

FOREWORD

[excerpt]

Fundamental principles governing conduct

The rules of professional conduct, as a whole, flow from the special obligations embraced by the chartered accountant. The reliance of the public, generally, and the business community, in particular, on sound and fair financial 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.

To protect the public and to maintain the reputation of the profession, the rules apply, as appropriate, to members of the profession and its students.

The rules of professional conduct are derived from five fundamental principles of ethics - statements of accepted conduct whose soundness is, for the most part, self-evident and are as follows:

Professional Behaviour

Members conduct themselves at all times in a manner which will maintain the good reputation of the profession and its ability to serve the public interest.

In doing so, members are expected to avoid any action that would discredit the profession, ~~including the use of methods of advertising or other communication which do not uphold professional good taste.~~

While there are business considerations involved in the creation and development of a professional practice, a member's practice should be based primarily upon a reputation for professional excellence. A member is expected to act in relation to other professional colleagues with the courtesy and consideration he or she would expect to be accorded by them.

COUNCIL INTERPRETATION 217.1/14 Use of the term “Specialist”

- 14 Improperly claiming specialist status may violate one or more of the following rules:
- (a) Rule 201.1, which requires members and firms to act in a manner that will maintain the good reputation of the profession;
 - (b) Rule 202, which requires members to perform their services with integrity and due care;
 - (c) Rule 203.1, which requires members to sustain their professional competence in all functions in which they practise;
 - (d) Rule 210, which requires members and firms to avoid conflicts of interest; and
 - (e) Rule 217.1(a~~e~~), which requires members to refrain from making statements that cannot be substantiated.

RULE 204.8 Disclosure of Impaired Independence

A member or firm engaged in the practice of public accounting or any related ~~function~~business or practice, who provides a service not subject to the requirements of Rules 204.1 to 204.7, 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.

RULE 202.1 Integrity and due care

A member or student shall perform ~~his or her~~ professional services with integrity and due care.

RULE 202.2 Objectivity

A member or student shall perform professional services with an objective state of mind.

COUNCIL INTERPRETATION 202

Integrity and Objectivity

202/1 A person who acts with honesty and truthfulness and whose actions, values and principles are consistent is described as having integrity.

202/2 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 and, accordingly, the requirement to perform professional services with an objective state of mind does not preclude a member or student from acting as an advocate on behalf of others for whom the member or student performs professional services or a business owned by the member or student.

202/3 Objectivity and integrity are two of the five fundamental principles of ethics, as stated in the Foreword to the Rules of Professional Conduct. These two principles are closely related and they are essential ethical elements in establishing the credibility of a chartered accountant. Objectivity is essential for any member or student to exercise professional judgment and act with integrity whether in public practice or elsewhere.

Professional Services

202/4 The term “professional services” applies to all members and students whether or not they are engaged in the practice of public accounting. It includes those of the member’s or student’s activities where the public, colleagues or associates are reasonably entitled to rely on membership in, or registration as a student of, the Institute as giving the member or student particular competence. However, as discussed in paragraphs 7 through 11 of this Council Interpretation, the requirement to perform professional services with an objective state of mind does not preclude a member or student from acting as an advocate on behalf of others for whom the member or student performs professional services or a business owned by the member or student.

The Public Interest

202/5 The public expects that a chartered accountant will bring the qualities of objectivity and integrity to all professional services. It therefore becomes essential that a member or student will not subordinate professional judgment to the will of others. When a possible ethical conflict arises because a more senior person in an organization overrides the professional judgment of a junior member or student, the more junior member or student

should refer to the ethical conflict resolution guidance in the Foreword to the Rules of Professional Conduct.

202/6 A member or student 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 chartered accountant recognizes that credibility and value as a professional depend largely on integrity and objectivity.

Members and students outside of public accounting

202/7 Employment with an organization outside the practice of public accounting requires a member or student to be accountable to the employing organization, subject to the law and the Rules of Professional Conduct. Responsibility to satisfy the needs of an employer must be balanced with responsibility to the profession. This requires the member or student to act objectively and with integrity, to avoid conflicts of interest and to exercise professional judgment in keeping with the guidance outlined in paragraph 5 of this Council Interpretation.

202/8 When a member or student is employed outside of public practice, there is a responsibility to further the legitimate aims of the employing organization. In promoting the organization's position, the member or student should not make or be associated with false or misleading statements or statements which are not adequately supported.

202/9 Members and students 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.

Objectivity and advocacy

202/10 The requirement for an objective state of mind does not preclude a member or student from acting in an advocacy role for a client, unless it is otherwise prohibited by Rule 201.4, or from working to advance the best interests of an employer. A member's or student's effectiveness as an advocate in these cases is based on professional credibility, which is sustained by objectivity and integrity in addition to competence. However, a member or student must consider the ability to effectively advocate the client's or employer's position, while still maintaining objectivity and integrity. In any advocacy service, there is a possibility that circumstances may arise which stretch the bounds of performance standards, go beyond sound and reasonable professional or commercial practice or compromise credibility. Such circumstances may pose an unacceptable risk of impairing the reputation of the member or student and the firm, client and/or employer. In those circumstances, the member, student or firm should consider whether it is appropriate to perform the service.

202/11 A member or student who acts as an advocate for a client should refer to Rule 201.4. In such situations, the member or student should ensure that the advocacy role is apparent, and that statements made are not false or misleading and have adequate support.

Practice of Public Accounting – additional requirements

202/12 In addition to the general requirement to maintain an objective state of mind applicable to all

professional services, a member or student in the practice of public accounting or a related business or practice must ensure compliance with the requirements of the specific Rules of Professional Conduct in relation to:

- (a) Independence, for certain types of engagement, (Rule 204 – see also paragraph 13 below); and
- (b) Conflicts of interest (Rule 210).

202/13 The requirement to be objective is not the same as the requirement to be independent pursuant to Rule 204. When a member, student or firm performs an assurance engagement or an engagement to perform specified assurance procedures the public must be confident that those performing the engagement are free from influences which will impair professional judgment or objectivity. Accordingly, in addition to being objective, a member, student or firm in public practice who provides such a service is required to be independent of the assurance client. Objectivity is a state of mind. Independence is not only a state of mind; it also includes the appearance of independence, in the view of a reasonable observer. It is the reasonable observer test that distinguishes “independence” from “objectivity” and that gives the public the necessary confidence that the member, student or firm can express a conclusion without bias, conflict of interest or the undue influence of others. Rule 204 and the related Council Interpretations provide specific guidance on the independence requirements in these circumstances.

Continuing assessment of objectivity and integrity

202/14 A member or student must remain conscious of the need to remain objective and act with integrity in the conduct of all professional services, and must continually assess and manage the risks to objectivity and integrity. In the absence of specific rules, standards or guidance, a member or student should consider whether a member, without the relationships or influence that have put objectivity or integrity at risk would have come to the same decision with access to the same information. The member or student may wish to apply the ethical conflict resolution guidance in the Foreword to the Rules of Professional Conduct in circumstances where difficult decisions may be required. When an issue cannot be resolved in the member’s or student’s own mind, an experienced member should be consulted.

RULE 209 Borrowing from clients

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

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

209.2 Rule 209.1 does not apply to:

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

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

COUNCIL INTERPRETATION 209 Borrowing From Clients

209/1 It is a fundamental principle of the profession that members, students and firms provide advice to their clients that is free of prejudice, conflict of interest or undue influence that may impair sound professional judgment ~~or objectivity.~~ When a member, student or firm borrows money from a client, there ~~may be an inherent~~ conflict between the interests of the member, student or firm and those of the client. ~~As provided in Rule 210.3(b), a member or student may borrow from a family member or an entity over which a family member exercises significant influence because the client's knowledge of the conflict and consent to provide the service may be implied by the client's conduct. Accordingly, members, students and firms who enter into the types of financing or borrowing arrangements that are allowed under Rule 209.1 or 209.2 are cautioned that they must comply with all of the other Rules of Professional Conduct including, but not limited to :~~

- (a) 201 – Maintenance of reputation of profession;
- (b) 202 – Integrity and due care;
- (c) 204 – Independence;
- (d) 208 – Confidentiality of information; and
- (e) 210 – Conflict of interest

~~209/2 – Members, students and firms are referred to Rules 204.4(10) to 204.4(12) and paragraphs~~

~~83 to 88 of the related council interpretation with respect to loans and guarantees to or from assurance clients.~~

209/32 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.

209/43 For purposes of Rule 209.1(b), a family member means any of the following persons

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

209/54 Rule 209.1 applies only to new borrowings or guarantees or amendments to the terms of existing borrowings or guarantees that occur after the lender becomes a client. When an existing lender or guarantor becomes a client, the member, student or firm should be mindful of the need to provide services with due care and an objective state of mind and, accordingly, should consider whether the loan should be repaid or the guarantee released.

~~**209/6** Rule 209.1 does not apply to amounts received from a client as a retainer or as a deposit on account of future services to be provided by the member, student or firm.~~

~~**209/7** Rule 209.1 does not apply to a loan received from a member or student's employer.~~