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# **EXPOSURE DRAFT**

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## **OMNIBUS PROPOSAL**

### **AICPA PROFESSIONAL ETHICS DIVISION**

#### **PROPOSED REVISED AND NEW INTERPRETATIONS APPLICABLE TO MEMBERS IN BUSINESS**

**January 9, 2017**

**Comments are requested by April 17, 2017**

**Prepared by the AICPA Professional Ethics Executive Committee for comments from persons interested in independence, behavioral, and technical standards matters.**

**Comments should be addressed to Lisa A. Snyder, Director of the Professional Ethics Division, at [lsnyder@aicpa-cima.org](mailto:lsnyder@aicpa-cima.org)**

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January 9, 2017

This exposure draft contains important proposals for review and comment by the AICPA's membership and other interested parties regarding pronouncements for possible adoption by the Professional Ethics Executive Committee (PEEC). The text and an explanation of the proposed pronouncements are included in this exposure draft.

After the exposure period is concluded and PEEC has evaluated the comments, PEEC may decide to publish the proposed pronouncements. Once published, the pronouncements will become effective on the last day of the month in which they are published in the *Journal of Accountancy*, unless otherwise stated in the pronouncements.

Your comments are an important part of the standard-setting process; please take this opportunity to comment. Responses must be received at the AICPA by April 17, 2017. All written replies to this exposure draft will become part of the public record of the AICPA and will be available at [www.aicpa.org/InterestAreas/ProfessionalEthics/Community/ExposureDrafts/Pages/2017JanuaryExposureDraft.aspx](http://www.aicpa.org/InterestAreas/ProfessionalEthics/Community/ExposureDrafts/Pages/2017JanuaryExposureDraft.aspx). Comments received will be considered by PEEC at its May, 16–17, 2017 meeting.

Please send comments to Lisa A. Snyder, Director of the Professional Ethics Division, via email at [Lisa.Snyder@aicpa-cima.com](mailto:Lisa.Snyder@aicpa-cima.com)

Sincerely,

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*AICPA Professional Ethics Executive*  
*Committee*

Lisa A. Snyder, *Director*  
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## **Explanation for the Proposed Revisions to the “Knowing Misrepresentations in the Preparation of Financial Statements” Interpretation**

The Professional Ethics Executive Committee (PEEC) is exposing for comment, revisions to the “Knowing Misrepresentations in the Preparation of Financial Statements or Records” interpretation (ET sec 2.130.010)<sup>1</sup> under the “Integrity and Objectivity Rule” (ET sec. 2.100.001), applicable to members in business.

In developing the proposed revisions, PEEC considered the International Ethics Standards Board for Accountants’ (IESBA’s) new ethics standard, section 320, *Preparation and Presentation of Information*.<sup>2</sup> PEEC believes the proposed revisions are substantially consistent with what is in the IESBA Code of Ethics for Professional Accountants and any differences are necessary to enhance the clarity of the proposed revisions and make them relevant to AICPA members in business in the United States.

The extant “Knowing Misrepresentations in the Preparation of Financial Statements or Records” interpretation provides requirements for members in business regarding certain actions that would be considered knowingly misrepresenting facts in violation of the “Integrity and Objectivity Rule.” The revisions to the interpretation expand the guidance to address additional responsibilities of a member in business when preparing and presenting financial information as well as non-financial information and information not subject to a reporting framework.

The revised interpretation requires members who are responsible for recording, maintaining, preparing, approving, or presenting information, to comply with the following:

- a. Present the information in accordance with a relevant reporting framework, where applicable.
- b. Prepare or present information in a manner that is intended not to mislead, including not to influence contractual or regulatory outcomes inappropriately.
- c. Prepare or present information without omissions that would render the information misleading.

When preparing or presenting information that is not subject to a reporting framework, (for example, preparing pro forma reports, budgets, or forecasts), the proposed guidance would require that the member use professional judgment to identify and take into account the purpose for which the information is to be used, the context in which it is provided and the audience to whom it is addressed.

In cases in which a member relies on the work of others, the member will be required to use professional judgment to determine if any actions should be taken to ensure that the requirements set out in paragraphs .02 and .03 of the interpretation are met. In determining whether it is reasonable to rely on the work of others, the member should consider factors such as the reputation and expertise of the individual or organization. Such information might be obtained from prior dealings with the individual or the organization or through consulting with others. For example, if the member has a longstanding working relationship with a colleague who has

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<sup>1</sup> All ET sections can be found in AICPA, *Professional Standards*.

<sup>2</sup> Approved in December 2016 for inclusion in the IESBA’s Code of Ethics for Professional Accountants.

consistently provided reliable and accurate information, the member might determine that the colleague's work can be relied upon with no additional action.

The revised interpretation also provides guidance on steps the member should take if the member believes the information he or she is associated with might be misleading. Under such circumstances, the member should apply certain safeguards in order to resolve the matter. Such safeguards include discussing the matter with the member's supervisor or the appropriate level(s) of management or those charged with governance and requesting such individuals to take appropriate action to resolve the matter (for example, correcting the information or, if it has already been disclosed to the intended users, informing them of the correct information).

In cases in which appropriate action is not taken, the guidance provides additional safeguards that the member should consider, such as consulting with the employer's internal or external auditor, or both (while being mindful to confidentiality requirements), or consulting legal counsel regarding the member's responsibilities. If the member exhausts all possible options and believes the information is still misleading, the member should refuse to remain associated with the information as well as consider his or her continuing relationship with the employer.

### **Effective Date**

PEEC does not believe that a delayed effective date for transition purposes is necessary. Accordingly, PEEC proposes that the final revisions be effective the last day of the month in which they are published in the *Journal of Accountancy*.

## Text of Proposed Revisions to the “Knowing Misrepresentations in the Preparation of Financial Statements or Records” Interpretation

(Additions appear in boldface italic and deletions are stricken)

2.130.010 Knowing Misrepresentations in the Preparation *and Presentation* of *Information*  
~~Financial Statements or Records~~

*.01 Members at all levels in an employing organization may be involved in the preparation and presentation of information both within and outside the employing organization. Stakeholders for whom such information is prepared or presented include the following:*

- a. Management and those charged with governance*
- b. Investors, lenders and other creditors*
- c. Regulators*

*.02 This information may assist stakeholders in understanding and evaluating aspects of the employing organization’s state of affairs and in making decisions concerning the employing organization. This includes financial and non-financial information that may be made public or used for internal purposes such as the following:*

- a. Operating and performance reports*
- b. Decision support analyses*
- c. Budgets and forecasts*
- d. Information provided to the internal and external auditors*
- e. Risk analyses*
- f. General and special purpose financial statements*
- g. Tax returns*
- h. Reports filed with regulators for legal and compliance purposes*

*.03 Members who are responsible for recording, maintaining, preparing, approving or presenting information should do so in accordance with the “Integrity and Objectivity Rule [2.100.001]” as follows:*

- a. Presenting the information in accordance with a relevant reporting framework, where applicable*

- b. Preparing or presenting information in a manner that is intended not to mislead, including not to influence contractual or regulatory outcomes inappropriately**
- c. Preparing or presenting information without omissions that would render the information misleading**

**.04 This responsibility involves using professional judgment to do the following:**

- a. Represent the facts accurately and completely in all material respects.**
- b. Describe clearly the true nature of business transactions or activities.**
- c. Classify and record information in a timely and proper manner.**

#### **Preparation and Presentation of Financial Statements and Records**

**.04 .05** Threats to compliance with the “Integrity and Objectivity Rule” [2.100.001] would not be at an acceptable level and could not be reduced to an acceptable level by the application of safeguards, and the member would be considered to have knowingly misrepresented facts in violation of the “Integrity and Objectivity Rule,” if the member

- a. makes, or permits or directs another to make, materially false and misleading entries in an entity’s financial statements or records;
- b. fails to correct an entity’s financial statements or records that are materially false and misleading when the member has the authority to record the entries; or
- c. signs, or permits or directs another to sign, a document containing materially false and misleading information.

**.06 Preparing or presenting information may require the exercise of discretion in making professional judgments. Preparing or presenting such information in compliance with the “Integrity and Objectivity Rule” [2.100.001] requires the member not to exercise such discretion with the intention of misleading.**

#### **Preparation and Presentation of Information Not Subject to a Reporting Framework**

**.07 When performing professional activities, especially those that do not require compliance with a relevant reporting framework, the member should use professional judgment to identify and take into account the purpose for which the information is to be used, the context in which it is provided, and the audience to whom it is addressed. For example, when preparing or presenting pro forma reports, budgets, or forecasts, the inclusion of relevant estimates, approximations, and assumptions, where appropriate, would enable those who may rely on such information to form their own judgments. The member may also consider clarifying the intended audience, context, and purpose of the information presented.**

### **Reliance on the Work of Others**

**.08 A member who intends to rely on the work of others, either internal or external to the organization, should use professional judgment to determine what steps to take, if any, to ensure that the requirements set out in paragraphs .03, .04, and .05 are fulfilled. Factors to consider in determining whether reliance on others is reasonable include reputation, expertise, resources available to the individual or organization, and whether the other individual is subject to applicable professional and ethical standards. Such information may be gained from prior association with, or from consulting others about, the individual or the organization.**

### **Association With Misleading Information**

**.09 If the member knows or has reason to believe that the information with which he or she is associated is misleading, the member should apply appropriate safeguards to seek to resolve the matter, including the following:**

- a. Consulting the employing organization's policies and procedures (for example, an ethics or whistleblowing policy) regarding how such matters should be addressed internally**
- b. Discussing concerns that the information is misleading with the member's supervisor or the appropriate level(s) of management within the member's employing organization or those charged with governance and requesting such individuals to take appropriate action to resolve the matter. Such action may include the following:**
  - i. Having the information corrected**
  - ii. If the information has already been disclosed to the intended users, informing them of the correct information**

**.10 If the member determines that appropriate action has not been taken and continues to have reason to believe that the information is misleading, threats to compliance with the "Integrity and Objectivity Rule" [2.100.001] would not be at an acceptable level. In such circumstances, the member, while being alert to the requirements of the "Confidential Information Obtained From Employment or Volunteer Activities" interpretation [2.400.070], should consider one or more of the following safeguards:**

- a. Consulting with a relevant professional body**
- b. Consulting with the employing organization's internal and external auditor**
- c. Determining whether any requirements exist to communicate to third parties, including users of the information, the organization's external accountant, or regulatory authorities**
- d. Consulting legal counsel regarding his or her responsibilities**

- .11 If after exhausting all feasible options, the member determines that appropriate action has not been taken and there is reason to believe that the information is still misleading, the member should refuse to be or to remain associated with the information. The member also should consider whether to continue a relationship with the employing organization.***
- .12 Nothing in this interpretation precludes a member from resigning from the organization at any time. However, resignation may not relieve the member of responsibilities in the situation, including any responsibility to disclose concerns to third parties, such as regulatory authorities or the employing organization's (or former employing organization's) external accountant.***
- .13 The member is also encouraged to document the facts, the accounting principles or other relevant professional standards involved, and the communications and parties with whom these matters were discussed, the courses of action considered, and how the member attempted to address the matter(s).***
- .14 When threats to compliance with the Integrity and Objectivity Rule [2.100.001] are due to differences of opinion between a member and his or her supervisor (or any other person within the member's organization) relating to the application of accounting principles, auditing standards, or other relevant professional standards, the member should also refer to the "Subordination of Judgment" interpretation [2.130.020].***

## **Explanation of the New Proposed Interpretation “Pressure to Breach the Rules”**

PEEC is exposing for comment a proposed new interpretation, “Pressure to Breach the Rules” (ET sec 2.140.010), under the “Integrity and Objectivity Rule” [2.100.001] that will be applicable to members in business.

In developing the proposed interpretation, PEEC has considered the IESBA’s new ethics standard, section 370, *Pressure to Breach the Fundamental Principles*.<sup>3</sup> PEEC believes this proposed interpretation is substantially consistent with that contained in the IESBA Code of Ethics for Professional Accountants and any differences are necessary to enhance the clarity of the proposed interpretation and make it relevant to AICPA members in business in the United States.

This proposed interpretation provides guidance to members in business when faced with pressure from others (for example, a colleague, superior, or customer) to take actions that could result in a breach of the rules, particularly the “Integrity and Objectivity Rule.” Though the proposal would prohibit a member from placing pressure on others that the member believes would result in others breaching the rules, the focus of the guidance is on the member being pressured by others in a way that could result in the member breaching the “Integrity and Objectivity Rule.” Accordingly, the interpretation includes various examples of pressure that a member in business may face when undertaking professional activities, such as pressure to report misleading financial results to meet investor, analyst, or lender expectations and pressure from superiors to perform a task without sufficient skills or training or within unrealistic deadlines.

The proposed interpretation includes factors for the member to consider in determining whether the pressure could result in a breach of the “Integrity and Objectivity Rule” and provides various safeguards the member might consider in addressing the pressure. Examples of possible safeguards include discussing the matter with the individual who is exerting the pressure to seek to resolve it and escalating the matter to higher levels of management, internal or external auditors, or those charged with governance. The member might also consider reporting the matter to an internal or external confidential ethics hotline, when such is available. In cases in which the member determines that the pressure cannot be eliminated and the activity would result in the member breaching the “Integrity and Objectivity Rule,” the proposal would require that the member decline to undertake the professional activity and consider whether to continue the relationship with the employing organization.

### **Effective Date**

PEEC does not believe that a delayed effective date for transition purposes is necessary. Accordingly, PEEC proposes that the interpretation be effective the last day of the month in which the interpretation is published in the *Journal of Accountancy*.

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<sup>3</sup> Approved in December 2016 for inclusion in the IESBA’s Code of Ethics for Professional Accountants.

## Text of Proposed New Interpretation “Pressure to Breach the Rules”

[Terms in italic only are defined terms]

### 2.140.010 Pressure to Breach the Rules

- .01 This interpretation addresses pressures that could result in a *member* taking actions that breach or cause others to breach the rules particularly, the “Integrity and Objectivity Rule” [2.110.010].
- .02 A *member* may face pressure that could create *threats*, for example undue influence *threats*, to compliance with the “Integrity and Objectivity Rule” [2.110.010] when undertaking a *professional service*. Pressure may be explicit or implicit. Pressure may come from within the *employing organization*, for example, from a colleague or superior, from an external individual or organization such as a vendor, customer or lender, or from the need to meet internal or external targets and expectations.
- .03 A *member* should not allow pressure from others to result in a breach of the “Integrity and Objectivity Rule” [2.110.010]. A *member* also should not place pressure on others that the *member* knows, or has reason to believe, would result in the other individuals breaching the rules of the AICPA Code of Professional Conduct.
- .04 Examples of pressure that could result in a breach of the “Integrity and Objectivity Rule” include the following:
  - a. Pressure related to conflicts of interest. For example, Pressure from a family member bidding to act as a vendor to the *member’s employing organization* to select them over another prospective vendor.

Refer to the “Conflicts of Interest for Members in Business” interpretation [2.110.010] for additional guidance.

- b. Pressure to influence presentation of information:
  - i. Pressure to report misleading financial results to meet investor, analyst, or lender expectations.
  - ii. Pressure from elected officials on government accountants to misrepresent programs or projects to voters.
  - iii. Pressure from colleagues to misstate income, expenditure, or rates of return to bias decision-making on capital projects and acquisitions.
  - iv. Pressure from superiors to approve or process expenditures that are not legitimate business expenses.
  - v. Pressure to suppress internal audit reports containing adverse findings.

Refer to the “Knowing Misrepresentations in the Preparation and Presentation of Information” interpretation [2.130.010] for additional guidance.

- c. Pressure to act without sufficient competence or due care:
  - i. Pressure from superiors to inappropriately reduce the extent of work performed.
  - ii. Pressure from superiors to perform a task without sufficient skills or training or within unrealistic deadlines.

Refer to the “General Standards Rule” [2.300.001] for additional guidance.

- d. Pressure related to financial interests. For example, pressure to manipulate performance indicators from superiors, colleagues or others, such as those who may benefit from participation in compensation or incentive arrangements.
- e. Pressure related to gifts or entertainment:
  - i. Pressure from others, either internal or external to the *employing organization*, to offer gifts or entertainment to inappropriately influence the judgment or decision-making process of an individual or organization.
  - ii. Pressure from colleagues to accept inappropriate gifts or entertainment from potential vendors in a bidding process.

Refer to the “Offering or Accepting Gifts or Entertainment” interpretation [2.120.010] for additional guidance.

.05 In determining whether the pressure could result in a breach of the “Integrity and Objectivity Rule,” the *member* might consider factors including the following:

- a. The intent of the individual who is exerting the pressure and the nature and significance of the pressure.
- b. The application of relevant laws, regulations, and professional standards to the circumstances.
- c. The culture and leadership of the employing organization including the extent to which it emphasizes the importance of ethical behavior and the expectation that employees will act in an ethical manner. For example, a corporate culture that tolerates unethical behavior may increase the likelihood that the pressure would result in a breach of the rules.
- d. Policies and procedures, if any, that the *employing organization* has established, such as ethics or human resources policies that address pressure.

.06 In considering the factors in paragraph .05 along with other factors, and being alert to the requirements of the “Confidential Information Obtained From Employment or Volunteer Activities” interpretation [2.400.070], the *member* may consult with the following:

- a. A colleague, superior, human resources personnel, internal compliance personnel or another professional accountant.
- b. Relevant professional or regulatory bodies or industry associations.
- c. Legal counsel.

.07 If the *member* determines that the pressure would result in a breach of the “Integrity and Objectivity Rule,” the *member* might consider *safeguards*, including these:

- a. Discussing the matter with the individual who is exerting the pressure to seek to resolve it.
- b. Discussing the matter with the member’s supervisor, if the supervisor is not the individual exerting the pressure.
- c. Escalating the matter within the *employing organization*, for example, with higher levels of management, internal or external auditors, or *those charged with governance*, including independent directors and, when appropriate, explaining any consequential risks to the organization.
- d. Requesting restructuring or segregating certain responsibilities and duties so that the member is no longer involved with the individual or entity exerting the pressure, when doing so would eliminate the pressure to breach the “Integrity and Objectivity

Rule.” For example, if a member is pressured in relation to a conflict of interest, the pressure to breach the rule may be eliminated if the *member* avoids being associated with the matter creating the conflict.

- e. Disclosing the matter in accordance with the *employing organization’s* policies, including ethics and whistleblowing policies, using any established mechanism, such as a confidential ethics hotline.
  - f. Consulting with legal counsel.
- .08 In situations in which the *member* determines that the pressure to breach the “Integrity and Objectivity Rule” has not been eliminated, the *member* should do the following:
- a. Decline to undertake or discontinue the professional activity that would result in a breach of the rule.
  - b. Consider whether to continue a relationship with the *employing organization*.
- .09 The member is also encouraged to document the facts, the communications, the courses of action considered, the parties with whom these matters were discussed, and how the matter was addressed.