

NAMIBIA INSTITUTE OF PROFESSIONAL ACCOUNTANTS

INDEX OF THE BY – LAWS

CONTENTS

1.	<i>DEFINITIONS</i>	1
2.	<i>SECRETARIAT</i>	2
3.	<i>MEMBERS</i>	2
4.	<i>QUALIFICATION FOR MEMBERSHIP</i>	3
5.	<i>CANCELLATION OF MEMBERSHIP</i>	10
6.	<i>REGISTERED ADDRESS AND NOTICE</i>	11
7.	<i>APPROVED TRAINING CENTRES (ATC)</i>	12
8.	<i>RESIGNATION; CANCELLATION DUE TO NON-PAYMENT OF FEES; and RE-ADMISSION</i>	13
9.	<i>CERTIFICATES OF MEMBERSHIP</i>	14
10.	<i>LIABILITY TO INVESTIGATION AND DISCIPLINARY ACTION</i>	14
11.	<i>SPECIFIC OFFENCES</i>	15
12.	<i>PENAL PROVISIONS</i>	17
13.	<i>INVESTIGATION AND DISCIPLINARY COMMITTEES</i>	18
14.	<i>POWERS AND DUTIES OF INVESTIGATION AND DISCIPLINARY COMMITTEE</i>	19
15.	<i>RECORD AND PUBLICATION OF FINDINGS AND DECISIONS</i>	22
16.	<i>NOMINATIONS FOR THE BOARD – QUALIFYING CRITERIA</i>	22
17.	<i>GENERAL PROVISIONS RELATING TO COMMITTEES</i>	23
18.	<i>FEES</i>	23
19.	<i>AMENDMENT OF BY-LAWS</i>	26
20.	<i>WINDING UP OF THE INSTITUTE</i>	26

BY-LAWS of the NAMIBIA INSTITUTE OF PROFESSIONAL ACCOUNTANTS

1. DEFINITIONS

Words defined in the Constitution of the Institute shall have the same meaning in these By-laws, unless the context otherwise requires.

In these By-laws, unless the context otherwise indicates –

- a) “DC” means the Disciplinary Committee of the Institute;
- b) “Edcom” means the Educational Committee of the Institute;
- c) “IC” means the Investigation Committee of the Institute;
- d) “Meeting” means a meeting of the members of the Institute;
- e) “Month” means a calendar month;
- f) “NQF” means the academic level assigned by the Namibian Qualifications Authority;
- g) “Officer” means an executive or other staff member, evaluator or committee member appointed by the Board and designated as such;
- h) “Practice” means any form of business entity under which, or in association with which, a Practising Member, as defined, operates an accounting practice and shall include a sole proprietorship, partnership, trust, joint venture, close corporation and company. All members and ultimate beneficial members (or shareholders, partners or beneficiaries, as the case may be) of a practice must be registered and continue to be so registered as practising members with NIPA or ICAN;
- i) “Professional incompetence” includes, but is not limited to, the inept performance of professional work, whether as a principal, employee, director or as an individual, to such an extent or on such a number of occasions as to fall significantly short of the standards to be expected of a member.
- j) “Professional misconduct” includes, but is not limited to, any serious act, default or omission, whether in the course of professional work or not, that is likely to bring discredit on the person concerned, the Institute or the accounting profession in general, or any serious failure to meet the standards to be expected of a member.

- k) “Registered address” in respect of any member means the address of such member last recorded or deemed to have been recorded in terms of By-law 6;
- l) “Secretariat” means the offices where the officers and employees appointed by the Board perform their duties;
- m) “Trainee logbook” means the document, electronic or otherwise, as prescribed by the Board which contains a list of competencies which the trainee has achieved;
- n) “Unsatisfactory professional conduct” includes, but is not limited to, any act, default or omission, whether in the course of professional work or not, that is likely to bring discredit on the person concerned, the Institute or the accounting profession in general, or any failure to meet the standards to be expected of a member.

Unless inconsistent with the context, words and expressions in the masculine gender include the feminine and words signifying the singular include the plural and vice versa. The headings and sub-headings shall not affect the interpretation of these By-laws.

2. SECRETARIAT

The Board shall be responsible to maintain offices for the Institute in Namibia, referred to as the Institute’s secretariat. The secretariat shall be open every workday for no less than 5 hours to its members and the public, save for the yearend recess as determined by the Board. The Board may appoint such officers and employees for the Institute on such terms and conditions as it shall deem fit and may remove them or any of them or appoint another or others in their place.

3. MEMBERS

a) Membership Register

- i) The Institute shall maintain a register in which the name, postal address, physical work address, email address, telephonic contact details and such other particulars as the Board may from time to time require are recorded for every person in every category of membership. In the event of any person ceasing to be a member for any reason whatsoever, his name shall be deleted from the Register. In the case of Trainee members, the register shall also state the name and contact details of the ATC where the trainee is contractually employed.

- ii) All information relating to any member whose death has been established to the satisfaction of the Board shall be deleted from the register.
- iii) The Institute shall be entitled to convert any hard copy documentation received from members to electronic format for storage and other purposes relevant to the maintenance of the register and to use any form of internet, cloud or other electronic means of data creation, storage and retrieval in the administration and management of the register.
- iv) The Institute may make all information contained in the membership register available to the public.
- v) The physical work address provided by the member shall be his *domicilium citandi et executandi*.

b) Application for Membership

Application for membership of all classes of the Institute shall be made to the Board in a form prescribed by the Board. Each applicant shall:

- i) Pay the application fee, if any, and the subscription for the current year as determined by the Board from time to time;
- ii) Certify in the prescribed form that the information given by him therein is true and correct in every detail;
- iii) Undertake in the event of his admission to observe and adhere to the provisions of the Constitution, the By-laws and any other rules contained therein, as published by the Board from time to time; and,
- iv) Satisfy the Board in such manner as it may require at the date of his application that he is qualified for admission under paragraph 4.

4. QUALIFICATION FOR MEMBERSHIP

a) Members

- 1. In order to be admitted as a member, the applicant must be able to demonstrate the session of significant academic knowledge and practical experience:

- Academic requirements:

Applicants must have obtained a University degree approved by the Board from time to time. Such degree must include subjects at the following NQF Levels:

I.	Financial Accounting	-	NQF 7
II.	Taxation	-	NQF 7
III.	Auditing or Internal Auditing	-	NQF 7
IV.	Cost and Management Accounting	-	NQF 6
V.	Commercial and Business Law	-	NQF 6

or such subjects which in the opinion of the Board are significantly similar to the above subjects and NQF levels.

- Practical experience:

- I. Traineeship shall be no less than 3 years. The maximum allowable period for traineeship is 7 years, which may, upon special application to and consideration and approval by the Board, be extended by a further maximum of 3 years.
- II. In a case where an applicant has interrupted his period of traineeship with any ATC for longer than 4 months, the time spent with any ATC prior to such interruption shall not be included in his practical experience. Where the interruption is due to the trainee furthering his academic studies on a full-time basis at a university, previous practical experience will be included provided the interruption does not exceed two years and the trainee successfully completes his degree during that time. The trainee is required to inform Edcom in writing of such an interruption in his practical experience.
- III. The Board may, under extraordinary circumstances, recognize all or part of prior practical experiences if the applicant, in writing, can show the merit of why a break, other than for the full-time furthering of academic studies, was unavoidable.

- IV. Traineeship may have been served with more than one ATC. However, any period with one employer for less than eight months may not be recognized by the Board, in their sole discretion.
 - V. In a case where a trainee changes from one ATC to another, his traineeship will be extended by 6 months, for every change in ATC. Only upon exceptional circumstances may this extension of time be waived or reduced by the Board.
 - VI. When a change in ATC's is due to circumstances beyond the control of the applicant, the Board may waive the condition contained in subparagraph VI.
 - VII. In a case where a trainee has served part of an ICAN traineeship prior to registering as a NIPA trainee, the time so served, limited to eighteen months, shall be counted towards his practical experience.
2. Applicants who have satisfied the academic and practical requirements of paragraph 4(a)(1) will be required to demonstrate their ability to apply their academic and practical knowledge by completing the preparation courses and/or examinations as prescribed by the Board. Preparation courses and/or examinations will be held once every semester, or such other frequency as the Board deems expedient.
 3. Applicants must prove Namibian residency, valid work permit or relevant domicile documents.
 4. Upon successfully passing such examinations and fulfilment of all other entrance requirements, the Board may admit the applicant as a Member.
 5. Applicants who have not passed the preparation courses and/or examinations may reapply at the next available opportunity for preparation courses and/or examinations.
 6. Applicants, who at the time of application are practising members in good standing at SAIPA or ICAN, are exempt from the provisions of paragraph 4(a)(1).
 7. All Practising Members shall acquire Professional Indemnity at any insurance broker for an amount determined at their own discretion, provided that a limited liability clause is stipulated in the signed engagement letter between the member or firm and each client. All Practising Members shall obtain Professional Indemnity insurance within 3 months after registering as a practising member. The membership may be revoked if no such proof has been submitted by the Practising Member to the Institute via the website within this time.

8. All Members shall comply with the CPD requirements as prescribed by the Board from time to time:
 - 60 structured hours - formal courses, webinars, training sessions, etc.
 - 60 unstructured hours – reading financial literature, publications, etc
 - The hours stated above shall accumulate over a three-year period, where the current three-year period closes at the end of each year.
 - The CPD requirements shall be submitted by the Members to the Institute via the website within 90 days after the end of that year.
9. A self-assessment questionnaire shall be completed and submitted by the Practicing Member to the Institute, via the website, every 3 years.
10. All Practicing Members will be subject to a Practice Support Visit as prescribed by the Board from time to time. Members will be required to demonstrate professional competence that includes, but is not limited to, the performance of professional work, whether as a principal, employee, director or as an individual, as well as proper physical structures within the practice.
11. A firm, whether incorporated or not, may be registered as a practising firm, provided all members and ultimate beneficial members (or shareholders, partners or beneficiaries, as the case may be) of the practice are registered and continue to be so registered as Practising Members of NIPA.
12. The firm name to be registered with the Institute is subject to approval by the Board, who has the right to decline a name if it is deemed to be undesirable or misleading.

b) Trainee Accountants

1. Trainee Accountants applicants must be in possession of a degree in compliance with the academic entrance requirements referred to in paragraph 4(a)(1).
2. All other trainee applicants must follow the Accounting Technician Training Program.

3. Applicants must submit proof that they are permanently and contractually employed at an ATC in Namibia.
4. An application form, as prescribed by the Board from time to time, for registration as a Trainee member shall be submitted to the Institute supported, in a form prescribed by the Board from time to time, by the person agreeing to act as Principal in respect of the practical experience requirements, as provided for in the ATC/Training guidelines and in the Constitution.

c) Accounting Technician

1. In order to be admitted as an Accounting Technician, the applicant must be able to demonstrate the acquisition of significant academic knowledge and practical experience.

The admission requirements for the Accounting Technician fall into 4 different categories:

- I. Competency based qualifiers: Applicants who have obtained the qualification as a Certified Accounting Technician at the approved Institutes.
 - II. Part qualified NIPA Trainees: Registered NIPA trainees, or NIPA trainees that abandoned the program, who have completed the practical experience of their training, but not their academic requirements.
 - III. Part qualifiers: Applicants who hold only a part academic qualification, or a degree that is not prescribed by the Institute, with at least accounting on NQF Level 6 AND possess the relevant experience of at least 5 years.
 - IV. Experienced qualifiers: Applicants who hold no academic qualification, except for Grade 12 AND possess the relevant experience of at least 6 years.
2. Applicants will be evaluated to determine the level of practical experience. They are required to demonstrate their ability to apply their knowledge to an evaluation panel appointed by the Board.
 3. Applicants must prove Namibian residency, valid work permit or relevant domicile documents.

4. Upon the recommendation of such evaluation panel and fulfilment of all other entrance requirements, the Board may admit the applicant as an affiliate member.
5. Applicants who have not passed the evaluation may apply for re-evaluation, however not within 6 months after the prior evaluation.
6. Evaluation sessions for applicants will be held once every semester, or such other frequency as the Board deems expedient.
7. All Accounting Technicians in practice shall acquire Professional Indemnity at any insurance broker for an amount determined at their own discretion, provided that a limited liability clause is stipulated in the signed engagement letter between the member or firm and each client. All Accounting Technicians shall obtain Professional Indemnity insurance within 3 months after registering as an Accounting Technician. The membership may be revoked if no such proof has been submitted by the Accounting Technicians to the Institute via the website within this time.
8. All Accounting Technicians shall comply with the CPD requirements as prescribed by the Board from time to time:
 - 60 structured hours - formal courses, webinars, training sessions, etc.
 - 60 unstructured hours – reading financial literature, publications, etc
 - The hours stated above shall accumulate over a three-year period, where the current three-year period closes at the end of each year.
 - The CPD requirements shall be submitted by the Accredited Bookkeeper to the Institute via the website within 90 days after the end of that year.
7. All Accounting Technicians in practice will be subject to a Practice Support Visit as prescribed by the Board from time to time. Affiliate members will be required to demonstrate professional competence that includes, but is not limited to, the performance of professional work, whether as a principal, employee, director or as an individual, as well as proper physical structures within the practice. A self-assessment questionnaire shall be completed and submitted by the Accounting Technician to the Institute via the website prior to the Practice Support Visit.
8. A firm, whether incorporated or not, may be registered as a practising firm, provided all Accounting Technicians and ultimate beneficial members (or shareholders, partners or

beneficiaries, as the case may be) are registered and continue to be so registered as Accounting Technicians with the Institute.

9. The firm name to be registered with the Institute is subject to approval by the Board, who has the right to decline a name if it is deemed to be undesirable or misleading.
10. Accounting Technicians may not perform the duties of Accounting Officers, nor are they allowed to sign off any annual financial statements of a trust, close corporation or company.
11. For a limited period between 1 January 2018 and 31 December 2026, applicants will, once admitted to the Accounting Technicians tier, be able to progress to Member status provided that:
 - I. Applicants must at least have obtained a Grade 12 certificate, and
 - II. Applicants must at least have passed the following subjects:
 - a. Financial Accounting NOF level 6
 - b. Taxation NQF level 6
 - c. Commercial and Business Law NOF level 6Or any such subjects which in the opinion of the Board are significantly similar to the above subjects and NQF levels, and
 - III. Applicants must be between the ages 30-60, and
 - IV. Applicants must have practical experience of not less than 6 years.
12. Accounting Technicians who have satisfied the requirements of paragraph 4(c)(11) will be required to demonstrate their ability to apply their academic and practical knowledge by completing the preparation courses and/or examinations as prescribed by the Board. Preparation courses and/or examinations will be held once every semester, or such other frequency as the Board deems expedient.
13. Applicants who have not passed the preparation courses and/or examinations may reapply at the next available opportunity for preparation courses and/or examinations.
14. No admissions in this class will be permitted after the period stated in paragraph 4(c)(11).

d) Further Requirements

1. Admission to any category of membership class shall be at the sole discretion of the Board.
2. Each applicant for membership must be recommended as a fit and proper person by two of the following persons:
 - I. His present employer or Principal or the employer or the Principal under whom he received his practical training; and,
 - II. Any Member (other than the person who signed the first recommendation) in good standing of, either the Institute or any other accounting body recognised by the Board.
3. For any application for membership to the Institute or change in membership class, the Board may prescribe subjects to be studied and the syllabi to be followed. The Institute may either set its own examinations or moderate or approve the examinations set by other bodies.
4. Any application for membership shall only be considered on receipt of a non-refundable application fee, as prescribed by the Board from time to time.
5. Applicants who at the time of the application are in default of any of the matters as described in paragraph 5(a)(I) to 5(a)(IV) or 5(b) below, will not be admitted to the Institute.

5. CANCELLATION OF MEMBERSHIP

- a) The Board shall cancel the membership of any member or affiliate member who, subsequent to his application for admission to membership, is –
 - I. removed from an office of trust on account of misconduct or has been expelled from any professional Institute or similar organization; or
 - II. convicted of theft, fraud, forgery, or uttering a forged document or perjury and sentenced in respect thereof to imprisonment without the option of a fine; or
 - III. declared insane or found to be incapable of managing his own affairs; or

- IV. in gross violation of the Rules of Professional Conduct, By-laws, ATC Training guidelines, or Constitution of the Institute; or
 - V. in arrears with any fees, penalties or levies; or
 - VI. in breach of the Continued Professional Development requirements as prescribed from time to time by NIPA, including the submission thereof; or
 - VII. in breach of the PI Insurance requirements as prescribed from time to time by the Institute, including the submission thereof.
- b) The membership of a firm shall automatically terminate at the point in time where a member other than a practising member of the Institute becomes a member or ultimate beneficial member (or shareholder, partner or beneficiary, as the case may be) of such firm;
 - c) The Board may also in its discretion cancel the membership of any member or affiliate member whose estate is provisionally or finally sequestrated or who enters into an arrangement with his creditors subsequent to his admission to membership, provided however that before doing so the Board shall allow an opportunity to the member to furnish an explanation in writing. Any such explanation shall be furnished by the member within twenty-one days after being called upon by the Board to do so.
 - d) When the Board cancels the membership of a person in terms of these By-laws, it shall remove his name from the Register immediately. Such person shall not be entitled to apply for his readmission as a member until the expiry of a period of ten years reckoned from the date of such cancellation. The Board may, however, reduce this period in any particular case where it considers that it would be just and equitable to do so.
 - e) The Board shall report any cancellation of membership to members, relevant government institutions or any other person for their information and such report shall in all cases include the name of the person whose membership has been cancelled and may contain the reasons why membership was cancelled.

6. REGISTERED ADDRESS AND NOTICE

Every member or affiliate member shall notify the Institute immediately of any change of particulars of all matters recorded in the Institute's membership register. Any notice required by these By-laws or the Constitution to be given to a member or affiliate member may be given

by delivery, by sending it through the post or by e-mail, in each case addressed to such member at his registered address, and such notice shall be deemed to have been served at the time of delivery, posting, or transmission as the case may be.

7. APPROVED TRAINING CENTRES (ATC)

- a) A practice, as defined, may apply to register as an ATC to provide training for trainee accountants.
- b) Upon submission of the application form and self-assessment form, as published by the Board from time to time, to the Institute and after the non-refundable application fee has been received, an officer appointed by the Board will visit and evaluate the practice.
- c) Upon verification of the self-assessment form and the recommendation of the officer as referred to in paragraph 7(a) the practice will be registered as an ATC at the discretion of the Board, and shall thereafter comply with all provisions of the Constitution, By-laws, Rules of Professional Conduct and ATC Training requirements.
- d) Where a practice or an entity operates from different geographical locations, every location must be separately evaluated and registered as an ATC.
- e) No member or practice shall promote himself as being an ATC whilst not so registered with the Institute.
- f) At an ICAN registered practice, the Principal shall be a registered NIPA Member.
- g) An ATC will afford the Institute access to its facilities and trainees, at such reasonable times and at such frequency as the Board may from time to time require.
- h) An ATC shall be required to pay an annual ATC registration fee if any trainees are registered under its name during a year.
- i) An ATC shall be required to pay annual trainee fees to the Institute.
- j) Every ATC shall, when required to do so, provide the Institute with a list of all trainees contractually employed at the ATC as well as the name of the Principal.
- k) An ATC shall forthwith inform the Institute if a trainee member's contractual employment is terminated.

8. RESIGNATION; CANCELLATION DUE TO NON-PAYMENT OF FEES; and RE-ADMISSION
- a) Any member or affiliate member who has paid all his dues and subscriptions and is otherwise in good standing may resign his membership by sending written notice to that effect to the Board and such notice shall become effective immediately on acceptance thereof by the Board, provided that -
- I. if any complaint is received or an inquiry is pending against such member in respect of his professional conduct, no such resignation shall become valid until such complaint or enquiry has been finally dealt with by the Board;
 - II. any such acceptance by the Board may be qualified or endorsed through the Secretariat to record the findings of the Board in respect of such complaint or enquiry;
 - III. any membership fees paid for that particular year shall not be refundable.
- b) No resignation once tendered by any member may be withdrawn without first obtaining the consent of the Board.
- c) Any person who has resigned his membership or whose membership has been cancelled due to non-payment of fees shall be entitled to readmission on submission of proof to the Board that he complies with the conditions of paragraph 4 at the date of his application for readmission notwithstanding paragraph 5(c).
- d) A person excluded from membership may apply for re-admission on or after the expiry of a period of five years from the date of such exclusion, or earlier, if the grounds for his exclusion no longer exist or apply and the originating cause for the exclusion has been fully remedied. The written application for re-admission must state the grounds on which it is based and be approved by the DC. In the event of refusal of such application, no further application may be made until the expiry of the period of two years from the date of such refusal.

9. CERTIFICATES OF MEMBERSHIP

All certificates of membership of the Institute shall be made in the form prescribed from time to time by the Board and shall be and remain the property of the Institute. Every member shall be entitled to receive from the Institute a certificate of membership, but in the event of the suspension or removal or cessation of membership for any reason, such certificate shall forthwith be returned to the Board. If a certificate becomes defaced or a replacement certificate needs to be issued, the costs in issuing such replacement certificate shall be charged to the member.

10. LIABILITY TO INVESTIGATION AND DISCIPLINARY ACTION

- a) Without prejudice to the application of other provisions of these By-laws, liability to investigative and disciplinary action in accordance with the provision of these By-laws, rules, codes of conduct, regulations and other provisions issued by the Board under the Constitution of the Institute shall arise where a member or affiliate member is guilty of:
 - I. Professional misconduct; and/or
 - II. Professional incompetence; and/or
 - III. Unsatisfactory professional conduct.
- b) Liability to investigative and disciplinary action shall further arise in the case of a trainee member who is accused of an act, default or omission that would render that trainee member unfit to become a practising member of the Institute; or that trainee member has, prior to admission to membership, been guilty of such act, default or omission that was not fully disclosed to the Institute prior to admission to membership.
- c) Liability to investigative and disciplinary action shall also arise in respect of an act, default or omission under paragraph 10(a) which occurred prior to admission to membership of the person concerned, but only in respect of any such act, default or omission that was not fully disclosed to the Institute before admission to membership.
- d) A person who ceases to be a member of any category remains liable to investigative and disciplinary action on any case as referred to in paragraph 10(a) which occurred while that person was in membership.
- e) Factors which may be considered whether a member or past member is liable to investigative and disciplinary action include, but are not limited to:

- I. Failure to comply with an obligation of membership; and/or
 - II. Disregard of ethical or technical guidance; and/or
 - III. Any adverse finding by any Government or other statutory body or by another professional body or disciplinary or regulatory committee or authorized person.
- f) A member or affiliate member shall be guilty of professional misconduct if, during the duration of his membership, he is:
- I. Convicted of a punishable offence; and/or
 - II. Disqualified from acting as a director of a company.

11. SPECIFIC OFFENCES

The following acts and practices (whether of commission or of omission upon the part of any person who is or was a member, affiliate member or trainee member of the Institute at the time of the alleged acts or practices) shall be specific offences and any member, former member or affiliate member found guilty thereof, after proper enquiry as provided in these By-laws, shall be liable to comply with the decision vested in the Board:

- a) Contravention of any provision of the Constitution, By-laws, Rules of Professional Conduct, PI Insurance requirements or ATC Training Guidelines of the Institute;
- b) Contravention of CPD requirements applicable to members, by:
 - I. not complying with the prescribed hours;
 - II. late submission thereof for any period without first obtaining extension not exceeding 60 days from the Chief Executive Officer of the Institute;
 - III. submitting incorrect hours, e.g. hours attended at a CPD event which are not supported by the attendance register of the event;
 - IV. Submission of inflated hours.
- c) Certifying or reporting or expressing an opinion, without such qualification as may be appropriate under the circumstances, to the effect that any account, financial statement (including annexures thereto) or other document relating to the business or financial affairs

of any undertaking or entity, fairly presents, agrees to the accounting records, or gives a materially correct representation, of the matters dealt with therein, unless he -

- I. has carried out his work free of any restrictions whatsoever;
 - II. has obtained all information, vouchers and other documents which he deemed necessary for the proper performance of his duties;
 - III. is satisfied, as is reasonably feasible regarding the nature of the undertaking in question and the work performed by him, as to the fairness or the truth or the correctness of such financial statements or annexures.
- d) Delaying to report on work performed by him beyond four months after the date on which he has completed his assignment.
 - e) Negligent conduct in connection with any work performed by him in his practice or employment, including work or employment in connection with any office of trust which he has undertaken or accepted.
 - f) Associating himself with any accounts, statements, reports or other documents, without taking reasonable steps to ensure the material correctness thereof.
 - g) Non-compliance with the minimum work quality standards as issued by the Institute from time to time.
 - h) Directly or indirectly paying a person a monetary, or other consideration, as remuneration for bringing him work or for inducing other persons to give him work.
 - i) Directly or indirectly accepting any commission, brokerage or other remuneration in respect of professional or commercial business referred to others as an incident to his service to any client, except with the knowledge and consent of that client.
 - j) Improperly obtaining or attempting to obtain work.
 - k) Divulging to any third party, whether orally or in writing or otherwise, any confidential information which he may have obtained in the course of his professional relationship with his client or employer, unless such consent has been granted by such client or employer.
 - l) Advertising of services, except as provided for in the Rules of Professional Conduct.
 - m) Wilfully refusing or failing to perform or conform with or to carry out any of the provisions of these By-laws while it is his duty to do so.

- n) Committing a flagrant breach of any rule of professional conduct prescribed by the Board from time to time or, after having been previously warned by the Board or any committee appointed by it, continuing to commit a breach of such rules.
- o) Unlawfully failing to account for, or unreasonably delaying accounts of, any money or property received for, or on behalf of, a client or any other person when called upon to do so.
- p) Signing any account, statement, report or other document which purports to represent work performed by him, unless such work is substantiated by relevant working papers and other documentation to be retained in his possession, and such work was performed by himself, or by employees under his personal supervision or direction or by or under the personal supervision or directions of one or more of his partners.
- q) Performing work in connection with any matter which is the subject of dispute or litigation on condition that payment for such work shall be made only if such dispute or litigation end favourably for the party for whom such work is performed.
- r) Conducting him in a manner which, in the opinion of the DC, is discreditable, dishonourable, dishonest, irregular or unworthy or which is derogatory to the Institute or tends to bring the profession of accountancy into disrepute.

12. PENAL PROVISIONS

- a) A member, affiliate member or trainee accountant who fails to co-operate in any engagement of the IC or DC or fails to respond promptly to all related communications or who, following due investigation, is found guilty of an offense as per paragraph 10 and/or 11, shall be liable to one or more of the following penalties:
 - I. A verbal warning;
 - II. A written warning;
 - III. A final written warning;
 - IV. A monetary penalty;
 - V. Suspension or revoking of any certificate, license, permit or other authorization or the imposition of conditions thereon;

- VI. Disqualification from holding any such certificate, license, permit or other authorization;
 - VII. The imposition of conditions on continuing membership;
 - VIII. A requirement to give undertakings in relation to continuing membership;
 - IX. Suspension of membership for a period not exceeding five years;
 - X. Exclusion from membership;
- b) A trainee member who, following due investigation, is found guilty of an offense as per paragraph 10(b), may be liable to exclusion from membership and to a prohibition on future admission to any category of membership of the Institute.
- c) The Institute may levy against a member, affiliate member or trainee member, as it deems fit and proper, payment of costs in respect of any investigative or disciplinary action or the monitoring and enforcement of compliance with the obligations of membership.

13. INVESTIGATION AND DISCIPLINARY COMMITTEES

- a) The Board shall appoint an Investigations Committee and a Disciplinary Committee which shall carry out the duties and exercise the functions and powers granted to them under these By-laws.
- b) The IC and DC shall each consist of three persons (not necessarily members), of whom two shall form a quorum. No person serving on one committee may serve on the other. The Board shall have the right at any time to co-opt additional members to either committee whenever it deems such additional appointments necessary.
- c) The Board shall appoint the chairperson for each of the committees. The chairperson of the DC shall be a practising advocate or attorney possessing relevant experience of no less than ten years, invited by the Board to serve in this capacity.
- d) The IC and DC appointed in terms of this By-law shall remain in office and function until the date of the appointment of their successors. If at that date, the said Committee has an ongoing investigation or hearing of an incomplete case, those members who comprise such Committee shall continue to act as such for the purpose of completing such case only.
- e) Any vacancies occurring at any time in the foregoing Committees may be filled by the Board.

- f) The Board shall have the power to make such rules, not inconsistent with the Constitution and By-laws, as it may consider necessary for the performance of the respective functions of these two committees. The Board shall inform all members of the Institute forthwith of any amendments.

14. POWERS AND DUTIES OF INVESTIGATION AND DISCIPLINARY COMMITTEE

- a) It shall be the duty of the President of the Institute and the right of any member, affiliate member or any aggrieved person to lay before the IC any facts or circumstances indicating that a member or former member may have committed an offence under these By-laws or the Constitution. Such complaints shall be in writing in the form of an affidavit. All complaints addressed to any other officer of the Institute shall be referred forthwith to the chairperson of the IC.
- b) The IC shall acknowledge receipt of the complaint to the plaintiff within five working days after having received same, in writing or per email.
- c) If the IC considers that the complaint does not reflect a prima facie case of improper conduct, or where a plaintiff has neglected or refused to comply with the requirements of these By-laws, it may dismiss the complaint and inform the plaintiff accordingly.
- d) If the IC considers that the complaint appears to be justified, it shall advise the member, former member or affiliate member alleged of the conduct by notice in writing and afford him an opportunity to explain, in the form of an affidavit, within twenty-one days from the date of such notice. At the same time, he shall be warned that such explanation or answer may be used as evidence against him.
- e) Once the explanation has been received or after twenty-one days, whichever occurs first, the IC shall fully consider the facts or circumstances under which the alleged misconduct occurred. For that purpose it may carry out whatever preliminary investigations it may deem necessary and shall have the power to order inspection of any books, documents and papers in the possession, or under the control, of the member, former member or affiliate member alleged to have committed the offence or misconduct.
- f) If no explanation is forthcoming within twenty-one days or once the IC has completed the preliminary investigations and found substantiating evidence on the complaint, the IC shall refer its findings and evidence together with a formal complaint against the member, former member or affiliate member to the DC within twenty-one days of concluding its

investigation. Such formal complaint is not restricted to the original complaint but may include further matters which may have surfaced in the course of the investigation.

- g) The IC shall inform the plaintiff upon conclusion of the investigation whether it found merit in the complaint and that the matter is referred to the DC or whether no merit was found and the case is closed.
- h) The DC shall present the formal complaint of the IC to the member, former member or affiliate member alleged to have committed an offence. The DC may request a member of the Institute, who may be a member of the IC, to present the complaint, or the DC may instruct an attorney to present, or to brief the Board to present, the complaint.
- i) The DC shall forthwith give to the member, former member or affiliate member notice of the way in which it intends to deal with the matter, and he shall abide by the procedures laid down by the DC.
- j) If after due deliberation the DC decides either to reprimand or caution the member, former member or affiliate member, the DC shall make such finding and give the member, former member or affiliate member notice of its decision.
- k) If the DC considers that the alleged offence is so serious that it might result in the member, former member or affiliate member being liable to a penalty or being either excluded or suspended from membership of the Institute, it shall forthwith give the member, former member or affiliated member notice of its intention to consider and enquire into the complaint, specifying the time and place of the hearing.
- l) DC hearings shall be conducted as open hearings.
- m) The DC shall give such member, former member or affiliate member an opportunity to be heard before it in mitigation and shall, if he so desires, permit him to be represented before it by an attorney or by counsel or by a member of the Institute.
- n) Should the member, former member or affiliate member against whom any complaint is referred, neglect or fail to attend before the DC at the time and place indicated in the said notice without valid reason, the DC shall be entitled to proceed with its consideration of, and any enquiry into, the complaint in his absence.
- o) The DC shall also be entitled to obtain sworn affidavits from any persons it considers necessary for purposes of evaluating the seriousness of the complaint.

- p) The DC shall also have the power to order inspection of any books, documents and papers in the possession, or under the control, of the member, former member or affiliate member against whom the complaint has been made.
- q) The chairperson of the DC shall be permitted to engage the services of an expert opinion or counsel at any stage of a hearing to advise the DC on points of law and procedure.
- r) If the DC is of the opinion that the member, former member or affiliate member is guilty of a punishable offence, it shall make a finding to that effect and thereupon it shall have full power to order any one or more penalties as stipulated in paragraph 12.
- s) Notice of the finding and the decision of the DC shall be given forthwith to the member, former member or affiliate member concerned and to the President of the Board.
- t) Where the member, former member or affiliate member objects to the findings of the DC, he may appeal, for the matter to be reconsidered, to the Board within twenty-one days after the date of the notice of the finding and decision of the DC. Such appeal shall contain all reasons and grounds why the decision of the DC is objected to.
- u) Within twenty-one days of receipt of the appeal of the member, former member or affiliate member concerned, the Board shall advise him whether it is willing to allow the appeal, and if so, the manner and format in which the Board will deal with the matter.
- v) The Board may obtain such further documentation, including but not limited to all documentation and records of the IC and the DC, as it deems necessary to give due consideration to the case.
- w) After due deliberation, the Board shall have full powers to confirm or reject the findings of the DC, and to waive, alter or confirm any such penalty and/or any exclusion or suspension from membership; and notify the member, former member or affiliate member and the chairperson of the DC forthwith.
- x) The findings of the Board shall be conclusive.
- y) Where a member is suspended or excluded from the Institute, such decision may be published in the mainstream media after the period to file an appeal has passed, or upon conclusion of appeal procedures.
- z) If the member, former member or affiliate member has been found guilty of misconduct, the Institute shall have the right to recover all and any costs reasonably incurred in the matter from such member.

15. RECORD AND PUBLICATION OF FINDINGS AND DECISIONS

- a) All findings and decisions of the DC shall take effect when made and shall be reported to the Board which shall cause the same to be duly recorded.
- b) Where the Board has imposed a penalty on a member, former member or affiliate member the Board shall, in –
 - I. the case of a caution or reprimand, report such finding to the members in the annual report of the President of the Institute;
 - II. all cases of suspension or exclusion from membership, inform members and the public as per paragraph 14(y).

16. NOMINATIONS FOR THE BOARD – QUALIFYING CRITERIA

A member may not be nominated for election as a Board member, if he is -

- a) declared insane or found to be incapable of managing his own affairs; or
- b) an un-rehabilitated insolvent person, is declared insolvent or makes an offer of compromise to any of his creditors; or
- c) removed from an office of trust on account of misconduct; or
- d) convicted of theft, fraud, forgery, or uttering a forged document or perjury and sentenced in respect thereof to imprisonment without the option of a fine; or
- e) convicted of any criminal offence which in the opinion of the Board is of a disgraceful or improper nature; or
- f) a person who has, within the previous ten years, been excluded from membership of any other professional body under a disciplinary process; or
- g) in arrears with any fees, penalties or levies due to the Institute; or
- h) in breach of the CPD requirements as prescribed from time to time by NIPA; or
- i) not a member of the Institute in good standing.

17. GENERAL PROVISIONS RELATING TO COMMITTEES

- a) The provisions of this paragraph 17 shall, unless otherwise specified, apply to all committees (save for IC and DC) established by the Board.
- b) One of the members of a committee may be designated by the Board as chairperson of the committee. Should the Board not so designate a member as chairperson or should the member designated not be present or be unable to act at any particular meeting, the committee shall elect a chairperson from among its members.
- c) The Board may determine a quorum for meetings of a committee and if not so determined, the quorum shall be fixed by the committee.
- d) The Board will provide any committee with specific terms of reference as to the desired outcome, resources available from time to time and any other powers it is willing to delegate to such committee, as well as the basis of remuneration for committee members (if any).
- e) Any committee so formed shall comply with any instructions given by the Board and shall keep minutes of its meetings.
- f) The Board may assign to a committee so established such of its powers which it may deem fit, but it shall not be divested of any power which it may have assigned to a committee and it may amend or rescind any decision of such committee.
- g) Any committee to whom the foregoing powers have been assigned shall continue to act and retain the powers so assigned until its power is amended or its appointment is revoked by the Board.
- h) An affiliate member will serve on each of the committees as prescribed by the Board, except Edcom, IC and DC.

18. FEES

- a) All fees are laid down annually by the Board for all classes of membership.

- b) Each member or affiliate member of the Institute shall pay an annual membership fee within two months from the beginning of the financial year of the Institute. The due date for purposes of this clause shall be the last day of February. Members and affiliate members that seek a relief in the payment terms of annual fees must apply in writing before or on 31 January for such relief. The Board may decide at its discretion on the relief granted for each request. Members that apply after 31 January will not qualify for relief. Interest as prescribed in paragraph 18(r) will be charged on arrear amounts as and when it is due.
- c) Any member or affiliate member admitted during any year shall pay a pro-rata fee of the annual membership fee. This fee is payable within two months of the admittance date.
- d) Fees for the evaluation of an applicant will be charged as approved by the Board and are payable at least 14 days prior to the evaluation, failing which the Board will cancel the evaluation.
- e) Application fees for membership are payable together with the application, failing which the application will not be considered.
- f) Each ATC shall pay an annual fee within two months from commencement of the Institute's financial year. The due date for purposes of this clause shall be the last day of February. ATC's that seek a relief in the payment terms of annual fees must apply in writing before or on 31 January for such relief. The Board may decide at its discretion on the relief granted for each request. ATC's that apply after 31 January will not qualify for relief. Interest as prescribed in paragraph 18(r) will be charged on arrear amounts as and when it is due.
- g) Any ATC admitted during any year shall pay a pro-rata fee of the annual membership fee. This fee is payable within two months of the admittance date.
- h) Each prospective ATC shall on application for registration with the Institute pay an evaluation fee of such amount as may be determined by the Board from time to time.
- i) Practices operating through a legal entity or a collective partnership name must register as member firms and pay an annual registration fee, within two months from the commencement of the Institute's financial year. The due date for purposes of this clause shall be the last day of February. Firms that seek a relief in the payment terms of annual fees must apply in writing before or on 31 January for such relief. The Board may decide at its discretion on the relief granted for each request. Firms that apply after 31 January will not qualify for relief. Interest as prescribed in paragraph 18(r) will be charged on arrear amounts as and when it is due.

- j) Any firm admitted during any year shall pay a pro-rata fee of the annual membership fee. This fee is payable within two months of the admittance date.
- k) The Board may from time to time decide on a fair amount to cover the costs regarding the monitoring of trainee accountants. The fee is payable within two months after being sent. Interest as prescribed in paragraph 18(r) will be charged on arrear amounts as and when it is due.
- l) The Board may from time to time decide on a fair amount to cover the costs regarding Practice Support Visits to members and affiliate members. The Institute, as per the rates confirmed by the Board, shall send estimation based on estimated time spend, on the Practice Support Visit costs to the member or affiliate member, as well as the expected date. An invoice will be issued after the visit, based on actual time spend, and is payable within two months after the visit. Interest as prescribed in paragraph 18(r) will be charged on arrear amounts as and when it is due.
- m) The Board may in its discretion remit in whole or in part the subscription and/or entrance fee of a member under special circumstances that in its opinion warrants such remission.
- n) The Board may from time to time call upon members or affiliate members for payment of additional contributions to cover expenses which it may incur in the interests and/or maintenance of the objectives of the Institute. The Board shall provide reasons for the requested additional contributions and such contributions shall in the aggregate not exceed, in any one financial year, one half of the subscription payable in such financial year.
- o) Any member or affiliate member who is in arrears, with his annual subscription fee or any other charge, shall be sent a reminder one month after payment was due. Should the member fail to effect payment within three months from the date when the amount became due under these By-laws, he shall, *ipso facto*, cease to be a member but shall, nevertheless, be liable to pay the amount of such year's subscription and any other charges due by him to the Institute and shall remain liable otherwise as a member. The Board has the power to suspend the operation of this clause in respect of any member and to stipulate the conditions on which it will be suspended.
- p) The Board may, in its discretion, reinstate any member or affiliate member whose membership has ceased in terms of paragraph 18(o) and may rescind a new admission fee, but the Board may impose a reinstatement fee equivalent to half of the admission fee and other procedures and conditions as specified from time to time.

- q) Any outstanding amounts due to the Institute, of whatsoever nature, may be recovered from a member or past member or affiliate member in civil proceedings in any competent court together with any collection and legal costs on an attorney/own client basis.
- r) Interest at the prime overdraft rate plus three percentage points is payable after 3 months on arrears of any outstanding amounts. Interest is calculated monthly on the outstanding amount in arrears.

19. AMENDMENT OF BY-LAWS

The Board may, from time to time, amend these By-laws as provided in the Constitution. Any change to the By-Laws shall only be effective 30 days after they have by general circular been sent to all members of the Institute, or such later date as may be specified in the said general circular.

20. WINDING UP OF THE INSTITUTE

Upon the passing of a resolution, as per the Constitution, to wind up the Institute, the Board shall by simple majority vote, appoint a liquidator and may give such directions as to the method of winding up as they deem fit. Provided that any funds and/or assets remaining after the payment of the debts and expenses of the Institute and the costs of winding up, shall be distributed to similar or related associations, bodies or institutions with objectives similar to those of the Institute, including educational institutions (but excluding individual members or firms or companies controlled by members) as nominated the Board.