



**TRANSITION PROVISIONS**  
**AICPA CODE OF PROFESSIONAL CONDUCT**  
**AS OF MAY 31, 2013**

The text of the transition provisions in effect as of May 31, 2013 were not codified into the Code of Professional Conduct of the American Institute of CPAs (AICPA Code) because they only apply to a limited number of situations. Nevertheless these transition provisions are still authoritative and therefore, references to the following transition provisions have been included in the AICPA Code.

Transition provisions can either, permit certain relationships for a limited time period that would violate a new, more restrictive provision while others permanently grandfather a specific relationship that existed as of a certain date that would violate a new, more restrictive standard.

The complete text of the provisions follow.

[Loans](#)  
[Immediate Family Members](#)  
[Close Relatives](#)  
[Forensic Accounting Services](#)  
[Tax Services](#)

**Loans – Reference from 1.260.020**

A home mortgage, secured *loan*, or was an immaterial unsecured *loan* would also be grandfathered if it was obtained:

- a. Prior to February 5, 2001 and met the requirements of previous provisions of the *interpretation* covering grandfathered *loans*.
- b. Between February 5, 2001, and May 31, 2002, and the *covered member* was in compliance with the applicable *independence* requirements of the Securities and Exchange Commission (SEC) during that period.

**Grandfathered Employment Relationships for Immediate Family Members – Reference from 1.270.020**

*November 2001 Provision*

An *immediate family member*'s employment relationship with an existing *attest client* that impairs *independence* under this *interpretation* and that existed as of November 2001 would not be deemed to impair *independence*, provided that such relationships were

permitted under the preexisting requirements of the Independence rule and its *interpretations*. Under the preexisting requirement, *independence* was not impaired by an *immediate family* member's employment or association with an *attest client*, except as follows:

1. *Independence* is impaired if the spouse or a dependent of one of the following *partners* or professional employees has a position with an *attest client* that allows the spouse or dependent to exercise significant influence over the *attest client's* operating, financial, or accounting policies:
  - a. An individual participating in the engagement
  - b. A *partner*, proprietor, or shareholder who
    - i. is located in an *office* participating in a significant portion of the engagement;
    - ii. has the ability to exercise influence over the engagement; or
    - iii. has any involvement with the engagement, such as consulting on accounting or auditing matters
2. *Independence* is impaired if a spouse or dependent of an individual participating in the engagement has a position with the *attest client* involving audit-sensitive activities.

The following definitions should be used for purposes of applying the preexisting requirements described above:

1. Significant influence exists when a person or entity can exercise significant influence over the operating, financial, or accounting policies of another entity if the person or entity
  - a. is connected with the entity as a promoter, an underwriter, a voting trustee, a general partner, or a director (other than an honorary director);
  - b. is connected with the entity in a policy-making position related to the entity's primary operating, financial, or accounting policies, such as the chief executive officer, chief operating officer, chief financial officer, or chief accounting officer; or
  - c. meets the definition of significant influence, as defined in FASB ASC 323-10-15.
2. An office participating in a significant portion of the engagement has primary *attest client* responsibility for a multi-office engagement or if, in the *member's* professional judgment, an office's hours or fees are material to total engagement hours or fees or if the office's responsibility for reporting, whether internally or externally, relates to a material amount of the *attest client's* assets or income (loss) before income taxes.
3. Audit-sensitive activities are those that are normally an element of, or subject to, significant internal accounting controls, such as a cashier, an internal auditor, an accounting supervisor, a purchasing agent, or an inventory warehouse supervisor.

### *May 2013 Provision*

Employment relationships of a partner equivalent's immediate family and close relatives with an existing attest client that impair independence under this interpretation and existed as of May 31, 2013, will not be deemed to impair independence provided such employment relationships were permitted under preexisting requirements of Rule 101 [[sec. 101 par. .01](#)], and its interpretations and rulings. The preexisting guidance regarding the application of the Independence Rules to a Covered Member's Immediate Family in effect prior to May 31, 2013 follow:

### **Application of the Independence Rules to a Covered Member's Immediate Family**

A covered member's immediate family is subject to Rule 101 ([par. .01](#)) and its interpretations and rulings. When materiality of a financial interest is identified as a factor affecting independence in these interpretations and rulings, the immediate family member and the covered member's interests should be combined. The following exceptions address situations in which independence will not be considered impaired. Notwithstanding the following exceptions, the independence requirement in Interpretation No. 101-1(B) ([par. .02](#)) applies.

#### ***Permitted Employment***

An individual in a covered member's immediate family may be employed by an attest client in a position other than a key position.

#### ***Employee Benefit Plans Other Than Certain Share-Based Arrangements or Nonqualified Deferred Compensation Plans***

As a result of his or her permitted employment, an immediate family member of a covered member may participate in a plan that is an attest client or that is sponsored by an attest client, other than a client's share-based compensation arrangement or nonqualified deferred compensation plan, provided that

- a. the plan is offered to all employees in comparable employment positions;
- b. the immediate family member does not serve in a position of governance (for example, board of trustees) for the plan; and
- c. the immediate family member does not have the ability to supervise or participate in the plan's investment decisions or in the selection of the investment options that will be made available to plan participants.

An immediate family member of a covered member may hold a direct or material indirect financial interest in an attest client through participation in a plan, [fn 5](#) provided that

1. the covered member neither participates on the attest engagement team nor is in a position to influence the attest engagement;
2. such investment is an unavoidable consequence [fn 6](#) of such participation; and
3. in the event that a plan option to invest in a nonattest client becomes available, the immediate family member selects such option and disposes of any direct or

material indirect financial interests in the attest client as soon as practicable but no later than 30 days after such option becomes available.<sup>fn.7</sup>

### ***Share-Based Compensation Arrangements***

#### *Share-Based Compensation Arrangements Resulting in Beneficial Financial Interests*<sup>fn.8</sup> *in Attest Clients*

As a result of his or her permitted employment, an immediate family member of a covered member may participate in a share-based compensation arrangement, such as an employee stock ownership plan (ESOP), that results in his or her holding a beneficial financial interest in an attest client, provided that

1. the covered member neither participates on the attest engagement team nor is in a position to influence the attest engagement.
2. the immediate family member does not serve as a trustee for the share-based compensation arrangement and does not have the ability to supervise or participate in the selection of the investment options, if any, that are available to participants.
3. when the beneficial financial interests are distributed or the immediate family member has the right to dispose of the shares, the immediate family member
  - a. disposes of the shares as soon as practicable but no later than 30 days after he or she has the right to dispose of the shares or
  - b. exercises his or her put option to require the employer to repurchase the beneficial financial interests as soon as permitted by the terms of the share-based compensation arrangement.<sup>fn.9</sup> Any repurchase obligation due to the immediate family member arising from exercise of the put option that is outstanding for more than 30 days would need to be immaterial to the covered member during the payout period.
4. benefits payable from the share-based compensation arrangement to the immediate family member upon termination of employment, whether through retirement, death, disability, or voluntary or involuntary termination, are funded by investment options other than the employer's financial interests, and any unfunded benefits payable are immaterial to the covered member at all times during the payout period.

#### *Share-Based Compensation Arrangements Resulting in Rights to Acquire Shares in an Attest Client*

As a result of his or her permitted employment, an immediate family member of a covered member may participate in a share-based compensation arrangement resulting in a right to acquire shares in an attest client, such as an employee stock option plan<sup>fn.10</sup> or restricted stock rights plan, provided that

1. the covered member neither participates on the attest engagement team nor is in a position to influence the attest engagement and
2. the immediate family member exercises or forfeits these rights once he or she is vested and the closing market price of the underlying stock equals or exceeds the

exercise price for 10 consecutive days (market period). The exercise or forfeiture should occur as soon as practicable but no later than 30 days after the end of the market period. In addition, if the immediate family member exercises his or her right to acquire the shares, he or she should dispose of the shares as soon as practicable but no later than 30 days after the exercise date. [fn. 11](#) If the employer repurchases the shares, any employer repurchase obligation due to the immediate family member that is outstanding for more than 30 days would need to be immaterial to the covered member during the payout period.

### *Share-Based Compensation Arrangements Based Upon Stock Appreciation*

As a result of his or her permitted employment, an immediate family member of a covered member may participate in a share-based compensation arrangement based on the appreciation of an attest client's underlying shares, provided that

1. the share-based compensation arrangement (for example, a stock appreciation or phantom stock plan) does not provide for the issuance of rights to acquire the employer's financial interests.
2. the covered member neither participates on the attest engagement team nor is in a position to influence the attest engagement.
3. the immediate family member exercises or forfeits his or her vested compensation rights if the underlying price of the employer's shares equals or exceeds the exercise price for 10 consecutive days (market period). Exercise or forfeiture should occur as soon as practicable but no later than 30 days after the end of the market period.
4. any resulting compensation payable to the immediate family member that is outstanding for more than 30 days is immaterial to the covered member during the payout period.

### *Nonqualified Deferred Compensation Plan*

As a result of his or her permitted employment at an attest client, an immediate family member of a covered member may participate in a nonqualified deferred compensation plan, provided that

1. the covered member neither participates on the attest engagement team nor is in a position to influence the attest engagement;
2. the amount of the deferred compensation payable to the immediate family member is funded through life insurance, an annuity, a trust, or similar vehicle and any unfunded portion is immaterial to the covered member; and
3. any funding of the deferred compensation does not include financial interests in the attest client.

[fn. 5](#) Excluding share-based compensation arrangements and nonqualified deferred compensation plans. [Footnote added by the Professional Ethics Executive Committee, March 2010.]

[fn. 6](#) *Unavoidable consequence* means that the immediate family member has no investment options available for selection, including money market or invested cash options, other than in an attest client. [Footnote added by the Professional Ethics Executive Committee, March 2010.]

<sup>in 7</sup> When legal or other similar restrictions exist on a person's right to dispose of a financial interest at a particular time, the person need not dispose of the interest until the restrictions have lapsed. For example, a person does not have to dispose of a financial interest in an attest client if doing so would violate an employer's policies on insider trading. On the other hand, waiting for more advantageous market conditions to dispose of the interest would not fall within this exception. [Footnote added by the Professional Ethics Executive Committee, March 2010.]

<sup>in 8</sup> See Interpretation No. 101-15 ([par. .17](#)) for an explanation of when a financial interest is beneficially owned. [Footnote added by the Professional Ethics Executive Committee, March 2010.]

<sup>in 9</sup> See [footnote 7](#). [Footnote added by the Professional Ethics Executive Committee, March 2010.]

<sup>in 10</sup> See Interpretation No. 101-15 ([par. .17](#)) for guidance on stock option plans. [Footnote added by the Professional Ethics Executive Committee, March 2010.]

<sup>in 11</sup> See [footnote 7](#). [Footnote added by the Professional Ethics Executive Committee, March 2010.]

### **Grandfathered Employment Relationships for Close Relatives – Reference from 1.270.100**

Employment relationships of a *covered member's close relatives* with an existing *attest client* that impair *independence* under this *interpretation* and that existed as of November 2001 will not be deemed to impair *independence*, provided that such relationships were permitted under the preexisting requirements of the Independence rule and its *interpretations*. [Prior reference: paragraph .02 of ET section 101] Under these preexisting requirements, *independence* was not impaired by a *close relative's* employment or association with an *attest client*, except as follows:

1. During the *period of the professional engagement* or at the time of expressing an opinion, *independence* is impaired if a *close relative* of an individual participating on the *attest engagement* has a financial interest in the *attest client* that was material to the *close relative* and of which the individual participating on the engagement has knowledge.
2. During the period covered by the *financial statements*, during the *period of the professional engagement*, or at the time of expressing an opinion, *independence* is impaired if
  - a. an individual participating on the engagement has a *close relative* who could exercise significant influence over the operating, financial, or accounting policies of the *attest client* or who is otherwise employed in an audit-sensitive position, or
  - b. a proprietor, *partner*, or shareholder, any one of whom is located in an *office* participating in a significant portion of the engagement, has a *close relative* who could exercise significant influence over the operating, financial, or accounting policies of the *attest client*.

For purposes of applying the preexisting requirements described above, the following definitions apply:

1. Close relatives are nondependent children, grandchildren, stepchildren, siblings, grandparents, parents, parents-in-law, and any of their respective spouses. However, *close relatives* do not include the brothers and sisters of the *member's* spouse.

2. Significant influence exists when a person or entity can exercise *significant influence* over the operating, financial, or accounting policies of another entity if the person or entity
  - a. is connected with the entity as a promoter, an underwriter, a voting trustee, a general partner, or a director (other than an honorary director);
  - b. is connected with the entity in a policy-making position related to the entity's primary operating, financial, or accounting policies, such as the chief executive officer, chief operating officer, chief financial officer, or chief accounting officer; or
  - c. meets the definition of significant influence, as defined in FASB ASC 323-10-15.
3. An *office* participating in a significant portion of the engagement has primary *attest client* responsibility for a multioffice engagement or if, in the *member's* professional judgment, an *office's* hours or fees are material to total engagement hours or fees or if the *office's* responsibility for reporting, whether internally or externally, relates to a material amount of the *attest client's* assets or income (loss) before income taxes.
4. An audit sensitive position is any activity or job function that is normally an element of, or subject to, significant internal accounting controls, such as a cashier, an internal auditor, an accounting supervisor, a purchasing agent, or an inventory warehouse supervisor.

A nonauthoritative document, *Independence Rules Modernization Project* (white paper), provides some discussion on changes made to the independence provisions that are applicable to close relatives. The white paper is available at [www.aicpa.org/InterestAreas/ProfessionalEthics/Resources/Tools/DownloadableDocuments/IndependenceModernizationWhitePaper.doc](http://www.aicpa.org/InterestAreas/ProfessionalEthics/Resources/Tools/DownloadableDocuments/IndependenceModernizationWhitePaper.doc).

#### *May 2013 Provision*

Employment relationships of a partner equivalent's close relatives with an existing attest client that impair independence under this interpretation and existed as of May 31, 2013, will not be deemed to impair independence provided such employment relationships were permitted under preexisting requirements of Rule 101 [[sec. 101 par. .01](#)], and its interpretations and rulings. The preexisting guidance regarding the application of the Independence Rules to Close Relatives in effect prior to May 31, 2013 follow:

#### **Application of the Independence Rules to Close Relatives**

Independence would be considered to be impaired if—

1. An individual participating on the attest engagement team has a **close relative** who had

- a. A key position with the client, or
  - b. A financial interest in the client that
    - i. The individual knows or has reason to believe was material to the close relative; or
    - ii. Enabled the close relative to exercise significant influence over the client.
2. An individual in a position to influence the attest engagement or any partner in the office in which the lead attest engagement partner primarily practices in connection with the attest engagement has a close relative who had
- a. A key position with the client; or
  - b. A financial interest in the client that
    - i. The individual or partner knows or has reason to believe was material to the close relative; and
    - ii. Enabled the close relative to exercise significant influence over the client.

**Forensic Accounting Services Transition – Reference from 1.295.140**

Independence would not be impaired as a result of the more restrictive requirements of the forensic accounting services provisions, provided such services are pursuant to engagements commenced prior to February 28, 2007, and the member complied with all applicable independence interpretations and rulings in existence on February 28, 2007.

**Tax Services – Reference from 1.295.160**

Independence would not be impaired as a result of the more restrictive requirements of the tax compliance services provisions provided such services are pursuant to engagements commenced prior to February 28, 2007, and completed prior to January 1, 2008, and the member complied with all applicable independence interpretations and rulings in effect on February 28, 2007.