



**SAMOA INSTITUTE OF ACCCOUNTANTS**

# **CODE OF ETHICS**

**2009**

# **SAMOA INSTITUTE OF ACCOUNTANTS**

## **CODE OF ETHICS 2009**

**Issued by the Council, Samoa Institute of Accountants**

### **CONTENTS**

#### **Page No.**

Introduction	
1.0 Objective.....	1
2.0 The Institute's Act of Incorporation.....	1
3.0 The Public Interest.....	1-2
4.0 Applicability.....	2-3
5.0 Compliance.....	3
6.0 Fundamental Principles.....	3-4
 Code of Ethics – Ethical Provisions (EP)	
 <b>Descriptions and Designations</b>	
EP1 – 4 Use of the Description “Public Accountant”.....	4-5
EP5 Use of Designations.....	5
 <b>Method of Practice</b>	
EP6 Inconsistent and Incompatible Businesses, Occupations of Activities.....	5
EP7 Financial Agencies and Other Arrangements.....	5-6
EP8 Management Consultancy Companies .....	6
 <b>Matters Affecting Service to Clients and Standards of Work</b>	
EP9 – 11 Professional conduct and Competence.....	6-7
EP12 – 15 Confidential Nature of Information.....	7
EP16 Duty of Members to Report Suspected Defalcations and Dishonesty	7-8
EP17 – 24 Tax Practice.....	8-9
EP25 – 28 Independence and Objectivity.....	9-10
 <b>Relations with Employers</b>	
EP29 Relations with Employers.....	10
EP30 Duty of Members in Employment in Events of Conflicts of Interest	10
 <b>Technical</b>	
EP31 Professional Standards.....	10
EP32 – 33 Statements.....	10-11
EP34 Restrictions on Forecasts of Future Results.....	11

#### **Client Monies**

EP35-44	Control of Clients' Monies and Trust	
	Accounts.....	11-12
EP45	Deductions of Fees.....	12
Promotion of Professional Services and Relations with Other Members		
EP46-50	Promotion of Professional Services.....	12-13
EP51-55	Superseding another Member.....	14-15
EP56-57	Specialist Assignments.....	15
EP58-62	Fees and Commissions.....	15-16
Compliance		
EP63	Services Performed Outside Western Samoa.....	17
EP64-65	Members' Responsibility for Conduct of Others.....	17
EP66-67	Non-Member Partners.....	17
EP68	Amendments to Code of Ethics.....	17

## **SAMOA INSTITUTE OF ACCOUNTANTS CODE OF ETHICS**

Pursuant to section 8 of the Samoa Institute of Accountants Act 2006 the Council has prescribed the following Code of Ethics of the Institute and shall be deemed to come into effect on the 1<sup>st</sup> day of January 2009. This Code may be cited as the Samoa Institute of Accountants Code of Ethics 2009 and replaces the Code of Ethics 1998

### **INTRODUCTION**

#### **1.0 Objective**

Those who pursue a vocation in which knowledge and skills are offered in the service of the affairs of others have responsibilities and obligations to those who rely upon and are affected by their work. It is the duty of the governing professional body to identify those responsibilities and obligations and codify them for the benefit of both the providers and recipients of such skills. This Code of Ethics and Ethical Provisions which it comprises seek to meet that duty.

#### **2.0 The Institute's Act of Incorporation**

2.1 The Samoa Institute of Accountants Act 2006 was enacted for the protection of the public and the proper regulation of the accountancy profession in Samoa.

The Act requires the Institute, as the governing body of the profession, to control and regulate the profession. Pursuant to this authority:

- a) Section 7 of the Act empowers the members in general meeting to prescribe rules of Ethics, breaches of which are deemed to be unprofessional conduct within the meaning of section 7(1)(i) of the Act.
  - b) Section 7 of the Act empowers the members in general meeting to make rules. Rules of the Institute so made include specific requirements affecting the maintenance of discipline and good conduct. They include rule 70 which is deemed to be fundamental. A breach of a provision of Rule 70 renders a member liable for disciplinary action under section 7(1)(i) of the Act.
- 2.2 The Act grants members of the Institute the right to use the title "Public Accountant". Such right imposes upon members the obligation to maintain high standards of professional conduct known to be associated with, and expected of, the profession.
- 2.3 The Code of Ethics expresses the profession's recognition of its responsibility to the public, to clients, and to colleagues. It guides members in the performance of their professional responsibilities and expresses the basic tenets of ethical and professional conduct. The Code of Ethics calls for an unswerving commitment to honourable behaviour, even at the sacrifice of personal advantage.

#### **3.0 The Public Interest**

3.1 A distinguishing mark of a profession is acceptance of its responsibility to the public. The accountancy profession's public consists of clients, government, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of public accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on public accountants. The public interest is defined as the collective well-being of the community of people and institutions the profession serves.

- 3.2 In discharging their professional responsibilities, members may encounter conflicting pressures from within each of these groups. In resolving those conflicts, members should act with integrity, guided by the precept that clients' and employers interests are best served when members fulfil their responsibilities to the public.
- 3.3 Those who rely on public accountants expect them to discharge their responsibilities with integrity, objectivity, due professional care, and genuine interest in serving the public. They are expected to provide quality services in a manner that demonstrates a level of professionalism consistent with these Ethical Provisions.
- 3.4 All who accept membership of the Samoa Institute of Accountants commit themselves to honour the public trust. In return for the faith that the public places in them, members should seek continually to demonstrate their dedication to professional excellence.

#### **4.0 Applicability**

- 4.1 The general requirements affecting the maintenance of discipline and good conduct are governed by the following rules of the Institute:
  - (a) Rule 51  
"Every person who is admitted to membership of the Institute shall undertake to observe the Institute's Code of Ethics in force at the time of his admission and as amended from time to time by the Institute."
  - (b) Rule 58  
"Every person becoming a member of the Institute shall receive at ruling prices a copy of the Act and of these Rules and of the Code of Ethics of the Institute and shall be bound by the Act and by these Rules and by the Code of Ethics in force at the time of his admission or election, and by any amendments or additions which may be made thereto, from time to time."
- 4.2 These Rules require that all members comply with the Code of Ethics. Members must be able to show that their actions comply with the Code of Ethics. The council shall have final say in determining whether a member has complied with the Code of Ethics.
- 4.3 Some Ethical Provisions relate specifically to members in public practice, but otherwise the Code of Ethics is applicable to all members of the Institute whether in public practice or not. For example, a member who is a director of a company should, in advising the board of directors on professional matters, be governed by the same high standards of professional behaviour as would a member in practice consulted by such a board.
- 4.4 The position of the professional person not in public practice was considered by the English Court of Appeal in the case of *Alfred Compton Amusement Machines Ltd v Commissioners of Customs and Excise (No. 2)* (1972) 2All ER353. Whilst the case was concerned with lawyers in employment, the general principles set out in the judgement of Lord Denning seem equally applicable to accountants in employment. The relevant extract is as follows (p.376) :

*"Many barristers and solicitors are employed as legal advisers, whole time, by a single employer. Sometimes the employer is a great commercial concern. At other times it is a government department or a local authority. It may even be the government itself, like the Treasury Solicitor and his staff. In every case these legal advisers do legal work for their*

*employer and for no one else. They are paid not by fees for each piece of work, but by a fixed annual salary. They are, no doubt, servants or agents of the employer.... They are regarded by the law as in every respect in the same position as those who practice on their own account. The only difference is that they act for one client only, and not for several clients. They must uphold the same standard of honour and of etiquette. They are subject to the same duties to the client and to the court. They must respect the same confidences. They and their clients have the same privileges... Being a servant or agent too, he may be under more pressure from his client. So he must be careful to resist it. He must be as independent in the doing of right as of any other legal adviser."*

## **5.0 Compliance**

- 5.1 Compliance with the Code of Ethics, as with all standards in an open society, depends primarily on the members' acceptance of their responsibilities to act ethically and their voluntary actions to meet those responsibilities, and secondarily on reinforcement by peers and public opinion, and ultimately on disciplinary proceedings.

The disciplinary proceedings are administered by the two committees established pursuant to subsections (f) and (g) of section 7 of the Act. Members of the committees are appointed by the Council in accordance to Rule 21(1)(b) and 21(1)(c), and each committee is required to operate independently of the Council. The committees are:

(a) Professional Conduct Committee: Under section 7(1)(f) of the Act, the Professional Conduct Committee investigates complaints against members and former members of the Institute and the powers and procedure of the committee are established in accordance to Rule 72.

(b) Disciplinary Body: Under section 7(1)(g) of the Act, the Disciplinary Body hears complaints and matters referred to it by the Professional Conduct Committee and the powers and procedure of the Body are established in accordance to Rule 73.

- 5.2 The Ethical Provision of the Code does not exhaust the moral and ethical considerations that should govern a member, but they guide a member in the ethical practice of the profession.

## **6.0 Fundamental Principles**

- 6.1 The maintenance of discipline and good conduct depends upon a number of fundamental principles which are characteristic of a calling which regards itself as a profession. Observance of these fundamental principles is central to the public interest.

- 6.2 The fundamental principles guide members of a profession in the performance of their professional responsibilities and express the basic tenets of ethical and professional conduct.

- 6.3 The fundamental principles (FP) are:

### **FP1 – Integrity**

Members should be straightforward, intellectually honest and free of conflicts of interest. Members should be fair and not allow prejudice or bias to override their objectivity.

### **FP2 – Objectivity**

Members should be impartial, intellectually honest and free of conflicts of interest. Members should be fair and not allow prejudice or bias to override their objectivity.

**FP3 – Professional Competence, Due Care and Timeliness**

Members have a duty to maintain a high standard of competence throughout their professional careers. They should only undertake work which they or their firm can expect to complete with professional competence. All professional obligations should be completed with due care and in a timely manner.

**FP4 - Technical Standards**

Members should carry out their professional work in accordance with the technical and professional standards appropriate to the work.

**FP5 – Professional Behaviour**

Members should conduct themselves in a manner consistent with the good reputation of the profession and refrain from any conduct which might bring discredit to the profession.

**FP6 – Confidentiality**

Members should respect the confidentiality of information acquired in the course of their work and should not disclose such information to a third party without specific authority or unless there is a legal or professional duty to disclose.

**FP7 – Independence**

Independence in the sense of being self-reliant, and not subordinate, is essential to the practice of all professions. In all phases of work members should be independent in that general sense of the word.

Where members in public practice express an opinion on financial information, they should both be, and appear to be, free of any interest which might be regarded, whatever its actual effect, as being incompatible with integrity, objectivity and independence.

6.4 These fundamental principles underlie the Ethical Provisions of the Code of Ethics.

**Code of Ethics – Ethical Provisions****DESCRIPTIONS AND DESIGNATIONS****Use of the Description “Public Accountant”**

**EP1** A member holding a Certificate of Public Practice who offers accounting services to the public may use the description “Public Accountant in Public Practice”

Commentary: While not mandatory, it is strongly recommended by the Council that members in public practice may use the designation “Public Accountant”

**EP2** A member referred to in EP1 may use an alternative description with or without the description “Public Accountant” provided;

**EP2.1** The alternative description that the member is competent in the area so described.

*Commentary: Whilst there is no objection to a member using additional descriptions in conjunction with the description “Public Accountant” members should not incorporate additional*

*services into the general description of the practice (e.g. “Public Accountants and Taxation Advisers”) where this would erroneously imply that the additional services so specified are not of themselves a part of the normal range of services customarily offered by Public Accountants.*

**EP3** A member who is not engaged in public practice shall not use the description “Public Accountant in Public Practice”

**EP4** A non-member partner in a firm of public accountants may use the description “partner” but shall not use the description “public accountant” or “accountant”. A firm of public accountants which comprise of non-member partners may use the description “Public Accountants” to describe the firm.

#### Use of Designations

**EP5** A member may use designations to describe the status of any person named in a letterhead of an organization, or any other document, or in an advertisement provided that the designation is not misleading.

*Commentary: For the purpose of this provision the designation “principal” is regarded as implying the status of “partner”.*

### METHOD OF PRACTICE

#### Inconsistent and Incompatible Businesses, Occupation or Activities

**EP6** A member in public practice may concurrently engage in any business, occupation or activity provided that it does not create a conflict of interest or impair the member’s integrity, objectivity or independence so as to be inconsistent and incompatible with the provision of accounting services to the public.

*Commentary: It is impracticable to define and prescribe all situations where a conflict of interest may arise. A rule of reason should prevail in identifying relationships that are likely to, or could appear to, impair a member’s integrity and objectivity.*

2. A member in public practice should not simultaneously engage in another business, occupation or activity unrelated to the provision of accountancy services to the public which has the effect of not allowing the member to conduct properly the member’s practice in accordance with the Fundamental Principles of the Code.

3. A business, occupation or activity should be considered incompatible with the provision of accounting services to the public when it:

- (a) creates or might create a conflict of interest with existing clients;
- (b) impairs or might impair integrity, objectivity or independence in rendering professional services to clients;
- (c) impairs or might impair to a material extent the ability to provide professional services to the general public;

#### Financial Agencies and Other Arrangements

**EP7** A member may enter into, or continue in any agency or other business arrangement or be in any other way professionally associated with any undertaking or activity, unless;

**EP7.1** The undertaking or activity or the member’s arrangement or association with it is likely to bring the member, or the Institute or the profession into disrepute;



**EP7.2** The arrangement or association or the manner in which it is to be implemented or promoted is inconsistent with the member's professional responsibilities and obligations.

**EP7.3** The member's name or the fact that the member is a public accountant is, or is to be given, undue emphasis so as to influence the judgement of members of the public;

**EP7.4** The undertaking or activity is one which involves an invitation to the public to pay, deposit, or invest money and the member knows, or as the result of reasonable enquiry ought to have known, that the invitation does not give a fair and full statement of the transaction that is involved.

*Commentary:*

- 1. Caution must be exercised to protect the public, the member and the Institute*
- 2. Members must ensure that they do not lend their names or their professional status to an enterprise which may cause loss to the public who have become involved through reliance on the member's own association with it, or which may bring discredit to those concerned with the enterprise.*
- 3. Attention is drawn to Ethical Provision 58 – 62 on fees and commissions.*

### **Management Consultancy Companies**

**EP8** The Conditions under which companies may be formed and operated in accordance with the provisions of Rule 70(g)(2) are as follows:

**EP8.1** Every member associated with the company as director, officer, or shareholder must abide by the Code of Ethics and shall ensure that the company and its employees abide by the Code.

**EP8.2** In conducting an assignment from a client of another member, a member who is associated with a company of management consultants shall abide with Ethical Provisions 56 and 57 of the Code which deal with specialist assignments.

**EP8.3** Services to be performed by the company shall be restricted to management consulting services and shall not include auditing, taxation, or other accounting services customarily performed by a public accountant in public practice.

## **MATTERS AFFECTING SERVICE TO CLIENTS AND STANDARDS OR WORK**

### **Professional Conduct and Competence**

**EP9.1** No member shall do any act or make any omission in the course of performing professional duties that is likely to discredit that member or any other member or the Institute, whether or not that act or omission is specifically referred to in any Ethical Provision of the Code of Ethics.

**EP9.2** A member has a duty to observe and maintain a high standard of professional competence throughout the member's professional career.

**EP10** A member who accepts a professional engagement implies that the member has the necessary competence to carry out the work and will apply his or her knowledge, skill and experience with reasonable care and diligence. Accordingly, a member should refrain from undertaking or continuing an assignment which the member is not competent to carry out unless

the member obtain such advice and assistance as will enable the member to complete the assignment in an efficient, proper and timely manner.

**EP11** A member has a continuing duty to maintain professional knowledge and skill at a level required to ensure that the member's clients receive competent professional service based on up-to-date developments and practice, legislation and techniques.

To recognize and encourage recognition of this duty, it is mandatory that all Institute members undertake /participate in continuing education courses/seminars which are recognized by the Council as appropriate from time to time and should in total per annum, not less than 28 hours.

### **Confidential Nature of Information**

**EP12** A member shall not disclose any information which has been obtained, or knowledge which has been gained, in the course of the member's professional duties or relationship except where required by a Court of competent jurisdiction, statute, the Professional Conduct Committee, the Disciplinary Committee, the Practice Review Board or in order to comply with technical standards issued by the Institute unless the disclosure of such information is made with the knowledge and consent of the client or employer to whom a confidence is owed. Where for any reason a member is precluded by law to respect the confidential nature of certain information, obtained in the course of an audit, he shall not be eligible to be auditor of such client.

**EP13** A member's duty of confidentiality shall continue even after the end of the relationship between the member and the client or employer.

**EP14** A member shall ensure that staff under the member's control and persons from whom advice and assistance are obtained respect the principle of confidentiality.

**EP15** A member shall not improperly use for the member's own benefit, or permit to be used for the benefit of others, any information which has been obtained, or knowledge which has been gained, in the course of the member's professional duties or relationship.

*Commentary: Questions are sometimes raised as to the position of a member who, in the course of the member's professional duties, discovers evidence of tax evasion by a client. The member must regard such knowledge as strictly confidential and under no circumstances should the information be communicated to a third party without the client's consent. In such circumstances, however, the member has a duty to the profession to do all that can be done to persuade the client to fulfil their legal obligation. Should the client decline, the member should safeguard the member's integrity by declining to undertake further professional work on behalf of the person concerned.*

### **Duty of Members to Report Suspected Defalcations and Dishonesty**

**EP16** Any member who has reasonable grounds for suspecting defalcation by any other member is under a duty to make a confidential report immediately to the President of the Institute except where the member receives the information on which the suspicion is based in circumstances of professional confidence.

*Commentary:*

*1 While EP16 imposes a positive obligation on members to report a suspected defalcation by fellow members to the Institute's President, this should not be taken as limiting the range of matters which might properly be the subject of a report to the President. For example, EP16*

*should not be read so as to preclude a member from reporting an instance of suspected general dishonesty by a fellow member to the President.*

2. Members may not always be free to make this disclosure. They may receive information in professional confidence or when acting for another member or for relatives of another member. They must respect the duty of silence imposed on them in such circumstance.
3. Examples of situations where a member may have reasonable grounds for suspecting defalcation by another member are illustrated by past cases where a fellow member has had reason to be suspicious by virtue of an extravagant mode of living, the dishonouring of cheques, or delay in effecting settlements.

### **Tax Practice**

**EP17** A member rendering professional tax services is entitled to put forward the best position in favour of a client, or an employer, provided the service is rendered with professional competence, does not in any way impair integrity and objectivity, and is in the opinion of the member consistent with the law. Doubt may be resolved in favour of the client or the employer if there is reasonable support for the position.

**EP18** A member should not hold out to a client or an employer the assurance that the tax return prepared and the tax advice offered are beyond challenge. Instead, the member should ensure that the client or the employer are aware of the limitations attaching to tax advice and services so that they do not misinterpret an expression of opinion as an assertion of fact.

**EP19** A member who undertake or assists in the preparation of tax return should advise the client or the employer that the responsibility for the content of the return rests primarily with the client or employer. The member should take the necessary steps to ensure that the tax return is properly prepared on the basis of the information received.

**EP20** Tax advice or opinions of material consequence given to a client or an employer should be recorded, either in the form of a letter or in memorandum for the files.

**EP21** A member should not be associated with any return or communication in which there is reason to believe that it;

- a) Contains a false or misleading statement.
- b) Contains statement or information furnished recklessly or without any real knowledge of whether they are true or false; or
- c) Omits or obscures information required to be submitted and such omission or obscurity would mislead the revenue authorities.

**EP22** A member may prepare tax returns involving the use of estimates if such use is generally acceptable or if it is impractical under the circumstances to obtain exact data. When estimates are used, they should be presented as such in a manner so as to avoid the implication of greater accuracy than exist. The member should be satisfied that estimated amounts are reasonable under the circumstances.

**EP23** In preparing a tax return, a member ordinarily may rely on information furnished by the client or employer provided that the information appears reasonable. Although the examination or

review of documents or other evidence in support of the information is not required, the professional accountant should encourage, when appropriate, such supporting data to be provided.

In addition, the member:

- a) Should make use of the client's return for prior years whenever feasible.
- b) Is required to make reasonable inquiries when the information presented appears to be incorrect or incomplete.
- c) Is encouraged to make reference to the books and records of the business operations.

**EP24** When a member learns of a material error or omission in a tax return of a prior year (with which the member may or may not have been associated), or of the failure to file a required tax return, the member has a responsibility to:

- a) Promptly advise the client or employer of the error or omission and recommend that disclosure be made to the revenue authorities, nor may this be done without permission.
- b) If the client or the employer does not correct the error the member:
  - I. Should inform the client or the employer that it is not possible to act for them in connection with that return or other related information submitted to the authorities and,
  - II. Should consider whether continued association with the client or employer in any capacity is consistent with professional responsibilities;
  - III. If the member concludes that a professional relationship with the client or employer can be continued, all reasonable steps should be taken to ensure that the error is not repeated in subsequent tax returns.

### **Independence and Objectivity**

**EP25** Members have a duty to observe and maintain independence and objectivity in all their professional duties.

**EP26** Members must inform clients or employers of the nature of any business connections, interests or affiliations which might affect the member's judgement or impair the objective quality of their services to such clients or employers.

**EP27** Where members are acting for more than one party in any transaction they must inform the parties of the fact and offer to each the opportunity to take independent advice.

**EP28** Where a member, or a member's professional partner, spouse, child; or a company or trust in which the member, the member's professional partner, wife or child is beneficially interested, is a party to any transaction in which a client is also a party the member must offer the client the opportunity to take independent advice.

## **RELATIONS WITH EMPLOYERS**

**EP29** If a member is working substantially full-time for an employer, the member is presumably not free to do work for other employers or renders accountancy service for other persons. Therefore the member is not allowed to practice as a public accountant.

## **DUTY OF MEMBERS IN EMPLOYMENT IN EVENT OF CONFLICTS OF INTEREST**

**EP30** A member in employment should be constantly conscious of, and alert to, factors which give rise to conflicts of interest. When faced with such a conflict, a member should take all reasonable steps to resolve it.

*Commentary: The “reasonable steps” which a member in employment is expected to take to resolve a conflict of interest may include the following:*

- a) Follow established policies of the members employing organization to seek a resolution of the conflict.*
- b) Review the conflict problem with immediate superior. If the problem is not resolved with the immediate superior and the member determines to go to the next higher managerial level, the immediate superior should normally be notified of the decision. If it appears that the superior is involved in the conflict problem, the member should raise the issue with the next higher level of management.*
- c) Seek counseling and advice on a confidential basis with an independent adviser or the Council to obtain an understanding of possible courses of action.*
- d) If a conflict of interest still exists after fully exhausting all levels of internal review, the member as a last resort may have no other recourse on significant matters (for example, fraud) than to resign from the employing organization, and to submit an information memorandum to a appropriate representative of that organization.*

## **TECHNICAL**

### **Professional Standards**

**EP31** Every member shall comply with the requirements of the professional standards which the Council may from time to time issue and declare to be mandatory for the purposes of this provision.

*Commentary: The professional standards currently in force are International Standards on Auditing and International Accounting Standards incorporated in the International Financial Reporting Standards (IFRS).*

### **Statements**

**EP32** No member shall make, prepare or certify as correct any statement which the member knows or believes to be false, incorrect or misleading, or open to misconstruction, by reason of the misstatement, omission or suppression of a material fact or otherwise.

**EP33** A member shall not give an undertaking, or make a pledge or promise, to a client or third party unless the member has reasonable grounds for believing that the undertaking, pledge or promise will be honoured.

*Commentary: Members must exercise the utmost discretion in making representations to creditors of clients. Unless an assurance of payment can be given confidently and with first hand-knowledge, it is preferable to refer the enquirer direct to the client for information.*

### **Restrictions on Forecasts of Future Results**

**EP34** No member shall sign or authorize for publication in any document intended for publication to the public, a statement or report on the estimated future results or dividends of an existing or proposed business unless the member is satisfied that the estimate of future results or dividends is not misleading and does not amount to an undertaking by the member or imply an undertaking by the business or company concerned, or by a holding company or by a subsidiary of the company.

## **CLIENT MONIES**

### **Control of Clients' Monies and Trust Accounts**

**EP35** Monies received for or on behalf of clients shall not be paid into a member's own practice bank account but shall be paid into trust bank account maintained by the member for that purpose unless-

**EP35.1** They are paid into a separate bank account maintained by or on behalf of the client in accordance with the provisions of EP37, or

**EP35.2** They are immediately passed over to the client concerned or otherwise disposed of in accordance with the client's instructions.

**EP36** A trust bank account maintained by a member for clients monies shall be suitably named or identified, for example, "name of member" or "name of firm" Trust Account. Appropriate notice of the nature of the account (s) shall be given to the bank concerned.

**EP37** On receipt of monies payable to a client a member may deposit the monies into the member's trust account or any other bank account operated by the member for that client, provided that the member has obtained written authority from the client in respect of any such payment. Where it is not practicable for the member to obtain the client's written authority prior to the payment of monies, the member shall obtain such an authority as soon as practicable after the payment. In the case of a series of payments in relation to one overall instruction, the written authority shall identify the nature of the payments to be covered by the written authority and its duration with as much particularity as is practicable.

**EP38** Monies paid into a member's trust bank account shall be held exclusively for the client for whom or on whose behalf they were received and, except where the funds are being paid to the client, shall only be drawn or transferred from the client account in accordance with the instruction of the client. Where the instructions are oral and not confirmed in writing by the client prior to the money being drawn from the client account the member must immediately after drawing the money from the client account confirm the action taken and the earlier oral instructions in writing to the client.

**EP39** Any interest received on clients' monies in a trust bank account shall be accounted for to the client or clients concerned.

**EP40** At all times there should be sufficient funds in the trust bank account to cover all credit balances, and under no circumstances should the bank account be operated on an overdrawn basis.

**EP41** Transactions through a trust bank account shall be adequately recorded and in particular the following records shall be kept:

**EP41.1** Inwards and outwards cash records, which shall be reconciled monthly with bank records.

**EP41.2** A trust ledger, which shall be balanced monthly and shall show the transactions on behalf of and balances held to the credit of individual clients.

**EP42** Monies received by a member otherwise than in the relationship of member and client, must not be banked into a member's trust account. Such a transaction amounts to a private arrangement by a member with a non – client. If, however, the relationship at any stage alters so as to become one between member and client, then the relevant provisions of the Code of Ethics apply.

**EP43** The trust account of a member shall not be used for the member's private and household transaction but may, subject to the provisions of the Codes of Ethics, be used for real property and investment transactions if those transactions are kept in a definite and separate ledger account in the name of the member and are dealt with in all respects as if the member was a client.

**EP44** A member shall not hold client monies if there is reason to believe that they were obtained from, or are to be used for, illegal activities.

#### **Deduction of Fees**

**EP45** A member may only make a deduction of fees from monies paid into a trust bank account or apply a cheque in payment of fees drawn on a client's bank account by a member exercising a sole or joint signing authority where a statement of the fees has been first rendered either to the client or otherwise in accordance with the client's specific instructions and the written approval of the fees and the deduction or drawing thereof has first been obtained.

### **PROMOTION OF PROFESSIONAL SERVICES AND RELATIONS WITH OTHER MEMBERS**

#### **Promotion of Professional Services**

**EP46** Members are permitted to promote their professional services provided such promotion is carried out in a manner which is consistent with the good reputation of the profession and does not bring discredit to the profession. This provision extends to the use of printed stationery, including letterheads, envelopes and professional cards by members in connection with their practice as public accountants.

**EP47** Dignified logotypes in the form of designs or emblems (including combinations of the initial letters of a firm's name) may be used.

**EP48** Forms of unacceptable promotion of professional services include, but are not limited to, those that:

**EP48.1** Involve the use of coercion, over-reaching or harassing conduct;

**EP48.2** Are presented in a manner or contain material which is not in good taste;

**EP48.3** Create false or unjustified expectations of favourable results;

**EP48.4** Make comparison with other members that are not based on verifiable facts;

**EP48.5** Imply the ability to influence any Court, Tribunal, Regulatory Agency or similar body or official;

**EP48.6** Consist of self-laudatory statements that are not based on verifiable facts;

**EP48.7** Contain any representations that would be likely to mislead or deceive members of the public.

**EP48.8** Contains Testimonials or Endorsements other than where:

- a) The prior consent has been obtained from the giver of the testimonial or endorsement; and
- b) The testimonial or endorsement has not been obtained for reward.

**EP49** A member will be held responsible for the form and content of any advertisement, whether placed by the member personally or by another person or organization on the member's behalf, and for any publicity which the member expressly or impliedly authorizes.

**EP50** Members shall not undertake work for clients of a third party where the form of promotion carried out by the third party would, if carried out by the member directly, constitute a breach of Ethical Provisions 46 to 49.

*Commentary:*

- 1. Members may be invited to render professional services to clients or customers of third parties. Such third parties may have obtained such clients or customers as the result of their publicity and advertising efforts.*
- 2. Members are permitted to enter into such engagements but they have a responsibility to ensure that all promotional efforts are within the bounds of the Code of Ethics. Such action is required because the members will receive the benefits of such efforts by third parties and members must not do through others what they are prohibited from doing themselves by the Code of Ethics.*
- 3. Members may submit specific proposals to a client or potential client for carrying out a particular type of work.*
- 4. In the event of a complaint being received by the Institute relating to the promotion of professional services, members or firms will be required to justify their position or actions.*

#### **Superseding Another Member**

**EP51** If a member is approached to supersede another member, whether as accountant or auditor, before accepting the appointment the proposed accountant must:



**EP51.1** Ascertain if the prospective client had advised the existing accountant of the proposed change and has given the existing accountant permission, preferably in writing, to discuss the client's affairs relevant to the proposed change fully and freely with the proposed accountant;

**EP51.2** Request permission to communicate with the existing accountant when satisfied with the reply received from the prospective client. If such permission is refused or the permission referred to in Ethical Provision 51.1 above is not given, the proposed accountant should attempt to acquire the relevant information by other means and in the absence of special circumstances the member should take particular care before superseding the existing member;

**EP51.3** On receipt of permission, request the existing accountant, preferably in writing to provide:

- a) Information on any professional matters of which the member should be aware before deciding whether or not to accept the appointment and, if there are such matters:
- b) All the details necessary to enable the accountant to make an informed decision.

**EP52** On receipt of the request referred to in Ethical Provision 51.3, the existing accountant must:

**EP52.1** Reply within seven days, preferably in writing, advising whether there are any professional reasons why the proposed accountant should not accept the appointment; and

**EP52.2** Where there are any such reasons or other matters which should be disclosed, ensure that the permission of the client has been first obtained to give details of this information to the proposed accountant. If the permission is not granted this fact should be advised to the proposed accountant; and

**EP52.3** On receipt of permission from the client, disclose all information needed to enable the proposed accountant to decide whether or not to accept the appointment, and discuss freely with the proposed accountant all matters relevant to the appointment of which the existing accountant should be aware.

**EP53** If the proposed accountant does not receive a reply to his request to the existing accountant and has no reason to believe that there are any exceptional circumstances surrounding the proposed change, a further letter should be sent to the existing accountant stating that it is assumed there is no professional reason why the appointment should not be accepted.

**EP54** In the case of audit engagements, the communication with the existing accountant must be made before the proposed accountant's name may formally go forward for nomination.

**EP55** On the change of accountant, the existing accountant should promptly transfer all documents belonging to the client, whenever or however obtained, to the client or, where the client so instructs, to the superseding accountant and should advise the client accordingly. In addition, sufficient information should be provided by the existing accountant to enable the superseding accountant to perform the accountancy services previously provided to the client.

*Commentary:*

1. *Communication between a proposed and an existing accountant serves:*

- (a) to reduce the likelihood of a proposed accountant accepting an engagement in circumstances where all the pertinent facts are not known; and*
  - (b) to protect the interests of the existing accountant when the proposed change arises from, or is an attempt to interfere with, the conscientious exercise of the existing accountant's duty to act as an independent professional.*
- 2. Records relating to the affairs of a client will comprise documents and records which are the property of the client and documents and records which form the working papers of the accountant who is to be superseded. Members must exercise care when determining which documents and records must be transferred and which can be retained.
- 3. The fact that there may be fees owing to the existing accountant is not a professional reason why the proposed accountant should not accept the appointment. Nevertheless it is desirable that if fees are outstanding, this fact should be drawn to the attention of the proposed accountant.
- 4. The existing accountant is entitled to withhold the transfer of documents when a valid lien for unpaid costs exists. Where the urgency of the situation demands, or there is a dispute as to the amount of costs outstanding, the existing accountant should consider transferring the documents on receipt of a suitable undertaking as to payment of outstanding costs.

### **Specialist Assignments**

**EP56** A member may give services or advice of a special character in circumstances where the existing accountant will continue work for the client.

**EP57** Where appropriate, the existing accountant should maintain contact with the member undertaking the specialist assignment and co-operate with that member in all reasonable requests for assistance.

*Commentary: It is recommended that when accepting a specialist assignment a member should advise the existing accountant of the specialist appointment unless directed by the client not to so do. Where there are two or more firms of accountants carrying out work for the client concerned it may be appropriate to notify only the relevant firm, for example, auditor or tax consultant, depending on the specialist work being undertaken.*

### **Fees and Commissions**

**EP58** Professional fees should be a fair reflection of the value of the professional services performed for the client. Subject to the provisions of Ethical Provisions 59 to 61, they should take into account the following factors, the relative importance of which will vary according to the circumstances of each engagement:

**EP58.1** The skill and knowledge required for the type of professional services involved;

**EP58.2** The level training and experience of the personnel necessarily engaged in performing the professional services;

**EP58.3** The time necessarily occupied by each person engaged in performing the professional services;

**EP58.4** The degree of risk and responsibility which the work entails;

**EP58.5** The importance of the matter to the client;

**EP58.6** The complexity of the matter and the difficulty or novelty of the work involved; and

**EP58.7** The urgency and circumstances in which the professional services are performed.

**EP59** Fees for audit engagements, preparation of financial statements, preparation of prospective financial information, preparation and lodgement of tax returns and for any other services which require the expression of an opinion on financial information, should be related to the time necessarily occupied by each person engaged in the work, and should fairly reflect the work performed for the client taking into account the factors listed in EP58.

*Commentary:*

- 1. Where an assignment requires the expression of an opinion on financial statements, fees must be related to time spent on the assignment to ensure that the independence and objectivity of the member is not called into question.*
- 2. Where a fixed fee is to be charged for work of the kinds referred to in Ethical Provision 59, that fee should be calculated according to the time which it is anticipated will be required to complete the work and should be agreed in advance of the work being performed.*

**EP60** No member shall offer or render professional services of the kinds referred to in Ethical Provision 59 under an arrangement whereby no fee will be charged unless a specified finding or result is attained, or where the amount of the fee is otherwise contingent upon the findings or results of such services.

**EP61** The following elements should be present in every engagement where the services provided to a client are to be charged on an agreed fee basis not necessarily related to time;

**EP61.1** A description of the nature of the professional engagement to be undertaken;

**EP61.2** Negotiation with the client prior to the commencement of the engagement of a reasonable fee basis for the engagement;

**EP61.3** Documentation of the fee basis agreed with the client;

**EP61.4** Representation made in the course of the assignment being objectivity and unbiased; and

**EP61.5** Maintenance of professional independence.

**EP62** A member must not receive a reward, whether financial or otherwise, of which a client is unaware, in respect of services rendered to the client.

## **COMPLIANCE**

### **Services Performed Outside of Samoa**

**EP63** When a member provides services in a country other than Samoa and differences on specific matters exist between the rules of ethical conduct in the two countries, the following provisions shall apply:

**EP63.1** When the ethical requirements in the country in which the services are being performed are less strict than the International Federation of Accountants' ethical requirements, then the ethical requirements of the Federation shall be applied.

**EP63.2** When the ethical requirements in the country in which services are being performed are stricter than the ethical requirements of the Federation, then the ethical requirements in the country in which the services are being performed shall be applied

**EP63.3** When the ethical requirements as contained within this Code are stricter than those applicable under EP63.1 or EP63.2 above, then the ethical requirements of this Code shall be applied.

### **Members' Responsibilities for Conduct of Others**

**EP64** A member shall not permit others to carry out on the member's behalf acts which if carried out by the member would place the member in breach of the Code of Ethics, the Rules, or the Act.

**EP65** A member may be held responsible for compliance with the Ethical Provisions by all persons associated with him or her in the practice of public accountancy who are either under the member's supervision or are the member's partners.

### **Non-Member Partners**

**EP66** When members offer accounting services to the public in partnership with non-member partners in accordance with the Rules of the Institute:

**EP66.1** All those members shall ensure that their non-member partners abide by the Rules of the Institute and the Code of Ethics.

**EP66.2** All non-member partners in the partnership shall abide by the Rules of the Institute and the Code of Ethics.

**EP67** When there is a reference in the Code of Ethics to "member" it shall also be deemed to include a reference to a "non-member partner" in so far as it is not inconsistent with the Rules and the Code of Ethics.

### **Amendments to Code of Ethics**

**EP68** Every member shall observe and comply with every resolution of the Council which is expressed to be supplemental to or by way of explanation or elaboration of the Code of Ethics, to the same extent as if that resolution had originally formed part of the Code of Ethics, provided that no such resolution shall become effective for this purpose until notice of it has been made known in the Institute's Publication or Website or by separate notice to each member or member of the Institute.