

**AMERICAN INSTITUTE OF  
CERTIFIED PUBLIC ACCOUNTANTS**

**GUIDE FOR COMPLYING WITH  
RULES 102–505**



**November 10, 2008**

## Notice to Readers

This guide is designed as educational and reference material for the members of the AICPA and others interested in the subject. It is not an authoritative document. It does not establish policy positions, standards, or preferred practices. This guide is distributed with the understanding that the AICPA is not rendering any ethical or legal advice.

*Copyright © 2008 by  
American Institute of Certified Public Accountants, Inc.  
New York, NY 10036-8775*

*All rights reserved. For information about the procedure for requesting permission to make copies of any part of this work, please call the AICPA Copyright Permissions Hotline at 201-938-3245. A Permissions Request Form for emailing requests is available at [www.aicpa.org](http://www.aicpa.org) by clicking on the [copyright notice](#) on any page.*

*1 2 3 4 5 6 7 8 9 0 PE 0 9 8*

# A Guide for Complying with Rules 102–505

## Introduction

**.01** Members who provide professional services may hold various positions. For example, a member may be a salaried employee, a partner, a director (executive or nonexecutive), an owner-manager, a volunteer, or a consultant working for an employer, a firm, or for one or more clients. The legal relationship between the member, the employer, the firm, or the client does not affect the member's responsibility to comply with the ethical requirements of the AICPA Code of Professional Conduct (Code).

**.02** The Code provides members with principles for properly fulfilling their ethical responsibilities. The Rules of Conduct (the rules) set out in the Code govern the performance of professional services by members. The bylaws of the AICPA require that all members comply with these rules. Other sections of the Code contain additional authoritative guidance set forth in interpretations and rulings, which address the application of the rules to specific situations that members may encounter when providing professional services. ET section 100.01, [\*Conceptual Framework for AICPA Independence Standards\*](#) (AICPA, *Professional Standards*, vol. 2), provides authoritative guidance for members when making decisions on independence matters that are not explicitly addressed by the Code under Rule 101, *Independence* (AICPA, *Professional Standards*, vol. 2, ET sec. 100), and its interpretations and rulings.

**.03** The Code cannot address every possible relationship or circumstance a member may need to address in order to comply with the rules. Accordingly, in achieving compliance with the rules, members may need to make decisions unrelated to independence regarding relationships or circumstances that are not explicitly addressed by the interpretations and rulings. This guide describes an approach that members can use to evaluate those relationships or circumstances, and members are encouraged to use it for that purpose. Although use of this guide is not required by the Code, it can assist members in complying with the rules in those situations. Therefore, use of this guide will often be a prudent step in achieving compliance with the rules. Under no circumstances, however, may this guide be used to justify noncompliance with the rules, interpretations, and rulings in the Code.

## Definitions

**.04 Acceptable level.** A level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that compliance with the rules is not compromised.

**.05 Safeguards.** Actions or other measures that eliminate threats or reduce them to an acceptable level.

**.06 Threats.** The risk that relationships or circumstances could compromise a member's compliance with the rules.

### **Rules of Conduct Covered by This Guide**

**.07** In addition to Rule 101, the bylaws of the AICPA require that members comply with the following rules:

- a. [Rule 102](#), *Integrity and Objectivity* (AICPA, *Professional Standards*, vol. 2, ET sec. 100)
- b. [Rule 201](#), *General Standards* (AICPA, *Professional Standards*, vol. 2, ET sec. 200)
- c. [Rule 202](#), *Compliance With Standards* (AICPA, *Professional Standards*, vol. 2, ET sec. 200)
- d. [Rule 203](#), *Accounting Principles* (AICPA, *Professional Standards*, vol. 2, ET sec. 200)
- e. [Rule 301](#), *Confidential Client Information* (AICPA, *Professional Standards*, vol. 2, ET sec. 300)
- f. [Rule 302](#), *Contingent Fees* (AICPA, *Professional Standards*, vol. 2, ET sec. 300)
- g. [Rule 501](#), *Acts Discreditable* (AICPA, *Professional Standards*, vol. 2, ET sec. 500)
- h. [Rule 502](#), *Advertising and Other Forms of Solicitation* (AICPA, *Professional Standards*, vol. 2, ET sec. 500)
- i. [Rule 503](#), *Commissions and Referral Fees* (AICPA, *Professional Standards*, vol. 2, ET sec. 500)
- j. [Rule 505](#), *Form of Organization and Name* (AICPA, *Professional Standards*, vol. 2, ET sec. 500)

Each of these rules (that is, Rules 102–505), along with its related authoritative interpretations and rulings, can be accessed by selecting the link preceding the name of each rule in the preceding list.

### **Threats and Safeguard Approach**

**.08** The Code cannot address every situation in which a relationship or circumstance creates an unacceptable threat to a member's compliance with rules 102–505. Accordingly, the threats and safeguard approach<sup>1</sup> described in this section can assist a member in complying with the rules when the guidance in the interpretations and rulings in the Code do not explicitly address the situation encountered. This method involves identifying threats to compliance with the rules and evaluating the significance of those threats. If the threats are not at an acceptable level, the threats and safeguards approach involves determining whether safeguards are available to eliminate the threats or reduce them to an acceptable level and, if so, applying such safeguards or, if not, avoiding the

---

<sup>1</sup> The Professional Ethics Executive Committee uses the threats and safeguard approach described in this guide when it develops ethics interpretations and rulings. Accordingly, reference to this guide may assist AICPA members and others in understanding the basis for those interpretations and rulings.

situation that creates the threats. Threats are identified and evaluated both individually and in the aggregate because they can have a cumulative effect on a member's compliance with the rules of conduct.

**.09 *Identifying Threats.*** The relationships or circumstances encountered by a member in various engagements and work assignments will often create different threats to complying with the rules. When a relationship or circumstance is encountered that is not specifically addressed by the interpretations or rulings in the Code, under this approach, members would determine whether the relationship or circumstance creates one or more threats, such as those identified in paragraph .13. The existence of a threat does not mean that the member is not in compliance with the rules; rather, the significance of the threat would be evaluated.

**.10 *Evaluating the Significance of a Threat.*** In evaluating the significance of a threat that has been identified in order to determine whether it is at an acceptable level, the standard of acceptable level is whether a reasonable and informed third party, weighing all the specific facts and circumstances, would be likely to conclude that the threat would compromise the member's compliance with the rules. Qualitative as well as quantitative factors are relevant when evaluating the significance of a threat, including the extent to which existing safeguards already reduce the threat to an acceptable level. If the evaluation supports a conclusion that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that the threat would not compromise a member's compliance with the rules, the threat is at an acceptable level. In that case, no further evaluation under this framework would be necessary.

**.11 *Identifying and Applying Safeguards.*** If the evaluation of the significance of an identified threat results in the member concluding that the threat is not at an acceptable level, safeguards would need to be applied in order to eliminate the threat or reduce it to an acceptable level. When identifying appropriate safeguards to apply, one safeguard may eliminate or reduce multiple threats, but in some cases multiple safeguards may be necessary to eliminate or reduce one threat to an acceptable level. Determining the nature of the safeguards to be applied requires the exercise of judgment because the effectiveness of safeguards will vary, depending on the circumstances. Again, the issue is whether a reasonable and informed third party, who has weighed all the specific facts and circumstances, would be likely to conclude the level of threat is acceptable. A threat has been reduced to an acceptable level by safeguards if, after application of the safeguards, a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that compliance with the rules is not compromised.

**.12** Some threats identified may be so significant that no safeguards will eliminate the threats or reduce them to an acceptable level. If a significant threat cannot be eliminated or reduced to an acceptable level by the application of safeguards, or if a member is unable to implement appropriate safeguards, providing the specific professional service will in all likelihood result in the member's noncompliance with the rules. Although declining or discontinuing the service would prevent this result, depending on the facts

and circumstances, it might be prudent for the member to also consider whether to resign from the client or the employer.

## **Threats and Safeguards**

### *Threats*

.13 Many threats fall into the following categories:

- a. **Self-review threat.** The threat that a member will not appropriately evaluate the results of a service performed by the member, or by an individual in the member's firm or employing organization, that the member will rely upon in forming a judgment as part of providing another service.
- b. **Advocacy threat.** The threat that a member will promote a client or employer's position or opinion to the point that his or her objectivity is compromised.
- c. **Adverse interest threat.** The threat that a member will not be objective because the member's interests are in opposition to the interests of a client or employer.
- d. **Familiarity threat.** The threat that because of a long or close relationship with a client or employer, a member will become too sympathetic to their interests or too accepting of their work.
- e. **Undue influence threat.** The threat that a member will subordinate his or her judgment to that of an individual associated with a client, employer, or other relevant third party because of the individual's (1) reputation or expertise, (2) aggressive or dominant personality, or (3) attempts to coerce or exercise excessive influence over the member.
- f. **Self-interest threat.** The threat that a member will act in a manner that is adverse to the legitimate interests of his or her firm, employer, client, or the public, as a result of the member or his or her immediate or close family member's financial interest in or other relationship with a client or the employer.

.14 The types of threats that are created will generally be the same for all members, although the circumstances that create threats will differ depending on whether the member is in public practice, business and industry, government, or academia. In addition, due to the nature of services provided by some members, such as employees of a governmental audit organization, the threats those members face can arise from the same or similar types of circumstances as for members in public practice.

Following are some examples of how threats may impact a member's compliance with certain of the rules:

- a. If a member is being pressured to become associated with misleading information, there is an undue influence threat to compliance with Rule 102 and Rule 201.
- b. If a member is reviewing work he or she previously performed that will be relied upon as part of providing a current professional service and the member discovers a significant error in the previous work, there is a self-interest threat to compliance with Rule 102 and Rule 201.

- c. If a member's firm provides nonattest services to an audit client where a member's brother-in-law is the CFO, there are self-interest and familiarity threats to compliance with Rule 102.
- d. If a member is directed to complete a task within an unrealistic time frame, there is an undue influence threat to compliance with Rule 102 and Rule 201.
- e. If a member has charged his or her employer with violating certain labor laws, there is an adverse interest threat to compliance with Rule 102.
- f. If the revenue received from a single client is significant to the firm, a self-interest threat to compliance with Rule 102 may be created.

### *Safeguards*

**.15** Safeguards fall into two broad categories:

- a. Safeguards created by the profession, legislation, or regulation
- b. Safeguards in the work environment

In addition, a member in public practice also may be able to consider safeguards implemented by the client in combination with the preceding safeguards when evaluating the significance of a threat.

**.16** To be effective, safeguards should eliminate a threat or reduce to an acceptable level the threat's potential to compromise the member's compliance with the rules. The effectiveness of safeguards depends on many factors, including the following:

- The facts and circumstances of a particular situation
- The proper identification of threats
- Whether the safeguard is suitably designed to meet its objectives
- The party or parties that will be subject to the safeguard
- How the safeguard is applied
- The consistency with which the safeguard is applied
- Who applies the safeguard

**.17** Certain safeguards may not need to be implemented by the member because they are already in place either by the member's firm (concurring partner review) or through the existence of professional requirements (peer review), legislation (preapproval of allowable nonaudit services by audit committees), or regulation (quality control reviews performed by a federal Office of Inspector General for OMB Circular A-133 engagements). Such safeguards may be effective in eliminating or reducing threats to an acceptable level and, therefore, may be considered in applying the framework approach.

**.18** Other safeguards that may be effective in eliminating or reducing threats to an acceptable level are those in a member's work environment. For example, work environments with strong internal controls can be very effective in eliminating or reducing the self-review, adverse interest, and self-interest threats. Additionally, the undue influence threat can be reduced when leadership of a firm or the organization that

employs the member stresses the importance of ethical behavior and implements policies and procedures to empower and encourage employees to communicate to senior individuals within the firm or organization about any ethical issues that concern them without fear of retribution.

### **Ethical Conflict Resolution**

**.19** An ethical conflict arises when a member encounters obstacles to following an appropriate course of action due to internal or external pressures or because of conflicts within the professional standards. For example, a member may have encountered a fraud, the reporting of which could breach the member's responsibility to maintain client confidentiality. Once encountered, a member may be required to take steps to resolve the ethical conflict in order to comply with the rules.

**.20** To resolve an ethical conflict, a member should consider the following factors and select the course of action that will best enable him or her, after weighing the consequences of each, to comply with the rules:

- a.* Relevant facts and circumstances, including applicable rules, laws, or regulations
- b.* Ethical issues involved
- c.* Established internal procedures
- d.* Alternative courses of action

**.21** Before pursuing this course of action, the member may want to consult with appropriate persons within the firm or the organization that employs the member. If the conflict remains unresolved after pursuing the selected course of action, the member should consider consulting with those individuals for help in reaching a resolution.

**.22** The member also may wish to obtain advice from an appropriate professional body or legal counsel. The member should consider documenting the substance of the issue and details of any discussions held or decisions made concerning that issue.

**.23** If, after exhausting all reasonable possibilities, the ethical conflict remains unresolved, the member will in all likelihood be in noncompliance with the rules if he or she remains associated with the matter creating the conflict. Accordingly, the member may determine that, in the circumstances, it is appropriate to withdraw from the engagement team or specific assignment, or to resign altogether from the client, firm, or organization that employs the member.