

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NEPAL

GUIDELINES ON CUSTODY OF CLIENT ASSETS/ MONEY BY PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

Issued by

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NEPAL

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1. Objectives:

A professional accountant in public practice shall not assume the custody of client monies or other assets unless permitted to do so by law in compliance with the additional duties imposed on professional accountants in public practice holding such assets.

The holding of such assets creates threat to compliance with the fundamental principles that there is self-interest threat to professional behavior and may be self-interest threat to objectivity arising from holding client assets;

The professional accountant in public practice therefore:

- a) Keep such assets separately from personal or firm assets;
- b) Use such assets only for the purpose for which they are intended;
- c) At all times be ready to account for those assets and incomes, dividend or gains generated to any persons entitled to such accounting; and
- d) Comply with all relevant laws and regulations relevant to holding of and accounting for such assets.

While accepting engagement with client for providing any such services, the professional accountant in public practice shall make appropriate inquiries about legal status of the holding of such assets and considering the legal obligations thereof. In no case the professional accountants in public practice shall help or co-operate the client to assist in the illegal activities such as money laundering, holding money earned through any illegal source or activities etc.

If the professional accountants are in doubt about the activities or the engagements of such services they should immediately seek legal advice and also guidance on such matters from the Institute of chartered Accountants of Nepal (ICAN).

2. Guidelines:

2.1 Clients' Money

2.1.1 'Clients' Money' means money of any currency (whether in the form of cash, cheque, draft or electronic transfer) which a Professional Accountant in Public Practice holds or receives for or from a client, including money held by a Professional Accountant in Public Practice as stakeholder, and which is not immediately due and payable on demand to the Professional Accountant in Public Practice for his/her own account. Clients' Money must be held in the currency in which it was received unless the client instructs otherwise in writing.

2.1.2 Where a Professional Accountant in Public Practice has a power or control over the client's own account, though not meeting the definition of Clients' Money, he/she must ensure that he/she has the specific written authority of the client acknowledged by the Bank before exercising that authority, and he/she must maintain adequate records of the transactions he/she undertakes.

2.1.3 Fees paid in advance for professional work agreed to be performed and clearly identifiable as such shall not be regarded as Clients' Money for the purposes of this guideline.

2.2 Client identification

Before holding any Clients' Money on behalf of a Client, the Professional Accountant in Public Practice must first verify the identity of the Client.

2.3 Opening a Client Bank Account

2.3.1 A Professional Accountant in Public Practice which assumes the custody of Clients' Money must immediately open one or more Client Bank Accounts. Any Professional Accountant in Public Practice may maintain one or more Client Bank Accounts as appropriate. All money which is Clients' Money must be held in a Client Bank Account.

2.3.2 On opening a Client Bank Account, a Professional Accountant in Public Practice must notify the Bank in writing that:

- (i) all money standing to the credit of that account is held by the Professional Accountant in Public Practice as Clients' Money and that the Bank is not entitled to combine the account with any other account or exercise any right to set off or counterclaim against money in that account in respect of any money owed to him/her on any other account of the Professional Accountant in Public Practice;
- (ii) interest payable on the money in the account must be credited to that account;
- (iii) the Bank must describe the account in its records to make it clear that the money in the account does not belong to the Professional Accountant in Public Practice; and
- (iv) the Bank must acknowledge in writing that it accepts these terms.

2.3.3 For a Client Bank Account in Nepal, if the Bank does not provide the acknowledgement required under paragraph 2.3.2 above within 1 month of the Professional Accountant in Public Practice sending the notice, the Professional Accountant in Public Practice must:

- (i) withdraw all money from the account;
- (ii) close the account; and
- (iii) deposit the money with another Bank in a Client Bank Account; or
- (iv) as a last resort, return the money to the client.

2.3.4 The Client Bank Account in this guideline must be a separate bank account and explicitly in the name of the said client, rather than a memorandum account in the Professional Accountant in Public Practice's books. In other words, the account will be for that client only.

2.4. Payment into a Client Bank Account

2.4.1 Clients' Money or Mixed Monies received by a Professional Accountant in Public Practice must be appropriately paid immediately into a Client Bank Account, or to the client.

2.4.2 A Professional Accountant in Public Practice must only pay money into a Client Bank Account, if:

- (a) the Professional Accountant in Public Practice is required to make such payment under these guidelines; or
- (b) the money is the Professional Accountant in Public Practice's own money and: it is required to be so paid for the purpose of opening and maintaining the account and the amount is the minimum amount required for that purpose; or it is so paid in order to restore in whole or in part any money paid out of the account in contravention of these guidelines.

2.4.3 A Professional Accountant in Public Practice shall not be regarded as having breached guidelines 2.4.1 and 2.4.2 simply because it transpires that money which the Professional Accountant in Public Practice paid into a Client Bank Account in the reasonable belief that it was required so to do under these guidelines should not have been paid into such an account, provided that immediately upon discovering the error the Professional Accountant in Public Practice takes the necessary steps to withdraw the money which has been paid into such account in error.

2.5. Withdrawal from a Client Bank Account

2.5.1 When a cheque or draft including money which is not Clients' Money is paid into a Client Bank Account by error/mistake, such money must be withdrawn as soon as the cheque or draft is cleared.

2.5.2 A Professional Accountant in Public Practice may withdraw from a Client Bank Account:

- (a) (i) money, not being Clients' Money, paid into a Client Bank Account for the purpose of opening or maintaining the account; or(ii) the element of Mixed Monies which are not Clients' Money;
- (b) money paid into a Client Bank Account contrary to these guidelines or which would have been so but for guideline2.4.3;
- (c) money required to be withdrawn under guideline2.5.1;
- (d) money properly required for a payment to a client;
- (e) money withdrawn in accordance with guideline2.5.5, for or towards payment of fees payable to the Professional Accountant in Public Practice by the client;
- (f) money drawn on a client's written authority or in conformity with any written contract between the Professional Accountant in Public Practice and the client;

2.5.3 Client money must be returned to the client promptly if there is no any reason to retain those funds.

2.5.4 The Professional Accountant in Public Practice must ensure that at all times the sum of the credit balances held for all clients is at least equal to the total balance held in all Client Bank Accounts and that no amount may be withdrawn from the bank account for any client which is greater than the credit balance held for that client.

2.5.5 Money may only be withdrawn from a Client Bank Account for or towards payment of fees payable by the client to the Professional Accountant in Public Practice if:

- (a) the precise amount thereof has been agreed by the client or has been finally determined by a court or arbiter; or
- (b) the fees have been accurately calculated in accordance with a formula agreed in writing by the client on the basis of which the amount thereof can be determined; or
- (c) thirty days have elapsed since the date of delivery to the client of a statement of fees and the client has not questioned the amount therein specified as due.

2.5.6 Monies which, in terms of guideline2.5.2, are payable to the Professional Accountant in Public Practice, shall be withdrawn as soon as reasonably practicable.

3. Records and Reconciliation

- 3.1 A Professional Accountant in Public Practice must keep Clients' Money records which show:
- (a) details of all money paid into and out of all Client Bank Accounts;
 - (b) entries of all Clients' Money paid direct to the client, or, on the client's instructions, paid to a third party, identifying that person;
 - (c) entries of all cheques received and endorsed over by the Professional Accountant in Public Practice to the client or, on the client's instruction, endorsed over to a third party, identifying that person;
 - (d) entries of all electronic transfers received or made of money and transferred direct to the client or, on the client's instructions, transferred to a third party, identifying that person; and
 - (e) details of all transactions on each client's ledger account which will easily identify the balance held for each client and which will reconcile to the total of Clients' Money held in the Client Bank Accounts.
- 3.2 A Professional Accountant in Public Practice must:
- (a) at least once every month, reconcile the total balances on all its Client Bank Accounts with the total corresponding credit balances in respect of its Clients, as recorded by it, and where any difference arises, correct it immediately; and
 - (b) at the same time as carrying out the reconciliation under sub-paragraph (a) above, reconcile the balance on each Client Bank Account, as recorded by it, with the balance on that account as set out in the statement issued by the Bank and, where any difference arises, correct it immediately, unless the difference arises solely as a result of timing differences.
- 3.3 Records kept in accordance with guidelines shall be preserved for the period agreed with the client and the Professional Accountant in Public Practice shall hold them available for inspection.

4. Other Assets

In case the professional accountant in public practice holds any other assets other than clients' money, then the professional accountant in public practice must ensure that the assets are held by him/her in line with the agreement with the client & shall not use such assets for his/her personal use and protects such assets with due care.

5. COE shall supersede:

In case any provisions of the above guide lines are found inconsistent or in conflict with provisions of Code of Ethics such inconsistent or conflicting provisions shall be illegal and the provisions of Code of Ethics pronounced by both IFAC and ICAN shall supersede such conflicting or inconsistent provisions of the guidelines.

For better understanding and comprehension, refer the Code of Ethics and its paragraphs 270.1 to 270.3 and also the other provisions related thereto.