

The Institute of Commercial Forensic Practitioners

Standards Committee

Workstream – Client Engagement Acceptance: Proposed Client and Engagement Acceptance Standards

Second draft

20 July 2023

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Note: This document should be read in conjunction with the explanatory notes to the proposed Client- and Engagement Acceptance-standards.

1. General principles and considerations

- 1.001 Commercial forensic practitioners¹ must establish comprehensive and efficient risk management procedures for performing client- and engagement acceptance screening procedures.
- 1.002 All procedures performed and information obtained during the process of client- or engagement screening must be documented. Specific aspects regarding clients and engagements that should be documented, are discussed in paragraph 4.001 to paragraph 4.004g.
- 1.003 All initial correspondence regarding a prospective client or engagement, including minutes of meetings held and any other communication leading to the finalisation of the client relationship, engagement mandate or nature of the engagement, should be documented.
- 1.004 Commercial Forensic Practitioners must thoroughly consider whether establishing a relationship with a new client, continuing a relationship with an existing client, accepting a new engagement, or accepting a recurring engagement, would impact the Commercial Forensic Practitioner's compliance with the ICFP Code of Ethics and Rules of Conduct.
- 1.005 If it is found that compliance with the ICFP Code of Ethics and Rules of Conduct may be impacted and safeguards cannot be implemented to eliminate or mitigate the risk of non-compliance, a relationship should not be established with the prospective client, the existing relationship with the client should be terminated, or the prospective or recurring engagement should not be accepted.
- 1.006 Before establishing a relationship with a new client, continuing a relationship with an existing client, accepting a new engagement, or accepting a recurring engagement, Commercial Forensic Practitioners must consider the existence of any

¹ Commercial Forensic Practitioner as defined in the MOI

potential, perceived or actual conflict of interest. If potential, perceived or actual conflicts of interest exist, this must be disclosed beforehand in writing to all relevant parties. The parties with whom the conflict of interest exists should be removed from the engagement team. If such action is not possible, and/ or the conflict of interest cannot be managed effectively otherwise, the client and/ or engagement should not be accepted or continued with.

- 1.007 The Practitioner must exercise professional judgement in assessing whether any perceived or actual conflict of interest may likely impact their objectivity in conducting the engagement; and should decline or terminate any engagement should their objectivity be likely impaired.
- 1.008 Before establishing a relationship with a new client, continuing a relationship with an existing client, accepting a new engagement, or accepting a recurring engagement, Commercial Forensic Practitioners must perform a proper independence evaluation. If the independence of the Commercial Forensic Practitioner is impaired in any manner or degree, or appears to be impaired, the client and/ or engagement should not be accepted or continued with.
- 1.009 Independence must be evaluated and maintained for the duration of an engagement and/ or relationship with a client.
- 1.010 All engagement opportunities, whether new or recurring, using a contingency fee as basis for payment for services rendered by Commercial Forensic Practitioners, must be declined.
- 1.011 The client- and engagement acceptance procedures as contained within the C&E Standards, should be considered by Commercial Forensic Practitioners before submitting a proposal to render services as a response to a request for services by a potential or existing client.

2. Client acceptance

Accepting new clients/ establishing new client relationships

- 2.001 Commercial Forensic Practitioners should perform a comprehensive assessment of a potential client before establishing a relationship with such a client. The assessment could include, but are not limited to the following:
- a. Performing operational assessment.
 - b. Performing financial assessment.
 - c. Performing legal/ regulatory and reputational assessment.
- 2.002 The available information obtained during the process of performing an assessment into a potential client, must be sufficient to consider the integrity and reputation of the potential client, and to ensure that the Commercial Forensic Practitioner obtain a understanding of the potential client's business and its' operations.
- 2.003 The information obtained during the process of performing the assessment into a potential client should be evaluated and the following should be documented:
- a. A description of assessment procedures performed.
 - b. Information related to a potential client that was gathered and influenced the decision of the Commercial Forensic Practitioner to accept or decline the client.
- 2.004 Before establishing a relationship with a new client, Commercial Forensic Practitioners should establish and consider the expectations of legitimate stakeholders in order to determine whether expectations can be met. Subsequently, the responsibilities of all stakeholders should be determined, agreed upon and documented to ensure that no expectation gap exists.
- 2.005 In agreeing to client expectations, the practitioner must ensure that their independence and objectivity are always maintained.

Continuing existing client relationships

- 2.006 Client acceptance decisions must be revisited on an annual basis or when a change in circumstances require it.
- 2.007 If a Commercial Forensic Practitioner, after a relationship with a client has been established, discovers information that might impact on the practitioner's objectivity and independence, such information should be communicated to the client and the impact thereof should be thoroughly evaluated. If, after such evaluation, it is found that continuing with the client relationship threatens the Commercial Forensic Practitioner's compliance with the ICFP Code of Ethics and Rules of Conduct and that appropriate measures cannot be implemented to eliminate or reduce the risk of non-compliance to an acceptable level, the relationship with the client must be reconsidered.
- 2.008 Services previously rendered to recurring clients must be properly assessed prior to continuation of the relationship with the client, insofar as these may impact on independence and/or objectivity of the practitioner. The following aspects must be considered:
- a. The nature and extent of the services.
 - b. The corresponding nature of the relationship with the client to date.
 - c. Continued compliance with the ICFP Code of Ethics and Rules of Conduct.

Disengagement from existing client relationships or engagement

- 2.009 When circumstances arise that necessitates a Commercial Forensic Practitioner to disengage from an existing client relationship or engagement, the Commercial Forensic Practitioner must ensure they continue to act in a professional manner and in compliance with the ICFP Code of Ethics and Rules of Conduct. The following is required:
- a. The Commercial Forensic Practitioner must ensure that they return all the client's property, including materials and information originally provided by the client, to the client.



- b. The Commercial Forensic Practitioner must ensure that they provide all of the information that is or might be required by the client to continue with the execution of an engagement, if applicable, in line with the principle of confidentiality.
- c. The Commercial Forensic Practitioner must ensure that a final account is issued to the client for the payment of any outstanding fees and/ or disbursements.

3. Engagement acceptance

Accepting new engagements

- 3.001 Before accepting an engagement, Commercial Forensic Practitioners should conduct an examination into the elements of the prospective engagement to ensure that a comprehensive understanding of the prospective engagement and the identified risks thereto is obtained. The following aspects, *inter alia* should be considered:
- a. The nature and complexity of the prospective engagement.
 - b. The purpose and objectives of the prospective engagement.
 - c. The laws and/ or regulations applicable to the engagement.
 - d. The mandate of the prospective engagement.
 - e. The requirements integral to the prospective engagement.
 - f. Any actual/ potential limitations on the scope of the prospective engagement.
 - g. Any actual/ potential challenges that will or may hinder the successful completion of the prospective engagement.
 - h. The deliverable(s) of the prospective engagement and the intended user(s) thereof.
 - i. The timeframe and proposed budget for performing the prospective engagement.
 - j. The physical risk factors pertaining to the prospective engagement.
- 3.002 Commercial Forensic Practitioners must ensure that they, or their engagement team collectively, possess the required proficiency to successfully perform an engagement before accepting such an engagement. Proficiency refers to a twofold capability:
- a. Technical capability - Commercial Forensic Practitioners or the engagement team must ensure that they possess the required professional competency to successfully perform an engagement before accepting such an engagement, for example:

- i. The required subject matter knowledge and expertise obtained from training and/or experience.
 - ii. The required skills to successfully perform the engagement.
 - iii. The required experience to successfully perform the engagement.
 - b. Resource availability - Commercial Forensic Practitioners or the engagement team must ensure that they have appropriate and sufficient resources at their disposal to successfully perform an engagement before accepting such an engagement, for example:
 - i. The required number of competent staff members.
 - ii. The time required to complete the engagement.
 - iii. Tools and infrastructure required to perform the engagement.
- 3.003 Before accepting an engagement, the scope of the engagement must be agreed upon with the client. The following aspects, amongst other, should be established:
- a. The scope of the engagement.
 - b. The objective of the engagement and the nature of services to be rendered.
 - c. The respective authority and responsibilities of the client and the Commercial Forensic Practitioner.
 - d. Any potential limitations or restrictions applicable to the engagement.
 - e. The deliverable(s) of the engagement.
 - f. The end-user of deliverables and/or reports to be issued.
 - g. Compensation for the services to be rendered. e.g. hourly, daily or flat rate.
 - h. Reimbursement for cost incurred.

Engagement continuance

- 3.004 If, whilst performing an engagement, a Commercial Forensic Practitioner discovers information that would either have caused the Commercial Forensic Practitioner to reconsider the engagement or might/ will hinder the successful completion of the engagement, it should be discussed with the client and the ability to continue with the engagement should be re-evaluated. If it is found that the Commercial Forensic Practitioner is unable to continue with the engagement, the engagement should be reconsidered (refer to the discussion in paragraph 3.010).

- 3.005 If, during the execution of an engagement, the engagement scope is subjected to alteration to such a degree that it might/ will have a material impact on the engagement, it is advised that Commercial Forensic Practitioners take the following measures:
- a. Perform an evaluation of the potential and/ or actual impact of the scope changes to determine the Commercial Forensic Practitioner's ability to continue with the engagement.
 - b. Discuss the scope changes and the potential and/ or actual impact thereof with the client.
 - c. If the Commercial Forensic Practitioner is able to continue with the engagement, the scope changes and all other relevant information should be documented and agreed upon with the client (refer to the discussion in paragraph 4.003).
- 3.006 If, during the execution of an engagement, circumstances arise that causes a Commercial Forensic Practitioner's ability to successfully complete an engagement to be brought into question, the following should be considered:
- a. The Commercial Forensic Practitioner's responsibilities, and ability to fulfil such responsibilities, with regard to the engagement.
 - b. The possibility to subcontract such responsibilities to a suitably qualified external professional/ service provider competent to fulfil such responsibilities.
 - c. The potential legal and reputational impact if the engagement is continued with, versus the potential legal and reputational impact if the engagement is withdrawn from.

Subcontracting

- 3.007 Commercial Forensic Practitioners are allowed to make use of the services of external professionals/ service providers to successfully execute an engagement if they expect that the services of such external professionals will be required.

- 3.008 Subcontracting certain parts of an engagement must be discussed with the client and it is advised that written consent therefor is obtained from the client.
- 3.009 An independent evaluation and conflicts of interest check must be performed on external professionals/ service providers before subcontracting parts of an engagement to them. Conflict of interest and independence principles would equally apply to subcontractors.

Withdrawing from an engagement

- 3.010 When circumstances of such a nature emerge that necessitate a Commercial Forensic Practitioner to withdraw from an engagement, the Commercial Forensic Practitioner must ensure they continue to act in a professional manner and in compliance with the ICFP Code of Ethics and Rules of Conduct. The following is required:
- a. Commercial Forensic Practitioners must ensure that they discuss the disengagement with the parties relevant to the engagement and that the disengagement is facilitated in line with applicable legal/ regulatory requirements.
 - b. Commercial Forensic Practitioners must ensure that they provide all the information that is or might be required by the client/ other service providers to continue with the execution of the engagement, if applicable, in line with the principle of confidentiality.

Accepting recurring engagements

- 3.011 If a Commercial Forensic Practitioner is requested to perform a prospective engagement for a client, and as such a Commercial Forensic Practitioner had previously performed other engagements for the same client, the ability to perform such a prospective engagement must be evaluated. The following should be considered:
- a. The nature and extent of previous engagements performed for the client.
 - b. The objectives of previous engagements performed for the client.
 - c. Independence and conflicts of interest that may arise due to previous engagements performed for the client.

- 3.012 If it is found that the objective(s) of the prospective engagement contradicts the objectives of previous engagements performed for the client and that such a contradiction would cause an independent third party to question the integrity or independence of the Commercial Forensic Practitioner involved in the engagement, the prospective engagement must be declined.

4. Documentation

- 4.001 A formal written document, such as an engagement letter, should be prepared or obtained for each engagement. The engagement scope (as discussed in paragraph 3.003a to paragraph 3.003f) and all other relevant terms and conditions should be recorded and the document should be duly signed by all the involved parties.
- 4.002 For recurring engagements or ongoing client relationships, the documented assessment should be revisited as and when circumstances require it.
- 4.003 Any material changes to the engagement scope or terms and conditions of an engagement or client relationship should be documented within a supplementary formal written document/ engagement letter that should be signed by all the involved parties.
- 4.004 Furthermore, it is advised that the following aspects, *inter alia*, regarding engagements and/ or client relationships are documented:
- a. The requisition of an engagement, e.g. tender notice etc.
 - b. Documents and/ or information to support any limitations on access to information or the scope of an engagement.
 - c. Documents and/ or information to support any assumptions that were made when accepting a client and/ or engagement.
 - d. All the procedures performed, and information obtained during the process of client and/or engagement screening.
 - e. All the information relied upon when deciding whether to accept or decline a client and/ or engagement.
 - f. All the information that was gathered, considered and relied upon when revising client acceptance decisions.
 - g. All the information that was gathered, considered and relied upon when deciding whether to accept or decline recurring engagements.