of funds was a life insurance policy purchase or deposit, check that box and provide the life insurance policy number in field 12D.

If none of the selections provided cover this particular disposition, indicate "Other" and provide details in field 12P. For example, if annuities were involved in the disposition of funds, indicate "Other" and provide information about the type of annuity in field 12P.

If the transaction being reported was proposed and, because of this, information for field 12 is not available, you can leave the field blank.

If you are a dealer in precious metals and stones, select the disposition of funds in field #12 that best describes what you paid or sold (or what you proposed to pay or sell) to the conductor of the transaction. If you were buying precious metals or stones, select the disposition of funds that best describes how you paid or proposed to pay for them. For example, if you paid in cash, indicate "cash out" or if you paid by cheque, indicate "Other" and provide details in field 12P. If you were selling precious metals or stones (including a trade-in sale), select the disposition of funds that best describes what your client purchased or proposed to purchase.

**Field 13\* Amount of disposition (if this Part is applicable)**

Enter the amount of funds involved in the disposition. If the amount was not in Canadian funds, you do not have to convert it but you must provide the currency information in field 14.

If the transaction being reported was proposed and, because of this, information for field 13 is not available, you can leave the field blank.

**Field 14\* Currency code (if this Part is applicable)**

Enter the code for the currency of the transaction, even if it was in Canadian funds. Enter CAD if Canadian dollars, or USD for United States dollars. If the account is another type of currency, see Appendix 1 in *Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC* for the currency code to use.

If the transaction being reported was proposed and, because of this, information for field 14 is not available, you can leave the field blank.

**Fields 15\* and 16\* Other institution, entity or individual name, number and account number (where applicable, if this Part is applicable)**

Provide the name (including the identification number, if applicable) and account number of any other institution or individual related to the disposition of funds described in field 12, if applicable. For example, if cheques were involved in the transaction's disposition, you would provide the name and number of the financial institution in field 15, and the chequing account number in field 16.

Also provide any policy number related to the other institution, entity or individual, in field 16, if applicable.

If more than one other individual or institution was involved, attach a separate sheet with the information for fields 15 and 16 for each additional individual or institution. It is very important that you indicate clearly on the separate sheet that this information belongs in Part E2, and clearly indicate what applies to field 15 and what applies to field 16.

If the transaction being reported was proposed and, because of this, information for fields 15 and 16 is not available, you can leave them blank.

**Part F: Information about the individual who conducted or proposed to conduct transaction(s) (where applicable)**

This part is for information about the individual who conducted the transaction, or who proposed to conduct the transaction.

If there is more than one transaction in this report, indicate to which property and which transaction this information applies by completing the "Property (number) Transaction (number)" area at the top of Part F. These numbers should be the same as the ones assigned to the transaction in Part E1. If there is more than one transaction to include in this report and they were not all conducted or proposed to be conducted by the same individual, complete a separate Part F for each individual. To do this, you can copy Part F. Complete the "Property (number) Transaction (number)" area at the top of Part F to distinguish between each individual who conducted or proposed to conduct a transaction.

If you are a dealer in precious metals and stones, the individual who conducted or attempted to conduct the transaction is the one from whom you were buying or to whom you were selling precious metals or stones.

**Fields 1 to 3 Individual's full name**

Enter the surname, given name and other name or initial (if known) of the individual who conducted or proposed to conduct the transaction.

**Fields 1A to 3A Alias**

Enter any alias that you know is used by the individual named in fields 1 to 3.

**Field 4 Entity client number (where applicable)**

Enter the client number you issued to the individual named in fields 1 to 3, if applicable.

**Fields 5 to 9 Individual's full address**

Enter the civic address, town or city, province or state, country and postal code of the individual named in fields 1 to 3.



**Field 10 Country of residence**

Enter the country of permanent residence of the individual named in fields 1 to 3.

**Field 11 Home telephone number**

Enter the home telephone number, including the area code, of the individual named in fields 1 to 3.

**Field 12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual named in fields 1 to 3.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in field 12F.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field 12, but do not provide the number in field 13.

**Field 13 ID number**

Enter the number of the document described in field 12 that was used to identify the individual named in fields 1 to 3. Remember that a Social Insurance Number is not acceptable for this purpose, and neither is a health card number in some provinces.

**Field 13A Citizenship**

Enter the name of the country of citizenship of the individual named in fields 1 to 3.

**Fields 14 and 15 Place of issue**

Enter the province or state and country of issue of the document used to identify the individual named in fields 1 to 3.

**Field 16 Date of birth**

Enter the date (yyyy-mm-dd) of birth of the individual named in fields 1 to 3.

**Field 17 Individual's occupation**

Enter the occupation of the individual named in fields 1 to 3.

**Field 18 Individual's business telephone number**

Enter the business telephone number, including the area code, of the individual named in fields 1 to 3. Include the extension, if applicable, at field 18A.

**Field 19 Individual's employer**

Enter the name of the entity or individual who is the employer of the individual named in fields 1 to 3.

**Fields 20 to 24 Employer's business address**

Enter the civic address, town or city, province or state, country and postal code of the employer of the individual named in fields 1 to 3.

**Field 25 Employer's business telephone number**

Enter the business telephone number, including the area code, of the employer of the individual named in fields 1 to 3. Include the extension if applicable at field 25A.

**Part G: Information about the entity on whose behalf the transaction was conducted or proposed to be conducted (where applicable)**

This part only applies if the transaction's disposition was conducted, or proposed to be conducted, on behalf of a third party other than an individual, as you indicated in Part E2, above field 12. This includes an entity such as a business, corporation or trust, or any other entity that is not an individual.

Complete a separate Part G for each entity on whose behalf a disposition was conducted or proposed to be conducted. To do this, you can copy Part G. Complete the "Property (number) Transaction (number) Disposition (number) \* area at the top of Part G to distinguish between each disposition, based on the number you assigned the disposition in Part E2.

**Field 1 Name of corporation, trust or other entity**

Enter the full name of the corporation, trust or other entity (such as a partnership, etc.) on whose behalf the transaction was conducted or proposed to be conducted.

**Field 2 Type of business**

Describe the type of business for the entity named in field 1.

**Fields 3 to 7 Full address of entity**

Enter the civic address, town or city, province or state, country and postal code of the entity named in field 1.

**Field 8 Business telephone number**

Enter the telephone number, including the area code, of the entity named in field 1. Include the extension, if applicable, at field 8A.

**Fields 9 to 11 Incorporation information (where applicable)**

Provide the incorporation number, where applicable, for the corporation named in field 1. Also provide the province or state and country of the incorporation number's place of issue.

**Field 12 Signing authority names**

Provide the names of up to three individuals who have authority to conduct transactions through the account of the entity (if an account is involved in the transaction).

**Part H: Information about the individual on whose behalf the transaction was conducted or proposed to be conducted (where applicable)**

This part only applies when the transaction's disposition was conducted, or proposed to be conducted, on behalf of a third party that is an individual, as you indicated in Part E2, above field 12.

If the individual conducted or proposed to conduct the transaction's disposition on his or her own behalf, this part does not apply. In that case, information about the individual should be provided in Part F. If the transaction's disposition was conducted on behalf of an entity (that is, not an individual), Part G should be completed.

Complete a separate Part H for each individual on whose behalf a disposition was conducted or proposed to be conducted. To do this, you can copy Part H. Complete the "Property (number) Transaction (number) Disposition (number)" area at the top of Part H to distinguish between each disposition, based on the number you assigned the disposition in Part E2.

**Fields 1 to 3 Individual's full name**

Enter the last name, first name and middle initial (if applicable) of the individual on whose behalf the transaction was conducted or proposed to be conducted.

**Fields 1A to 3A Individual's alias (where applicable)**

Enter any alias that you know is used by the individual named in fields 1 to 3.

**Fields 4 to 8 Individual's full address**

Enter the civic address, town or city, province or state, country and postal code of the individual named in fields 1 to 3.

**Field 9 Home telephone number**

Enter the home telephone number, including the area code, of the individual named in fields 1 to 3.

**Field 10 Office telephone number**

Enter the office telephone number, including the area code, of the individual named in fields 1 to 3. Include the extension if applicable at field 10A.

**Field 11 Date of birth**

Enter the date (yyyy-mm-dd) of birth of the individual named in fields 1 to 3.

**Field 12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual named in fields 1 to 3.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in field 12F.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field 12, but do not provide the number in field 13.

**Field 13 ID number**

Enter the number of the document described in field 15 that was used to identify the individual named in fields 1 to 3. Remember that a Social Insurance Number is not acceptable for this purpose, and neither is a health card number in some provinces.

**Fields 14 and 15 ID place of issue**

Enter the province or state and country of issue of the document used to identify the individual named in fields 1 to 3.

**Field 16 Country of residence**

Enter the country of permanent residence of the individual named in fields 1 to 3.

**Field 16A Citizenship**

Enter the name of the country of citizenship of the individual named in fields 1 to 3.

**Field 17 Individual's occupation**

Enter the occupation of the individual named in fields 1 to 3.

**Field 18 Individual's employer**

Enter the name of the entity or individual who is the employer of the individual named in fields 1 to 3.

**Fields 19 to 23 Employer's business address**

Enter the civic address, town or city, province or state, country and postal code of the employer of the individual named in fields 1 to 3.

**Field 24 Employer's business telephone number**

Enter the business telephone number, including the area code, of the employer of the individual named in fields 1 to 3. Include the extension if applicable at field 24A.

**Field 25 Relationship of the individual named in Part F to the individual named above (fields 1 to 3)**

Check the appropriate box to indicate the relationship of the individual who conducted or proposed to conduct the transaction (that is, the individual named in fields 1 to 3 of Part F) to the individual named in fields 1 to 3 (of Part H).

If none of the selections provided cover the relationship, indicate "Other" and provide details in field 25J.

## CHAPTER 20

# Appendix N— Self-Review Checklist

### Part A: Compliance Framework Evaluation

Requirements	Status	Comments
<b>Compliance Officer</b>		
Has the Compliance Officer been appointed, in writing, to their role?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is the Compliance Officer independent of operations?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is the job description of the Compliance Officer described in writing, in sufficient detail, with documented accountability for AML/ATF program content and design?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the Compliance Officer have: <ol style="list-style-type: none"> <li>1. appropriate qualifications</li> <li>2. knowledge of regulatory requirements</li> <li>3. money laundering subject matter expertise and reference to policies</li> <li>4. adequate resources to achieve program objectives</li> <li>5. documented unfettered access to Senior Management, the Board, and all information and individuals throughout the organization</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is there a substitute Compliance Officer in case of absence by the primary?	<input type="checkbox"/> YES <input type="checkbox"/> NO	

Requirements	Status	Comments
<b>Policies and Procedures</b>		
Do policies incorporate all the objectives and responsibilities imposed by the legislation, including a risk management mandate?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Do procedures address the nature, timing, responsibilities, process and persons involved for all legislative requirements applicable to the organization, including: <ol style="list-style-type: none"> <li>record keeping</li> <li>client identification (personal and non-personal) and prohibitions on accepting or dealing with clients where identification does not occur</li> <li>risk based approach measures required mandated by law, and elected by your organization</li> <li>suspicious transaction reporting</li> <li>tipping-off prohibitions</li> <li>large cash transaction reporting</li> <li>compliance program requirements (including RBA documentation, the appointment of a compliance officer; the maintenance of up-to-date policies and procedures; the requirement for a bi-annual compliance review; the requirement for ongoing training for all employees and agents)</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Have the policies and procedures been approved by a senior officer of the organization?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Risk Assessment &amp; Risk Based Approach</b>		
Has an inherent risk assessment been conducted and include the following prescribed factors: <ol style="list-style-type: none"> <li>clients and business relationships</li> <li>products and delivery channels</li> <li>geographic location of the activities</li> <li>other relevant factors</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Based on the above inherent risk assessment, are all areas classified into respective risk levels?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the Risk Based Approach (RBA) documentation contain the minimum required components? <ol style="list-style-type: none"> <li>documented inherent risk assessment</li> <li>risk mitigation strategy</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	

Requirements	Status	Comments
Does the documented risk mitigation strategy address all higher risk areas identified in the inherent risk assessment to a level acceptable by the organization, with at least the minimum standards imposed by the legislation (ongoing monitoring and client identification updates)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are risk mitigation measures integrated into policies and procedures?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Have the relevant employees been trained appropriately in the reason and application of risk mitigation measures?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are policies and procedures adopted for risk mitigation strategies being followed?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are risks being managed within organizational tolerance levels (are controls meeting their objective/ resulting in the expected outcome)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are resource allocations appropriate given inherent risk assessment findings and risk mitigation experience?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Training</b>		
Does the organization have a documented training program which specifies: 1. Who is to be trained 2. With what frequency will the training occur to satisfy the ongoing nature of the program 3. How will the content be used for training 4. What restrictions, if any, will be placed on staff prior to successfully completing the training 5. How will content retention be evaluated and documented 6. On what basis will employees and agents be exempted from training	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the training content include at least: 1. background on money laundering risks 2. AML/ATF requirements including identifying reportable transactions 3. consequences of non-compliance and potential fines/penalties 4. organizational policies and procedures	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are there enhanced training requirements for the Compliance Officer?	<input type="checkbox"/> YES <input type="checkbox"/> NO	

Requirements	Status	Comments
<b>Effectiveness Review</b>		
Has an effectiveness review been conducted within two years of the previous review?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is the effectiveness review conducted by a person or firm independent of the organization's operations?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is the effectiveness review conducted by a person or firm with expertise in the AML/ATF Regulations, money laundering risks, and an understanding of the organization's operations?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the effectiveness review document specify a definition for effectiveness, the standards against which it evaluates effectiveness, its scope, methodology, findings, recommendations, and management undertakings to the recommendations?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Has the effectiveness review evaluated the effectiveness of: <ol style="list-style-type: none"> <li>1. policies and procedures (conformance to relevant standards and operational adherence)</li> <li>2. the risk assessment and risk-based approach</li> <li>3. the risk mitigation program</li> <li>4. training</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Has the effectiveness review report been presented to a senior officer within 30 days after the assessment along with any updates, if applicable, made to policies and procedures within the reporting period and the status of implementing any changes, if applicable, to policies and procedures?	<input type="checkbox"/> YES <input type="checkbox"/> NO	



## Part B: Operational Compliance Evaluation

Requirements	Status	Comments
<b>Client Identification</b>		
Are legislative and internal standards being adhered to for the acceptance of personal clients (e.g. valid identification with details recorded)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are legislative and internal standards being adhered to for the acceptance of business clients (e.g. timing, extent of documentation)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are legislative and internal standards being adhered to for the acceptance of not-for-profit clients?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are enhanced identification processes being followed for higher risk clients?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are non-face-to-face standards being adhered to in cases where the client or their signing authority is not physically present when identifying themselves?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is client information being updated for higher risk clients?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is third party determination conducted and documented in the required circumstances?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Large Cash Transaction Reporting (LCTR)</b>		
Does the organization have an effective system in place to detect individual transactions, and combinations of transactions (24 hour rule) which require reporting?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are all reportable transactions reported within the prescribed time-frame and with all the required details (timing and quality of reporting)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Suspicious And Attempted Suspicious Transaction Reporting (STR)</b>		
Does the organization have effective systems and training in place for the detection of transactions, attempted transactions and combinations of transactions which require reporting?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the organization have an effective system in place to evaluate and document unusual transactions, whether attempted or completed, put forward by employees and technology?	<input type="checkbox"/> YES <input type="checkbox"/> NO	



Requirements	Status	Comments
Is the rationale from the evaluation of unusual transactions fully documented? For both reported suspicious transactions and unreported transactions not deemed to be suspicious?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are all reportable transactions reported within the prescribed time-frame and with all the required details (Timing and Quality of reporting)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Have reasonable measures been taken to ascertain the identification of the subjects within all STRs?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Have suspicious and attempted suspicious transactions been linked to risk assessment and risk mitigation measures?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Terrorist Property Reporting (TPR)</b>		
Does the organization have effective systems and training in place for the detection of transactions and property which require reporting?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the organization have an effective system in place to evaluate and document potentially reportable transactions and property?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are all reportable transactions and properties reported to FINTRAC, CSIS and the RCMP within the prescribed timeframe and with all the required details?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Record-Keeping and Retention</b>		
Are the prescribed records retained for a period of at least five years, in a way that allows for their retrieval within 30 days of a request by FINTRAC?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are sufficient details kept about the following transactions and situations at the prescribed thresholds: <ol style="list-style-type: none"> <li>1. large cash transaction records</li> <li>2. receipt of funds records</li> <li>3. copies of official corporate records</li> <li>4. copies of suspicious transaction reports</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	

# About the Author

## **Matthew McGuire, MAcc, CPA, CA, DIFA, CAMS, AMLP**

Matthew McGuire is a Chartered Professional Accountant who leads the National Anti-Money Laundering (AML) Practice and the Investigative and Forensic Services Group in Ontario for MNP LLP. He is also the founder and Director of Seneca College's Canadian Institute for Financial Crime Analysis, a member of the Department of Finance's Public/Private Sector Advisory Committee on AML/ATF (Anti-Terrorist Financing), Chair of CPA Canada's AML Committee and a member of the Credit Union Central of Canada's AML Committee.

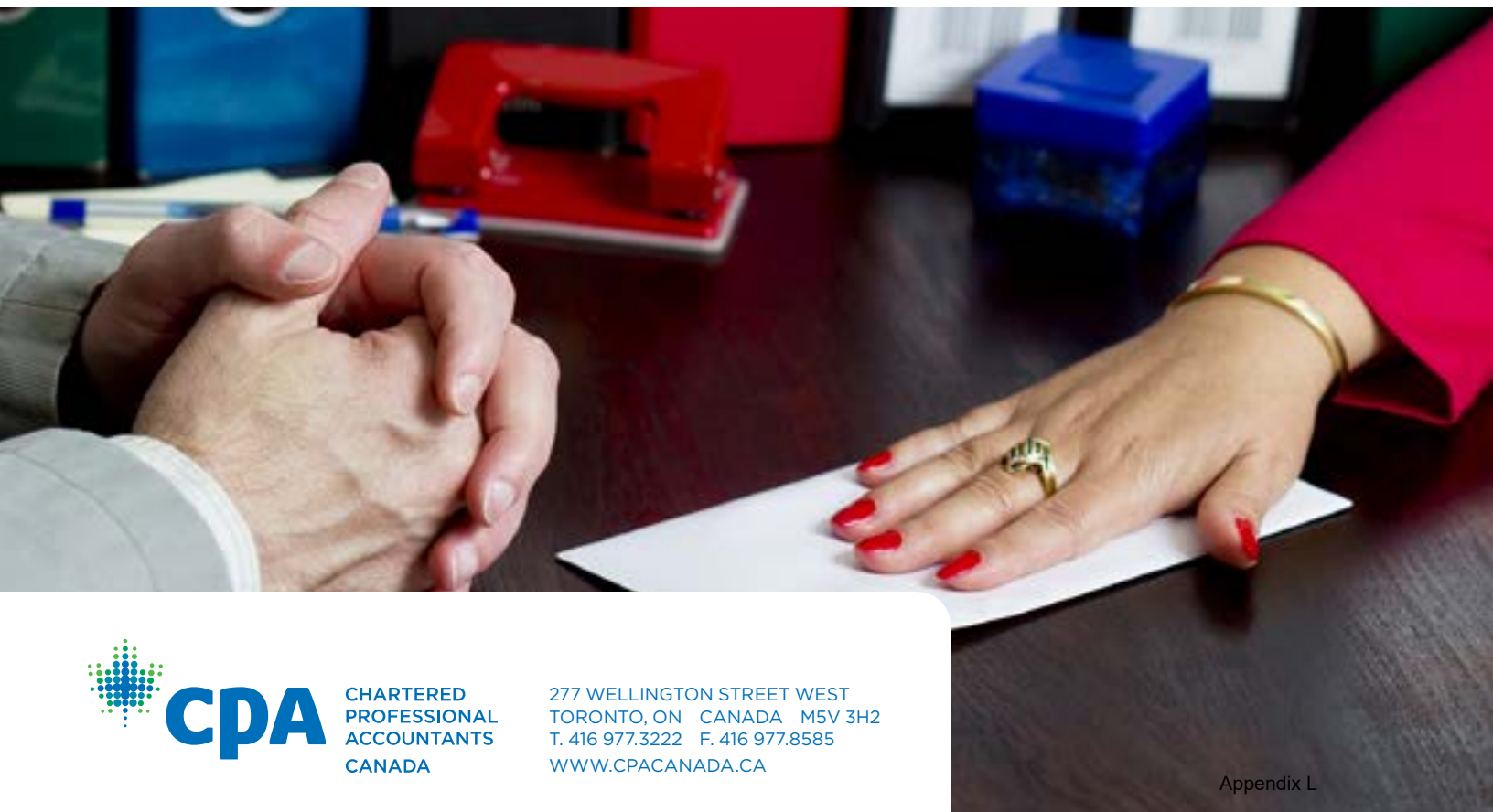
Together with his team of full-time dedicated AML specialists in offices across Canada, Matthew leverages his regulatory and investigative experience to empower companies and governments with regulatory compliance and financial crime risk mitigation strategies, guide them through regulatory exams and interventions, assist them with financial crime investigations, and provide them with litigation support.

Since his time as an intelligence analyst with FINTRAC, Matthew has been speaking regularly on the topic of money laundering and financial crime to reporting entities, law enforcement, prosecutors, financial intelligence units, universities, conferences, and authors articles for periodicals.

He holds an Honours Bachelor of Arts and a Master of Accounting degree from the University of Waterloo. In 2005, he completed the 2-year Diploma in Investigative and Forensic Accounting program at the University of Toronto. He is certified as an Anti-Money Laundering Specialist (CAMS) by the Association of Certified Anti-Money Laundering Specialists, and is accredited as an Anti-Money Laundering Professional (AMLPP) by the Bank Administration Institute. Matthew has been qualified and admitted by the Ontario Superior Court of Justice as an expert witness in forensic accounting and money laundering, and has testified before Senate committees and the House of Commons Finance Committee on matters related to money laundering legislation.







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