

CFAspace

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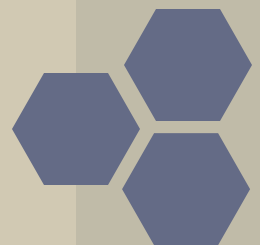
Academy of Professional Finance 专业金融学院

CFA Level I

SS 1 Ethical & Professional Standards

Lecture 2 I.A Professionalism - Knowledge of the Law

CFA Lecturer: Hongfeng Xu





LOS of SS 1 Reading 2 & Standard I Content

Learning Outcomes:

- a. Demonstrate the application of the Code of Ethics and Standards of Professional Conduct to situations involving issues of professional integrity;
- b. Distinguish between conduct that conforms to the Code and Standards and conduct that violates the Code and Standards;
- c. Recommend practices and procedures designed to prevent violations of the Code of Ethics and Standards of Professional Conduct.

Part I: Professionalism

I.A Knowledge of the Law

I.B Independence and

Objectivity

I.C Misrepresentation

I.D Misconduct

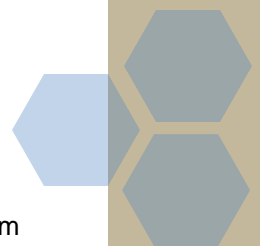




Standard I.A Knowledge of the law

Standard I.A Knowledge of the law

Members and Candidates must understand and comply with all applicable laws, rules, and regulations (including the CFA Institute Code of Ethics and Standards of Professional Conduct) of any government, regulatory organization, licensing agency, or professional association governing their professional activities. In the event of **conflict**, Members and Candidates must comply with the **more strict** law, rule, or regulation. Members and Candidates must not knowingly participate or assist in and must dissociate from any violation of such laws, rules, or regulations.





Standard I.A Knowledge of the law

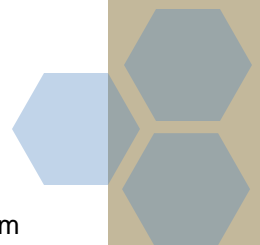
Standard I.A Content

1. Relationship between the Code and Standards and Applicable Law

--- When applicable law differs with Code and Standards, which one shall we comply with?

2. Participation in or Association with Violations

--- What should candidates or members do when involved in illegal or unethical activities?





Standard I.A Knowledge of the law

Relationship between the C&S and Applicable Law

What is “Applicable Law” ?

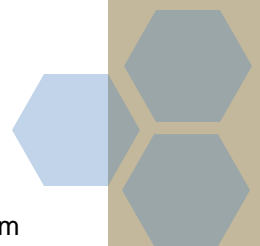
--- “Applicable Law” is the law that governs the member’s or candidate’s conduct. Which law applies will depend on the particular facts and circumstances of each case.

When applicable law and C&S require different conduct, members and candidates must follow the more strict one .

--- If applicable law is stricter than C&S, then applicable law is followed. If C&S is stricter than applicable law, then C&S is adhered to.

What is the meaning of “more strict” ?

--- It is the law or regulation that imposes greater restrictions on the action or calls for a greater degree of action that protects the interests of investors.





Standard I.A Knowledge of the law

Relationship between the C&S and Applicable Law

答题技巧：如何在 Applicable Law 与 C&S 中进行选择？

第一步，根据题目的要求与背景确定适用的 Applicable Law。

第二步，将选中的 Applicable Law 与 Code and Standards 进行比较，遵守两者中更严格的那一项。

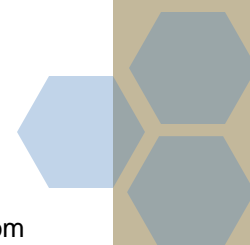
Exhibition

NS: country with no securities laws or regulations

LS: country with **less strict securities laws and regulations than the C&S**

MS: country with **more strict securities laws and regulations than the C&S**

Applicable Law	Duties
Member resides in NS country, does business in LS country; LS law applies.	Member must adhere to the Code and Standard.
Member resides in LS country, does business in MS country; MS law applies.	Member must adhere to the law of MS country.

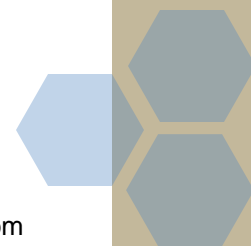




Standard I.A Knowledge of the law

Relationship between the C&S and Applicable Law

Applicable Law	Duties
Member resides in LS country, does business in MS country; LS law applies, but it states that law of locality where business is conducted governs.	Member must adhere to the law of MS country.
Member resides in MS country, does business in LS country; MS law applies, but it states that law of locality where business is conducted governs.	Member must adhere to the Code and Standards.
Member resides in MS country, does business in LS country with a client who is a citizen of LS country; MS law applies, but it states that the law of the client's home country governs.	Member must adhere to the Code and Standards.





Standard I.A Knowledge of the law

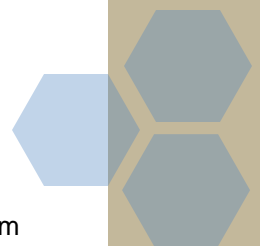
Relationship between the C&S and Applicable Law

Case Study 1 (Handbook 11th edition, page 21)

James Collins is an investment analyst for a major Wall Street brokerage firm. He works in a developing country with a rapidly modernizing economy and a growing capital market. Local securities laws are minimal—in form and content—and include no punitive prohibitions against insider trading.

Comment:

Applicable law \Rightarrow **local securities law** \Rightarrow
Less strict than C&S \Rightarrow **C&S should be followed**



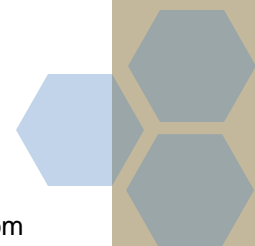


Standard I.A Knowledge of the law

Relationship between the C&S and Applicable Law

Case Study 2 (Handbook 11th edition, page 21-22)

Laura Jameson works for a multinational investment adviser based in the United States. Jameson lives and works as a registered investment adviser in the tiny, but wealthy, island nation of Karramba. Karramba's securities laws state that no investment adviser registered and working in that country can participate in initial public offerings (IPOs) for the adviser's personal account. Jameson, believing that, as a US citizen working for a US-based company, she should comply only with US law, has ignored this Karrambian law. In addition, Jameson believes that as a charter holder, as long as she adheres to the Code and Standards requirement that she disclose her participation in any IPO to her employer and clients when such ownership creates a conflict of interest, she is meeting the highest ethical requirements.





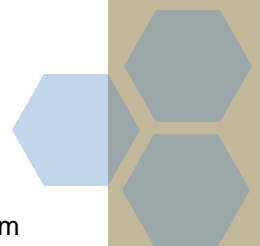
Standard I.A Knowledge of the law

Relationship between the C&S and Applicable Law

Comment:

Choose applicable law

- ⇒ **Karramba's security law**
- ⇒ **Compare applicable law with C&S**
- ⇒ **Karramba's law is more strict than C&S**
- ⇒ **Karramba's law should be followed**
- ⇒ **Investment adviser registered cannot participate in IPO for his personal account**





Standard I.A Knowledge of the law

Participation in or Association with Violations

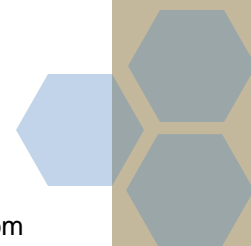
Members and Candidates must not knowingly participate or assist in and must dissociate from any violation of such laws, rules, or regulations.



If a member or candidate has reasonable grounds to believe that imminent or ongoing client or employer activities are illegal or unethical, the member or candidate must dissociate, or separate, from the activity.



当发现自己所经手的业务涉及违法或违反职业道德的行为时，需要立刻从该行动中退出，与之撇清干系，甚至不惜以辞职作为代价。





Standard I.A Knowledge of the law

Participation in or Association with Violations

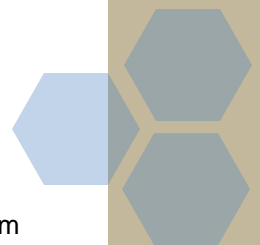
要点一：Dissociation from the activity

步骤1：Attempt to stop the behavior by bringing it to the attention of the employer or compliance department.

步骤2：If the first step is unsuccessful, then members and candidates have a responsibility to step away and dissociate from the activity. Including:

- (1) Remove one's name from written reports or recommendations;
- (2) Ask for a different assignment;
- (3) Refuse to accept a new client or continue to advise a current client.

步骤3：If the firm insists on the illegal or unethical behavior, one should consider seeking other jobs.





Standard I.A Knowledge of the law

Participation in or Association with Violations

要点二：关于“Knowingly”的解读

CFA Institute acknowledges that members may not recognize violations if they are not aware of all the facts giving rise to the violations.

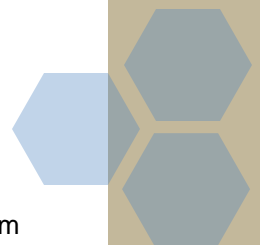


当 members/candidates 对违规行为不知情或没有充分意识到违规事实时，并不认定其违反 C&S（不知者无罪）

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Standard applies when members and candidates know or should know that their conduct may contribute to a violation.





Standard I.A Knowledge of the law

Participation in or Association with Violations

要点三：当自己没有参与到违规行为，但同事或上司有涉及违规行为时的做法。

CFA strongly encourages members and candidates to report potential violations of C&S committed by fellow members and candidates.



Members and candidates are not compelled to report violations to their governmental or regulatory organizations unless such disclosure is mandatory under applicable law.



A failure to report is less likely to be construed as a violation than a failure to dissociate from unethical conduct.

强烈推荐检举行为，但不强求！



Standard I.A Knowledge of the law

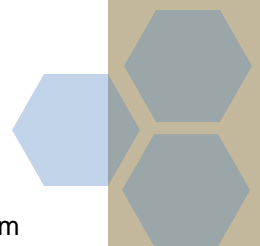
Participation in or Association with Violations

Case Study 3 (Handbook 11th edition, page 20)

Lawrence Brown's employer, an investment banking firm, is the principal underwriter for an issue of convertible debentures by the Courtney Company. Brown discovers that the Courtney Company has concealed severe third-quarter losses in its foreign operations. The preliminary prospectus has already been distributed.

Comment:

- 1. Report to the appropriate supervisory persons in the firm.**
- 2. If not remedied, Brown should dissociate himself from the underwriting. He could refuse to serve the Courtney Company and try to ask for other customers or assignment.**



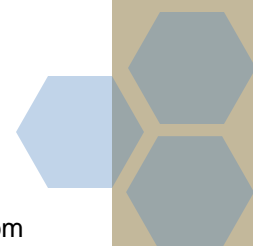


Standard I.A Knowledge of the law

Participation in or Association with Violations

Case Study 4 (Handbook 11th edition, page 20-21)

Kamisha Washington's firm advertises its past performance record by showing the 10-year return of a composite of its client accounts. Washington discovers, however, that the composite omits the performance of accounts that have left the firm during the 10-year period, whereas the description of the composite indicates the inclusion of all firm accounts. This omission has led to an inflated performance figure. Washington is asked to use promotional material that includes the erroneous performance number when soliciting business for the firm.





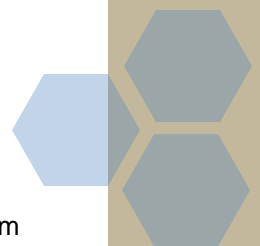
Standard I.A Knowledge of the law

Participation in or Association with Violations

Comment:

Washington would be violating Standard I(A) if she were to use the inflated performance number.

- 1. Bring the situation to the attention of her supervisor or the compliance department at her firm.**
- 2. If the firm is unwilling to recalculate performance, she must refrain from using the misleading material.**
- 3. If the firm insists that she use the material, she should consider seeking other employment in order to dissociate from the activity.**





Standard I.A Knowledge of the law

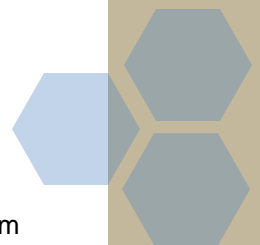
Course Revision

1. Relationship between the Code and Standards and Applicable Law

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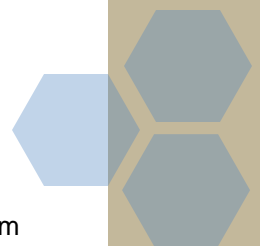




Question 1 (Handbook 11th edition, page 228)

Which of the following is a correct statement of a member's or candidate's duty under the Code and Standards?

- A. In the absence of specific applicable law or other regulatory requirements, the Code and Standards govern the member's or candidate's actions.
- B. A member or candidate is required to comply only with applicable local laws, rules, regulations, or customs, even though the Code and Standards may impose a higher degree of responsibility or a higher duty on the member or candidate.
- C. A member or candidate who trades securities in a securities market where no applicable local laws or stock exchange rules regulate the use of material nonpublic information may take investment action based on material nonpublic information.

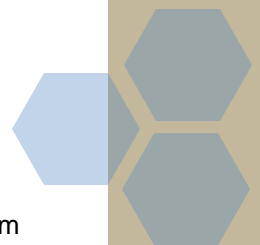




Question 1 Answer and Explanation

Answer: A

Explanation: Both B and C violate the statement that “ Members and candidates must comply with the more strict one of applicable laws and C&S “.





Thank You!

