FREQUENTLY ASKED QUESTIONS (FAQS) FOR MEMBERS AND ASSOCIATES OF SAICA ON THE SAICA CODE OF PROFESSIONAL CONDUCT (REVISED 2018)

Please note:

- *Every effort has been made to ensure that the information in this frequently asked questions (FAQs) document is complete and accurate. Nevertheless, the information is given purely as guidance with respect to the subject matter and the South African Institute of Chartered Accountants (SAICA) will have no responsibility to any person for any claim of any nature whatsoever which may arise out of or related to the contents of this document.*
- *The information provided in this document does not constitute legal advice and should be read in that context.*
- *Where the document suggests a particular view, such a view is based on SAICA's interpretation at that point in time, of the relevant laws, regulations, standards, codes and related pronouncements. Although SAICA has consulted with the Independent Regulatory Board for Auditors (IRBA) and the Ethics Committee of SAICA, it is possible that a different view may ultimately be followed when all the facts and circumstances are known.*
- *This FAQs document was approved by SAICA's Ethics Committee.*
- *This document has not been subject to any formal process of SAICA or the IRBA and merely outlines the outcome of the discussions at the SAICA Ethics Committee.*
- *This is a live document that is subject to change without notice and is non-authoritative.*
- *The concepts of professional skepticism and professional judgement should be applied in all the scenarios described in the FAQ document. The different approaches presented are not necessarily the only acceptable approaches.*
- *The FAQ document is applicable to SAICA members and associates. Registered auditors should refer to the IRBA for further guidance.*
- *In this FAQ document, "professional accountants" is used to refer to SAICA members and associates.*

Introduction

SAICA receives questions on the SAICA Code of Professional Conduct applicable to SAICA members and associates and it has undertaken to provide guidance on some of the issues raised. SAICA cannot provide a definitive or comprehensive answer as the facts of each situation are different and the appropriate conduct will have to be considered bearing these differences in mind.

The FAQs will be updated with more questions and considerations as received.

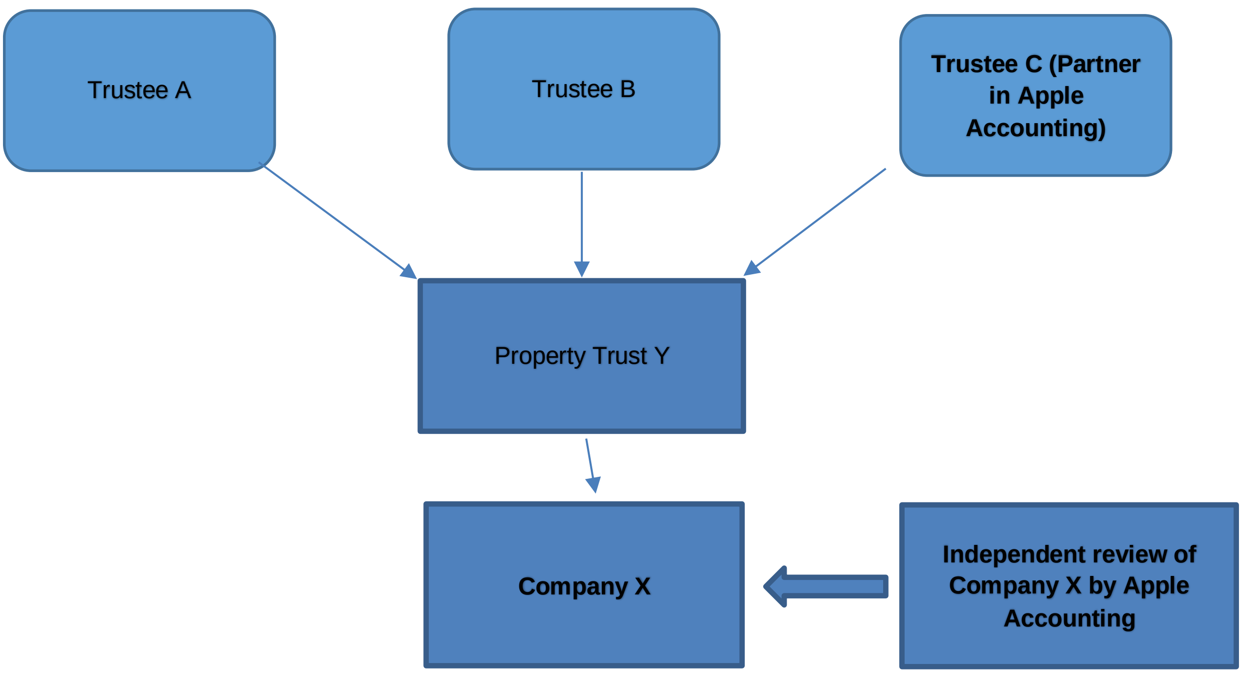
Issued: 5 October 2020

Table of Contents

1. **What considerations should a professional accountant take into account where the professional accountant is appointed as an independent trustee / trustee of a trust and the professional accountant is a partner / director in the firm that performs the independent review of a company owned by the trust?**

Facts of the case study:

- Property Trust Y is the sole shareholder of Company X.
- Trustee C is a partner in Apple Accounting, an accounting and auditing firm that is performing the independent review of Company X.
- Trustee C has been a trustee for more than 20 years.
- None of Apple Accounting's staff, including Trustee C, are beneficiaries of the trust.
- Trustee C is not involved in the independent review of Company X, which is performed by another partner from Apple Accounting.
- The role of the trustee is to administer the trust.
- The fee from the independent review of Company X is 1% of Apple Accounting's total revenue.



Requirements in section 510 of the SAICA Code of Professional Conduct (Revised 2018) ("the Code")

- **Financial interest**

Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework when identifying, evaluating and addressing threats to independence. The holding of a financial interest in a client might create a self-interest threat.

Section 510 of the Code sets out specific requirements and application material that the firm must consider when applying the conceptual framework.

Paragraph 510.3 A1 states that a financial interest might be held directly or indirectly through an intermediary such as a collective investment vehicle, an estate or a trust. Factors that need to be considered in the evaluation of a self-interest threat include the role of the individual holding the financial interest, whether the financial interest is direct or indirect and the materiality of the financial interest

Prohibition

Paragraph R510.4 of the Code states that a direct financial interest or a material indirect financial interest in the audit[1]/ independently reviewed client shall not be held by:

(a) The firm or a network firm;

(b) An audit team member, or any of that individual's immediate family;

(c) Any other partner in the office in which an engagement partner practices in connection with the audit engagement, or any of that other partner's immediate family; or

(d) Any other partner or managerial employee who provides non-audit services to the audit client, except for any whose involvement is minimal, or any of that individual's immediate family.

Financial interests held as trustee

Paragraph R510.7 states that paragraph R510.4 shall also apply to a financial interest in an audit client held in a trust for which the firm, network firm or individual acts as trustee, unless:

(a) None of the following is a beneficiary of the trust: the trustee, the audit team member or any of that individual's immediate family, the firm or a network firm;

(b) The interest in the audit client held by the trust is not material to the trust;

[1] Paragraph 400.2 states that Part 4A applies to both audit and review engagements. The terms "audit", "audit team", audit engagement", "audit client" and "audit report" apply equally to review, review team, review engagement, review client and review engagement report

(c) The trust is not able to exercise significant influence over the audit client; and

(d) None of the following can significantly influence any investment decision involving a financial interest in the audit client: the trustee, the audit team member or any of that individual's immediate family, the firm or a network firm.

Paragraph R510.7 allows for an exemption of the prohibition for financial interest in a client and states that if all 4 of the requirements are met then paragraph R 510.4 could possibly not apply and the acting as a trustee of an independent review client would not be viewed as prohibited.

Application of paragraph R510.7

1. *Are any of the following a beneficiary of the trust: the trustee, the review team member or any of that individual's immediate family, the firm or a network firm?*

   Answer: No

2. *Is the interest in the independently reviewed client held by the trust material to the trust?*

   Answer: Yes, the interest is material as the trust is the sole shareholder of the independent review client.

3. *Is the trust able to exercise significant influence over the review client?*

   Answer: Yes, the trust can exercise significant influence over the review client as it is the sole shareholder.

4. *Can any of the following significantly influence any investment decision involving a financial interest in the review client: the trustee, the review team member or any of that individual's immediate family, the firm or a network firm?*

   Answer: The independent trustee would be able to influence decisions involving a financial interest in the review client. Refer to the Trust Property Control Act, 57 of 1988 which states in section 9 – **Care, diligence and skill required of trustee:**

   > *"(1) A trustee shall in the performance of his duties and the exercise of his powers act with the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another.*
   >
   > *(2) Any provision contained in a trust instrument shall be void in so far as it would have the effect of exempting a trustee from or indemnifying him against liability for breach of trust where he fails to show the degree of care, diligence and skill as required in subsection (1)."*

Evaluation of facts

If any of the four questions were answered in the positive, then the professional accountant / firm would be bound by the requirement in R510.4 and the firm is not allowed to act as the independent reviewer due to the fact that it creates a self-review threat that cannot be addressed or eliminated. In the example given above, questions 2, 3 and 4 were answered positively, and therefore the firm may not perform the independent review of the client.

If all four questions were all answered in the negative, then the professional accountant / firm would still have to consider all the other requirements in terms of the Code and would need to consider the conceptual framework.

Consideration of the conceptual framework, if paragraph R510.4 does not apply

If the conclusion reached was that paragraph R510.4 does not apply, the professional accountant should then refer to section 120 of the Code, *The Conceptual Framework,* to identify, evaluate and address any other threats to independence. The conceptual framework requires that professional accountants identify threats to compliance with the fundamental principles, evaluate the threats and address the threats by elimination or reducing them to an acceptable level.
Section 300 of the Code, *Applying the Conceptual Framework – Professional Accountants in Public Practice*, needs to be considered as well as the additional guidance on identification of threats specifically to independence. The professional accountant considers if there are adequate safeguards that can address the threats.

Independence

According to the Code, independence is linked to the principles of objectivity and integrity and the professional accountant must apply the conceptual framework approach regarding independence in order to identify any threats to compliance with the independence requirements and to identify safeguards that eliminate the threat or reduce it to an acceptable level.

Independence comprises:

(a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism.

(b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a firm's, or an audit or assurance team member's, integrity, objectivity or professional scepticism has been compromised.

Identifying threats

- Self-interest threat

  There might be a self-interest threat due to the professional accountant having a financial interest in a client and possibly receiving remuneration in acting as an independent trustee. This could threaten the fundamental principles of integrity, objectivity and professional competence and due care (paragraph 120.6.A3(a)).

- Familiarity threat

  There might be a threat due to a long or close relationship with the client and the professional accountant might be too sympathetic to their interest or too accepting of their work (paragraph 120.6 A3(d)) having been the trustee for 20 years.

- Self-review threat

  There might be a self-review threat that the professional accountant will not appropriately evaluate the results of previous judgements made or an activity performed by another individual (Trustee C, who is also a partner in Apple Accounting) within the firm, if the professional accountant (Trustee C) is involved in the preparation of the annual financial statements of the company (paragraph 120.6 A3(b)).

Evaluating threats

Are the identified threats at an acceptable level?

The firm must exercise professional judgement and apply the reasonable and informed third party test to determine whether the threats are at an acceptable level. Consideration of qualitative and quantitative factors is relevant in the evaluation of threats, as is the combined effect of multiple threats, if applicable (paragraph 120.8 A1).

Factors that may be relevant in evaluating the level of the threats include:

- Conditions, policies and procedures relating to the client and its operating environment and the firm and its operating environment (paragraphs 300.7 A1 to 300.7 A5 list several factors that may be relevant).
- The length and closeness of the relationship between the Partner C, as the independent trustee, and the client (qualitative factor).

Based on an assessment of these factors, a reasonable and informed third party might conclude that the threats to one or more of the fundamental principles are not at an acceptable level, and the threats would need to be addressed.

Addressing threats

- Eliminate circumstances

  The review partner may be able to eliminate the circumstances, including interests or relationships, that are creating the threats (section R120.10(a)).
- Apply safeguards

  Trustee C (partner in Apple Accounting) shall not undertake a professional activity if a circumstance or relationship unduly influence the professional accountant's professional judgement regarding the activity (paragraph R111.2).

Therefore, if the review partner determines that Trustee C acting as an independent trustee does not unduly influence the firm's professional judgement, then the threat is at an acceptable level and no further safeguards are required.

If, however, the review partner determines that Trustee C acting as an independent trustee does unduly influence the firm's professional judgement, then the following safeguard can be considered: Having an appropriate reviewer who was not involved in providing the service review the preparation of the financial statements. This could be another partner within the firm.

Decline or end professional activity

If the review partner cannot eliminate the circumstances creating the threats and no safeguards are available or capable of being applied to reduce the threats to an acceptable level, the review partner may need to decline this engagement (paragraph R120.10(c)).

Conclusion

In this scenario, three of the four questions were answered in the positive. The professional accountant / firm is therefore bound by the requirement in paragraph R510.4 and the firm is not allowed to act as the independent reviewer due to the fact that it creates a self-review threat that cannot be addressed or eliminated.

The review partner should not accept the engagement to review the financial statements of Company X because he is prohibited in terms of paragraph R510.4. Additionally, there are no safeguards that would reduce the threat to compliance with the fundamental principle to an acceptable level or eliminate the threat.

.