

# REGULATION OF ACCOUNTANTS BY CARB

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## INTRODUCTION TO CARB

### The Institute of Chartered Accountants

1. The Institute of Chartered Accountants in Ireland was incorporated by Royal Charter on 14<sup>th</sup> May 1888. Under the Charter, a body was incorporated under the title “*The Institute of Chartered Accountants in Ireland*”.
2. It’s now known as Chartered Accountants Ireland (or the Institute).<sup>1</sup> Its activities and those of its members are governed by its bye-laws and by rules relating to professional and ethical conduct.
3. To quote its website: “*The Institute is a membership body representing 24,000 influential members throughout the globe. Our role is to educate, represent and support our members. Our members work in senior positions in practice and industry. We are committed to restoring confidence at every level of the economy. We work with governments and businesses to raise awareness of the importance of sound financial advice.*”
4. Chartered Accountants Ireland is Ireland’s largest and fastest growing accountancy body. For almost ten years Chartered Accountants Ireland has been the fastest growing accountancy body in the UK and Ireland, with membership increasing by almost 50% in the period 2004 to 2014.<sup>2</sup>
5. The Institute is governed by a Council and it is responsible for determining policy and monitoring its implementation. The Council is led by an officer group and supported by the management team and staff. A number of committees with voluntary member involvement also play a key role.
6. Under its Charter, the Institute was given power to make bye-laws regulating the affairs of the Institute provided that such bye-laws should not have any effect unless and until they had been submitted and allowed by the Privy Council in Ireland. That Charter was amended

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<sup>1</sup> Full details regarding the Institute can be obtained by visiting [www.charteredaccountants.ie](http://www.charteredaccountants.ie).

<sup>2</sup> See, e.g., [https://en.wikipedia.org/wiki/Chartered\\_Accountants\\_Ireland](https://en.wikipedia.org/wiki/Chartered_Accountants_Ireland). Although I would not usually cite Wikipedia as a source, it does provide some basic general information about the profession and the Institute as follows:

*Fully qualified members of Chartered Accountants Ireland earn the designation ACA (Associate Chartered Accountant). After 10 years membership, members are invited to apply for fellowship of their Institute and earn the designation FCA (Fellow Chartered Accountant).*

*The Institute has mutual recognition agreements in place with its peer institutes in England & Wales, Scotland, Australia New Zealand, Canada, South Africa, Singapore, Hong Kong and the United States of America. Qualifying members of the Institute may also benefit from the European professional qualification directives.*

*Chartered Accountants Ireland is part of the Consultative Committee of Accountancy Bodies and members are authorised to conduct audit, insolvency and investment business work.*

*Chartered Accountants Ireland is one of Ireland's six Recognised Accounting Bodies regulated by the Irish Auditing and Accounting Supervisory Authority (IAASA) which approves accountancy bodies to issue Audit Practice Certificates to "Registered Auditors".*

*Chartered Accountants Ireland is a founding member of Chartered Accountants Worldwide [which] is an initiative set up by the leading chartered institutes to support, develop and promote the vital role that Chartered Accountants play throughout the global economy.*

by a private Act of the Oireachtas, the Institute of Chartered Accountants in Ireland (Charter Amendments) Act, 1966.<sup>3</sup> Among other things, the 1966 Act provided as follows:-

6. *Any bye-laws made by the Institute or any alteration or amendment thereof shall not have effect until they have been submitted to and allowed by the Government.*
7. *Save as hereby amended the Charter shall be and remain in full force and effect.*

7. On various dates, the Institute has passed certain resolutions altering and amending the bye-laws of the Institute and the bye-laws so altered and amended have been duly allowed by the relevant Government department. It's now the Department of Enterprise, Trade and Investment and The Irish Auditing and Accounting Supervisory Authority (IAASA). The current bye-laws are those that became effective on 5<sup>th</sup> October 2015. The 2015 Bye-Laws are divided into the Principal Bye-Laws and the Disciplinary Bye-Laws.
8. Under earlier Bye-Laws, provision was made for the establishment of the "Chartered Accountants Regulatory Board", commonly known as CARB (or the Board). This is reflected in Bye-Law 41 of the current Principal Bye-Laws.<sup>4</sup>
9. CARB was established following recommendations from the Strategic Review Group (SRG) established by the Institute in 2004. The SRG concluded that the public interest, and coincidentally those of members, would be best served if the Institute's regulatory functions were palpably transparent and independent, and seen to be so. The SRG proposed the establishment of a separate legal entity to deliver the regulatory functions, although CARB was not ultimately set up as a separate legal entity.

### **What is CARB & what does it do? <sup>5</sup>**

10. CARB was established in 2007 to regulate Irish chartered accountants on an all-Ireland basis, in accordance with the provisions of the Bye-Laws of Chartered Accountants Ireland independently, openly and in the public interest.

- **Objectives**

11. Bye-Law 41.2 of the Principal Bye-Laws refers to certain objectives of CARB as follows:

*41.2 In carrying out its functions the Chartered Accountants Regulatory Board will have regard to the achievement of the following objectives:*

*41.2.1 to maintain and increase the standing of Chartered Accountants as the leading accounting and business professionals in Ireland; and*

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<sup>3</sup> The Charter was also amended in relation to Northern Ireland by The Institute of Chartered Accountants in Ireland (Charter Amendment) Act (Northern Ireland) 1966.

<sup>4</sup> The full text of Bye-Law 41 of the current Principal Bye-Laws is included in **Appendix I** to this paper.

<sup>5</sup> Full details regarding CARB can be obtained by visiting [www.carb.ie](http://www.carb.ie). In preparing this paper, I have had particular regard to a number of documents and the large amount of information available on the CARB website.

41.2.2 *to maintain and increase the capacity of the Institute to win, instil and sustain public confidence in the quality, transparency and independence of its regulatory functions.*

12. In its document “*Regulatory Strategy 2011-2015*”, CARB said its aim was “[t]o deliver a high quality regulatory system in the public interest and thereby enhance the confidence of all stakeholders”. The stakeholders include “*the public, oversight bodies, the members and Council of the Institute*”.

13. The Strategy also identified CARB’s values in the following terms:

- *To act in the public interest*
- *To apply the highest standards of integrity and objectivity in all actions and decisions*
- *To conduct our business in an open, transparent and courteous manner*
- *To respect the rights of all stakeholders*
- *To operate in an efficient and effective manner*
- *To respect and value each other as colleagues*

14. The Strategy also identified CARB’s objectives in the following terms:

*The CARB objectives include four external objectives relating to the functions for which we are responsible. The final objective is an internal objective relating to the manner in which CARB fulfils those responsibilities.*

***Professional Standards***

*To set Standards of Professional Conduct which are straightforward and clear; capable of being complied with and enforced; and are fair, proportionate and in the public interest.*

***Professional Authorisations***

*To ensure that Chartered Accountants comply with their responsibilities to hold appropriate authorisations and registrations by operating an efficient and effective system of professional authorisation.*

***Quality Assurance***

*To ensure that Chartered Accountants provide services of the highest quality, competently, honestly and with integrity by operating a risk based approach to monitoring through the annual assessment of information and periodic on site inspection.*

***Discipline***

*To ensure the thorough investigation of complaints against Chartered Accountants in a fair and proportionate manner to determine if any misconduct has occurred and take disciplinary action when required.*

***CARB Effectiveness***

*To be an effective, accountable and independent regulator, operating in the public interest, and operating to the highest standards of governance.*

• ***CARB’s Functions***

15. The functions of CARB are set out in a list in Bye-Law 41.3 as follows:

41.3 *The Board shall carry out the functions of the Institute in the following areas:-*

41.3.1 *the setting of standards of professional conduct for members, member firms, affiliates and students; such standards having effect when adopted by the Council and receiving all other necessary approvals;*

41.3.2 *the monitoring of compliance with standards of professional conduct for members, member firms, affiliates and students;*

41.3.3 *the authorisation and regulation of members, member firms and affiliates engaged in public practice;*

41.3.4 *without prejudice to the generality of the foregoing, the authorisation and regulation of members, member firms and affiliates acting as auditors, investment intermediaries and insolvency practitioners;*

41.3.5 *the authorisation and/or regulation of members, member firms, affiliates and students engaged in any other activity in respect of which authority to authorise and/or regulate has been conferred on the Institute by any applicable legislation or regulation in any jurisdiction and which function the Council has resolved shall be carried on by the Institute;*

41.3.6 *the disciplining of members, member firms, affiliates and students;*

41.3.7 *ensuring compliance by the Institute with its regulatory obligations;*

41.3.8 *appointing members to, and liaising with, bodies outside the Institute which are relevant to the functions which are the responsibility of the Board; and*

41.3.9 *such other matters as the Council may from time to time specify.*

16. In delivering all of the above and to ensure that it remains at the forefront of the regulation of accountants, Bye-Law 41.4 provides as follows:

41.4 *The Board shall participate in the national and international development of regulatory policy and professional standards for accountants and in doing so liaise with government, regulators, supervisory authorities, other member bodies and any other third party as deemed appropriate.*

### **Composition / Executive / Supervision**

17. The CARB Regulations, made by the Council of the Institute under Principal Bye-Law 41.5 include regulations relating to the composition of the Board of CARB, the appointment and removal of its members, its functions, its powers, its proceedings, its funding and its work programme.

18. CARB may have up to 12 members, the majority of whom must be persons who are not members of any recognised accountancy body. It has full operational autonomy in

delivering its mandate. The Board has delegated certain specific functions to committees of the Board (and these are dealt with more fully below).

19. CARB is served by a full time executive staff which consists of an executive team of some 30 plus people and is headed by the Director of CARB and his management team.
20. CARB is subject to independent oversight from various statutorily established Irish and UK oversight bodies:
  - The Financial Services Authority ([www.fsa.co.uk](http://www.fsa.co.uk))
  - The Irish Auditing and Accounting Supervisory Authority ([www.iaasa.ie](http://www.iaasa.ie))
  - The Irish Financial Services Regulatory Authority ([www.financialregulator.ie](http://www.financialregulator.ie))
  - The Financial Reporting Council's Professional Oversight Board ([www.frc.co.uk](http://www.frc.co.uk) and [www.frc-pob.co.uk](http://www.frc-pob.co.uk))
  - The Insolvency Service (GB) ([www.insolvency.gov.uk](http://www.insolvency.gov.uk))
  - The Insolvency Service (NI) ([www.insolvencyservice.detini.gov.uk](http://www.insolvencyservice.detini.gov.uk))
21. In addition to its being subject to the independent oversight, CARB is also accountable to its other stakeholders including the public and the members and Council of the Institute. The Board aims to be open and transparent in conducting its business and reports to stakeholders as required in accordance with the provisions of the Regulations and any Memorandum of Understanding and reports through various publications its regulatory strategy, annual operations plans and annual reports.

## CARB'S COMMITTEES

22. In order to work efficiently and effectively, many of the functions of CARB are delegated to committees which report to CARB.
23. The work of the committees is diverse and falls into three main groups: policy, compliance and co-ordinating. **Appendix II** is a comprehensive CARB Committee organisation chart showing all the committees in each of the three main groups.

### Policy Committees

24. There are currently five policy committees. The Professional Standards Committee and the Ethics Committee are responsible for the initial development of standards of professional conduct for the approval of the Board and adoption by Council.
25. The policy committees are appointed by the Board and include members of the Board but also include persons with the detailed technical knowledge and expertise necessary to perform this function.

### Compliance Committees

26. The compliance committees deal with ongoing regulatory compliance including the licensing and monitoring functions and with the investigation of complaints where there are allegations of conduct that would make a member liable to disciplinary action under the Disciplinary Bye-Laws. (This is addressed more fully below.) The compliance committees

operate under the provisions of their respective relevant Regulations. For reasons of natural justice, they operate independently of CARB and reach their decisions independently in relation to individual cases.

- **Quality Assurance**

27. The Quality Assurance Committee is responsible for the granting of professional authorisations including practising certificates, insolvency practising certificates, etc. The Committee has extensive powers, as set out in the Public Practice Regulations, which can include the withdrawal of the relevant authorisation. It is also responsible for the supervision of the Quality Review programme. The list of the Quality Assurance Committee's extensive responsibilities is set out in Regulation 2.6 of the Public Practice Regulations (revised 5 October 2015) and I have included that Regulation in **Appendix III**.
28. The Committee must comprise at least eight people at least two of whom must not be accountants.
29. Members, firms, etc., can ask for a review of decisions made by the Quality Assurance Committee. This will be heard by the Quality Assurance Review Committee which again must comprise at least eight people at least two of whom must not be accountants. The Review Committee's powers include:
- 2.16 *The Review Committee may affirm, vary or rescind a decision or order of the Committee and may substitute any other order or decision on such terms and conditions, if any, as it, in its absolute discretion, considers appropriate.*
  - 2.17 *The Review Committee may at its discretion order a member, firm or general affiliate to contribute to the costs of a hearing.*
30. In certain limited circumstances, members, firms, etc., can appeal the decision made by the Quality Assurance Review Committee. This will be heard by the Quality Assurance Appeal Review Committee which again must comprise at least eight people at least two of whom must not be accountants.
31. An appeal is only possible in the following limited circumstances and the Appeal Committee's options include:
- 2.24 *An appeal may only be made on the following grounds:*
    - (a) *that the Review Committee was:*
      - (i) *wrong in law;*
      - (ii) *wrongly interpreted any relevant regulation or Bye-Law; or*
      - (iii) *did not comply with these regulations; or*
    - (b) *that the Review Committee made an order which no committee, correctly applying the relevant law, Bye-Law, rule, regulation, code or standard to the facts before it and acting reasonably, would have made; or*
    - (c) *that there was evidence that the Review Committee had not considered and which:*
      - (i) *could reasonably lead the Review Committee to make a different order; and*
      - (ii) *could not have been put before the Review Committee even if those concerned had done their best to produce it.*

2.25 *As soon as is practicable after notice of the appeal has been received under regulation 2.28 the Appeal Committee will consider the appeal and may at its discretion:*

- (a) allow the appeal;*
- (b) impose a less severe restriction;*
- (c) send the matter back to the Committee;*
- (d) send the matter back to the Review Committee; or*
- (e) dismiss the appeal, and*

*order the member, firm or general affiliate to contribute to the costs of the hearing.*

- **Disciplinary Committees**

32. I deal with the disciplinary process somewhat more fully below. However, the relevant committees include the Conduct Committee (which was formerly the Complaints Committee). The Conduct Committee's functions are set forth in the 2015 Disciplinary Regulations. These include in appropriate cases determining whether there is a case to answer in respect of a Disciplinary Matter and, if so, whether to refer the Formal Allegations for hearing before a Disciplinary Tribunal or to deal with the matter in other specified ways. The Conduct Committee has no fewer than nine members the majority of whom must not be accountants.

33. The Disciplinary Panel must also consist of no fewer than nine members. When a case is referred to it by the Conduct Committee, the Chairman of the Disciplinary Panel will appoint a Disciplinary Tribunal from the Panel to hear the case. Each Tribunal must have two non-accountants and one accountant and be chaired by a lawyer.

- **Appeal Panel / Tribunal**

34. All members and firms can appeal against the decision of the Disciplinary Tribunal to the Appeal Panel. The Appeal Panel must consist of no fewer than nine members.

35. When a decision is appealed, the Chairman of the Appeal Panel will appoint an Appeal Tribunal to hear the appeal. Like the Disciplinary Tribunal, the Appeal Tribunal will be chaired by a lawyer and must have two non-accountants and one accountant.

## **Co-ordinating Committees**

36. It is essential when developing policy relating to professional standards and the regulation of the accountants that the Board and its Committees keep themselves informed of wider regulatory developments through liaising with other standard setters, governments, and professional bodies of accountants.

37. In developing regulatory policy, the Board will continue to work closely with the other professional bodies, in particular, its sister chartered bodies, the Institute of Chartered Accountants in England & Wales and the Institute of Chartered Accountants of Scotland, through a number of established co-ordinating committees. These include joint committees on Audit, Investment Business, Insolvency and Professional indemnity Insurance.



## **CARB'S FUNCTIONS**

38. In essence, CARB's functions are to set, in the public interest, high professional and ethical standards; to supervise members' and member firms' compliance with the standards; and to take appropriate action against those who fail to achieve the standards expected of them.

### **Policy**

39. CARB is responsible for developing and issuing standards of professional conduct for adoption by the Council of the Institute. These include standards relating to practice rights, ethics and discipline, which are fair, proportionate and in the public interest.
40. These standards include rules setting out the system of licensing for members and firms and for supervision of members' and member firms' compliance with the regulations through a proactive system of monitoring, as well as a robust complaints handling and disciplinary system, through detailed procedures for investigating complaints relating to misconduct and the taking of disciplinary action..
41. At present, the Bye-Laws, Regulations and standards that are applicable to all members of the Institute include:
- CARB Regulations (updated 25 March 2015)
  - Principal Bye-Laws (effective 5 October 2015)
  - Disciplinary Bye Laws (effective 5 October 2015)
  - Disciplinary Regulations (effective 5 October 2015)
  - Continuing Professional Development (CPD) Regulations (1 March 2013)
  - Code of Ethics (revised as of 15 January 2014)
  - Money Laundering Supervision Regulations (effective 1 September 2015)
42. In addition, for members of the Institute who are in public practice or who practise in "reserved areas", the Regulations and standards that are applicable to such members include:
- Audit Regulations
  - Irish Audit Firm Governance Code
  - Public Practice Regulations (revised as of 5 October 2015)
  - Investment Business Regulations
  - DPB (Consumer Credit) Handbook
  - Group Consumer Credit Licence
  - Designated Professional Body Handbook
  - Insolvency (GB/NI) Licensing Regulations 1 February 2016
  - Code of Ethics (Part D with supplement)
43. It should also be noted that there is extensive guidance and support available in relation to these Bye-Laws and Regulations, etc. These are all available on the CARB website.

### **Professional Authorisations**

44. CARB's function in relation to professional authorisations means ensuring that members, member firms and affiliates providing services to the public are eligible to do so by granting and renewing licences to practise, to act as an auditor, to provide investment business advice

and to accept insolvency appointments and removing those licences when it is deemed necessary.

- **Public Practice & Practising Certificates**

45. For instance, before engaging in public practice, members of the Institute need to hold a Practising Certificate and comply with the Public Practice Regulations (revised 5 October 2015) which set out the procedures for granting and renewing Practising Certificates, and where necessary withdrawing such Practising Certificates. “Public practice” is defined in Regulation 1.11 as follows:

*Providing or holding out to provide personally and directly accountancy services (for which the relevant skills have been acquired by a member by reason of his or her training and qualification) to persons other than his or her employer.*

46. The Public Practice Regulations also provide that members of the Institute “*who, regardless of their own location or place of business, act in Ireland in any of [certain specified] capacities*” need to hold an Insolvency Practising Certificate and comply with the Public Practice Regulations. The specified capacities listed in Regulation 6.1 are as follows:

- (a) *members’ voluntary liquidator;*
- (b) *creditors’ voluntary liquidator;*
- (c) *provisional liquidator;*
- (d) *official liquidator;*
- (e) *receiver;*
- (f) *court appointed receiver;*
- (g) *sequestrator;*
- (h) *agent for debtor in possession;*
- (i) *examiner;*
- (j) *administrator;*
- (k) *advisor to a company attempting to organise a Scheme of Arrangement under Sections 201 or 279 of the Companies Act 1963; and/or*
- (l) *trustee in bankruptcy.*

- **Practising in Reserved Areas**

47. Members wishing to engage in the reserved areas must, in addition to a Practising Certificate, have the appropriate registration or authorisation for the firm through which they practise. Reserved areas of practice are those where an additional statutory provision exists requiring an additional licence to be held. The reserved areas presently are Audit and Investment Business.
48. The Public Practice Regulations also set out the procedures and requirements for quality review and professional indemnity insurance.

## **Quality Assurance**

49. CARB also has a function in relation to quality assurance to ensure that the professional services provided by members and member firms are of the highest possible standard by monitoring compliance with all applicable standards of professional conduct through a system of returns and inspections and taking regulatory action when necessary.

50. All members who hold a Practising Certificate and their firms are included within CARB's programme of quality review. Chapter 4 of the Public Practice Regulations sets out the quality review process as follows:

#### *QUALITY REVIEW PROCESS*

- 4.1 *Quality review is the means by which CARB provides assurance as to the quality of the professional work of practising certificate holders, general affiliates and member firms and the means by which CARB upholds and improves the standards of practising certificate holders, general affiliates and member firms.*
- 4.2 *The Committee<sup>6</sup> will act on behalf of the Board in the supervision of the quality review process to ensure the maintenance of proper professional standards by practising certificate holders, general affiliates and member firms.*
- 4.3 *The quality review process may include, though it is not limited to, the following:*
- (a) requiring the submission of detailed returns in a form and at times prescribed by the Board; and*
  - (b) periodic review visits.*

- **Annual Returns**

51. In practice, all member firms are required to complete and submit an extremely detailed Annual Return. This form contains information about the firm and its activities which is subject to an extensive desk top review to determine if there are any matters which need to be addressed by the firm either by way of correspondence or through a quality review (inspection) visit.

- **A Quality Review visit**

52. All firms will, at some time, receive a quality review visit. The cycle for these visits varies depending on the nature of the activities provided by the firm and based on the assessment of their Annual Return. The quality review visit can cover the all the professional services provided by the firm including accounting, auditing, investment business advice, consultancy, taxation, etc.
53. One of the most important objectives of the visit is to determine the extent of the firm's compliance with the standards of professional conduct, to identify any weaknesses and agree with the firm any remedial action to improve the compliance within the firm.

### **Professional Conduct**

54. CARB's responsibility in relation to professional conduct means investigating complaints against members, member firms, affiliates and students and taking disciplinary action when there is evidence that their professional performance has fallen short of the applicable rule or standard.

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<sup>6</sup> The Quality Assurance Committee as appointed by the Board under the Public Practice Regulations. See Regulation 1.1 and above regarding this Committee.

- **Liability to Disciplinary Action**

55. In summary, under what are now the 2015 Disciplinary Bye-Laws, members may become liable for disciplinary action as follows:

8.1 *Liability to disciplinary action arises on the grounds of:*

8.1.1 *Misconduct;*

8.1.2 *Poor Professional Performance; and / or*

8.1.3 *failure or neglect to respond or co-operate adequately or at all to CARB (including any Disciplinary Body) or to any officer or member of staff of the Institute whether in the course of disciplinary proceedings or otherwise.*

56. “*Misconduct*” and “*Poor Professional Performance*” are defined in Bye-Law 4 of the 2015 Disciplinary Bye-Laws as follows:

**“*Misconduct*” means:**

(a) *any serious act or omission likely to bring a Member, Member Firm, Student, Affiliate, the Institute or the regulated profession of accountancy into disrepute, whether in the course of carrying out his, her or its professional duties or otherwise; or*

(b) *a serious falling short of the standards reasonably to be expected of a Member, Member Firm, Student or Affiliate whether in the course of carrying out his, her or its professional duties or otherwise including but not limited to:*

(i) *breaches of undertakings or consents given to Disciplinary Bodies or Regulatory Committees; and / or*

(ii) *breaches of the standards of the Institute to such an extent, or on such number of occasions, as to call into question the competence of the Member, Member Firm, Student or Affiliate.*

**“*Poor Professional Performance*” means any act or omission by a Member, Member Firm, Student or Affiliate, whether in the course of carrying out his, her or its professional duties or otherwise which falls below the standards reasonably to be expected of a Member, Member Firm, Student or Affiliate but which does not amount to *Misconduct*.**

57. Bye-Law 8.2 of the 2015 Disciplinary Bye-Laws provides for a presumption of “*Misconduct*” or “*Poor Professional Performance*” in certain specified cases as follows:

8.2 *It will be presumed, unless the contrary is established, that the following constitute proof of *Misconduct* or, as appropriate, *Poor Professional Performance* on the part of a Member, Member Firm, Student or Affiliate:*

8.2.1 *in any jurisdiction, pleading or being found guilty of any offence involving dishonesty, violence, indecency, subversion, drug trafficking, money laundering, terrorist financing, tax evasion (such finding not being set aside on appeal or otherwise) or an offence*

*(such offence not being set aside on appeal or otherwise) which, if committed in the Republic of Ireland and / or any part of the United Kingdom, would be an indictable offence under company law or complicity in any such offences or having been found, in civil proceedings, to have acted fraudulently or dishonestly (such finding not being set aside on appeal or otherwise);*

8.2.2 *being prohibited (such prohibition not being set aside on appeal or otherwise) from acting as a company director under company law in the Republic of Ireland or any part of the United Kingdom or any analogous law in any other jurisdiction;*

8.2.3 *being the subject of an adverse finding (such finding not being set aside on appeal or otherwise) of comparable gravity in disciplinary proceedings taken by another Competent Authority; or*

8.2.4 *being the subject of an adverse finding (such finding not being set aside on appeal or otherwise) of comparable gravity, in respect of conduct, by inspectors appointed under company law in the Republic of Ireland or any part of the United Kingdom or any analogous law in any other jurisdiction.*

58. Under Bye-Law 8.3, regard may be had to a number of specified matters in considering whether a member is liable to disciplinary action:

8.3 *In deciding whether a Member, Member Firm, Student or Affiliate is liable to disciplinary action, regard may be had to any matter which the Disciplinary Body or the Head of Professional Conduct considers relevant including but not limited to:*

8.3.1 *any failure to observe any code of practice or other guidance whether ethical or technical;*

8.3.2 *any failure to comply with any applicable professional standards including, but not limited to, the Principal Bye-Laws, the Disciplinary Bye-Laws and any regulations applicable to Members, Member Firms, Students or Affiliates;*

8.3.3 *the findings of another Competent Authority;*

8.3.4 *any facts or matters which have come to the attention of any Regulatory Committee whether or not such facts or matters have led to an adverse finding by such Regulatory Committee;*

8.3.5 *any order made by a Disciplinary Body within the previous six years;*

8.3.6 *the behaviour of the Member, Member Firm, Student or Affiliate in the context of any Insolvency Event that has occurred in relation to the Member, Member Firm, Student or Affiliate;*

8.3.7 *any failure to comply with an order or requirement of a Disciplinary Body or a Regulatory Committee or any failure to duly implement*

*advice obtained pursuant to an order or requirement of a Disciplinary Body or a Regulatory Committee;*

8.3.8 *any failure to pay any fine or any other amount payable pursuant to an order of a Disciplinary Body or any fine or other amount imposed by and payable to an Oversight Authority; and / or*

8.3.9 *any matter, which, in accordance with the Disciplinary Regulations, is to be treated as rendering the Member, Member Firm, Student or Affiliate concerned potentially liable to disciplinary action in circumstances where disciplinary action in respect thereof has not yet been taken and which, as provided under the Disciplinary Regulations, may be taken into consideration and which may influence decisions of the Executive, Head of Professional Conduct and Disciplinary Bodies.*

- **Disciplinary Process**

59. The disciplinary process is now governed by the 2015 Disciplinary Regulations. These are comprehensive Regulations divided into 9 Chapters. There are 52 Regulations which run to 44 pages and they deal with, among other things, the following:

- The Disciplinary Bodies and the Head of Professional Conduct
- Assessment of Complaints
- Investigations and consideration of same
- Matters of public concern
- Hearings before Tribunals
- Settlements
- Miscellaneous matters, including issues of costs and publication

60. It's obviously beyond the scope of this paper to address all these areas, but to highlight just a few.

- **The Disciplinary Bodies and the Head of Professional Conduct**

61. I have dealt with the various Disciplinary Bodies under the Committees section of this paper above. However, the Regulations also provide for Independent Review Committees to be appointed in various specified circumstances.

62. Under Regulation 6.1 of the Disciplinary Regulations:

*6.1 The Head of Professional Conduct shall be responsible for managing the disciplinary process and for managing all functions ascribed to the Executive.<sup>7</sup>*

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<sup>7</sup> Regulation 2 also defines "Executive" as "the staff of CARB who assist in carrying out the functions of CARB". Please note that, although I have referred in various places in this paper to terms that are defined in various Regulations and Bye-Laws, it has not been possible to cross-reference the precise defined term in every instance. In such cases, please refer to the relevant Regulations and Bye-Laws for the actual definition.

- **Assessment of Complaints**

63. Anyone can make a complaint: clients, other accountants, regulators, oversight bodies, members of the public, and the internal committees.
64. On receiving a complaint, the first stage in the process is for the Executive to assess the nature and content of the complaint to determine whether it concerns a Disciplinary Matter. A Disciplinary Matter is defined in Regulation 2 as follows:
- “Disciplinary Matter” means one or more Events<sup>8</sup> which appear to give rise to liability to disciplinary action in accordance with Disciplinary Bye-Law 8 which come to the attention of the Head of Professional Conduct by way of a Complaint or otherwise.*
65. If the complaint is determined not to concern a Disciplinary Matter, the Regulations provide extensively for what happens in various possible scenarios.
66. Similarly, if the complaint is determined to concern a Disciplinary Matter, the Regulations also provide extensively for what happens in various possible scenarios. Regulation 19.1 provides as follows:

### **19 Handling of Disciplinary Matters**

*19.1 Where it has been determined that a Complaint concerns a Disciplinary Matter, or where a Disciplinary Matter comes to the attention of the Head of Professional Conduct otherwise than by way of a Complaint, the Executive:*

*19.1.1 shall refer the Disciplinary Matter to the Conduct Committee if at any point the Executive forms the opinion that the matter is a Matter of Public Concern;*

*19.1.2 may require a Member Firm and Complainant, if they have not already done so, to go through the complaints handling procedure adopted by the Member Firm with a view to resolving the Complaint under that procedure;*

*19.1.3 may attempt to resolve the Complaint by conciliation in accordance with any conciliation guidelines the Board may from time to time adopt; unless the Member, Member Firm, Student or Affiliate agrees otherwise conciliation shall be conducted on a ‘without prejudice’ basis;*

*19.1.4 may, either prior to or subsequent to the commencement of an investigation, defer further consideration of the Disciplinary Matter pending the outcome of any other inquiry, investigation, proceedings or adjudication (whether criminal, civil or otherwise) relating to the subject matter of the Disciplinary Matter in question; and*

*19.1.5 may determine whether an investigation should be commenced in relation to a Disciplinary Matter which occurred more than six years*

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<sup>8</sup> Regulation 2 also defines “Event” as “an act, omission, fact, matter or circumstance”.

*prior to the Disciplinary Matter coming to the attention of the Head of Professional Conduct.*

- *Investigations and consideration of same*

67. Chapters 4 and 5 of the Regulations deal with the commencement and conduct of investigations and the preparation of investigation reports, as well as the consideration of investigations by the Head of Professional Conduct. Regulation 23 provides extensively for what the Head of Professional Conduct may do in various possible scenarios.

68. Regulation 24 provides for the circumstances in which and how the Conduct Committee will consider Disciplinary Matters to determine whether there is a case to answer in respect of the Disciplinary Matter. Regulation 24.5 provides for what the Committee may do if it determines that there is a case to answer:

*24.5 If the Conduct Committee determines that there is a case to answer in respect of the Disciplinary Matter it may:*

*24.5.1 refer Formal Allegations for hearing before a Disciplinary Tribunal;*

*24.5.2 deal with the Disciplinary Matter by way of Consent Order under Regulation 27 (Consent Orders);*

*24.5.3 invite the Member, Member Firm, Student or Affiliate concerned to accept an unpublished caution;*

*24.5.4 defer further consideration of the Disciplinary Matter on such terms and subject to such conditions as it considers appropriate to enable the Conduct Committee to obtain such further information, explanations and / or documents as it considers necessary to determine an appropriate course of action; or*

*24.5.5 decide that no further action be taken on the Disciplinary Matter.*

69. In the event that it is determined that there is no case to answer in respect of a Disciplinary Matter (either by the Head of Professional Conduct or the Conduct Committee), Regulation 25 provides for a process whereby the Complainant may ask for an independent review of such decision by an Independent Reviewer and for how that review may be conducted. Regulation 26 provides for the consideration by the Independent Review Committee of the Disciplinary Matter where the Independent Reviewer is of the opinion that the determination that there was no case to answer in respect of a Disciplinary Matter was wrong or unsafe.

70. Regulation 27 deals with what are known as Consent Orders and the procedures in respect of same. Regulation 27.1 provides:

*27.1 The Head of Professional Conduct or the Conduct Committee may, with the agreement of the Member, Member Firm, Student or Affiliate concerned, make any one or more of the orders which a Disciplinary Tribunal would have power to make in respect of a Member, Member Firm, Student or Affiliate including an order that the Member, Member Firm, Student or Affiliate concerned shall pay to the Institute a specified sum by way of costs.*



71. These Consent Orders may be subject to such terms and conditions as the Head of Professional Conduct or the Conduct Committee consider appropriate.

- **Matters of Public Concern**

72. Chapter 6 of the Regulations deals with Matters of Public Concern and sets out extensively how these matters may be dealt with. Regulation 29.1 provides:

*29.1 If a Disciplinary Matter is referred to the Conduct Committee as a possible Matter of Public Concern, the Conduct Committee shall first decide whether it is a Matter of Public Concern. If the Conduct Committee decides it is a Matter of Public Concern, Regulations 29 - 33 shall apply. ...*

73. Regulation 2 includes the following definition of “Matters of Public Concern”:

*“Matter of Public Concern” means a Disciplinary Matter which, in the opinion of the Conduct Committee, gives rise to, or includes, issues of serious public concern or issues which are of such complexity or importance that the Conduct Committee might wish to appoint a Special Investigator, whether or not any Special Investigator is in fact appointed.*

- **Hearings before Tribunals**

74. Chapter 7 (Regulations 34 to 44) deals with hearings before Tribunals. These Regulations cover:

- Appointment of a Case Presenter (Regulation 34)
- Conduct Tribunal Hearings (Regulation 35)
- Conduct of Appeal Hearings (Regulation 36)
- Hearings to be in public (Regulation 37)
- Withdrawal or amendment of Formal Allegations (Regulation 38)
- Findings and orders of Disciplinary Tribunals (Regulation 39)
- Remedial Orders (Regulation 40)
- Orders for waiver or payment of fees or commission (Regulation 41)
- Complainants’ expenses (Regulation 42)
- Lodging an appeal (Regulation 43)
- Findings and orders of Appeal Tribunals (Regulation 44)

75. Once again, as I mention above, it is obviously beyond the scope of this paper to address all these areas, but to highlight just a few.

- **Conduct Tribunal Hearings (Regulation 35)**

76. Regulations 35.7 and 35.8 provide for how the hearings will be run:

*35.7 The Tribunal shall give the Respondent or, as the case may be, the Appellant the opportunity of:*

*35.7.1 attending and being heard at the hearing;*

*35.7.2 being represented before the Tribunal by a Practising Lawyer or by a Chartered Accountant and / or by such other person or persons as the Tribunal may permit;*

*35.7.3 hearing the evidence against him or her;*

- 35.7.4 *cross-examining witnesses called by the Case Presenter;*
- 35.7.5 *adducing documentary evidence;*
- 35.7.6 *calling witnesses to give evidence on his or her behalf; and*
- 35.7.7 *making such submissions as he or she wishes to the Tribunal.*

35.8 *The Tribunal shall give the Case Presenter the opportunity of:*

- 35.8.1 *attending and being heard at the hearing;*
- 35.8.2 *adducing documentary evidence;*
- 35.8.3 *calling witnesses to give evidence;*
- 35.8.4 *cross-examining witnesses called by the Member, Member Firm, Student or Affiliate; and*
- 35.8.5 *making such submissions as he or she or they wish to the Tribunal.*

- **Hearings to be in public (Regulation 37)**

77. All hearings are held in public except in very limited specified circumstances. In relevant part, Regulation 37 provides as follows:

37.1 *All hearings by a Tribunal shall be held in public unless:*

- 37.1.1 *the Tribunal, in its absolute discretion, determines that the holding in public of any hearing or any part thereof would be inappropriate; or*
- 37.1.2 *no fewer than 14 days before the date set for the hearing, an application is made to the Tribunal by the Respondent or, as the case may be, the Appellant or the Case Presenter to have the hearing or part of it held in private and the Tribunal, in its absolute discretion, determines that the holding in public of any hearing or any part thereof would be inappropriate. ...*

37.5 *A Tribunal may determine that it would be inappropriate to hold a hearing (whether in whole or in part) in public on the grounds that morals, public order, national security, the interests of juveniles or the protection of the private life of any person so requires, or there are, special circumstances where publicity would prejudice the interests of justice or would otherwise be inappropriate having regard to any unfairness to any person or prejudice to the interests of any other person that might result from a hearing in public.*

- **Findings and orders of Disciplinary Tribunals (Regulation 39)**

78. Regulation 39 deals with the findings and orders of Disciplinary Tribunals. In relevant part:

39.1 *If a Disciplinary Tribunal appointed to hear a case finds that the Formal Allegation has been proven in whole or in part, it shall make a finding to that effect. If it finds that the Formal Allegation has not been proven, it shall dismiss the case. In either event the Disciplinary Tribunal shall give reasons for its finding. Written notice of any finding or order of the Disciplinary Tribunal (together with the reasons therefor) shall as soon as practicable be given to the Head of Professional Conduct, the Respondent and to the Conduct Committee.*

39.2 *Subject to Disciplinary Bye-Law 8.2, a Formal Allegation against a Respondent shall not be proved in whole or in part unless it has been proved*

*by the Case Presenter to the satisfaction of the Disciplinary Tribunal in accordance with the Applicable Standard of Proof.*<sup>9</sup>

79. Regulation 2 provides that the ‘“*Applicable Standard of Proof*” means, at a hearing before a Tribunal, proof on the balance of probabilities.’

80. Regulations 39.4 and 39.5 deal with the orders that a Disciplinary Tribunal may make:

*39.4 If a Disciplinary Tribunal makes a finding that a Formal Allegation has been proven in whole or in part, it may make any one or more of the orders specified in Disciplinary Bye-Law 11, or elsewhere in the Disciplinary Bye-Laws or these Regulations, against the Respondent as it considers appropriate having regard to the Disciplinary Tribunal's views as to the nature and seriousness of the Formal Allegation, any previous Disciplinary Matter in respect of which a finding or a finding and an order have been made against the Respondent in the previous six years and any other circumstances that the Disciplinary Tribunal considers relevant.*

*39.5 Any such order may be made upon such terms and subject to such conditions (if any) as the Disciplinary Tribunal may in its absolute discretion, consider appropriate.*

81. The orders that may be made under Disciplinary Bye-Law 11 are divided into those that may be made in respect of members, member firms, student and affiliates. I set out below the orders in respect of members but essentially there are equivalent orders for the other categories.

## **11 Orders**

*The orders (including orders made with the consent of a Member, Member Firm, Student or Affiliate) which may be made shall include:*

*11.1 If the Disciplinary Matter concerns a Member:*

*11.1.1 that the Member be excluded from membership;*

*11.1.2 that the Member be suspended from membership for a period not exceeding one year;*

*11.1.3 that some or all of the practising rights, licences, registrations, designations, certificates or authorisations held by the Member be withdrawn;*

*11.1.4 that the Member be declared ineligible for a practising certificate and / or any other certificate, licence, registration or authorisation;*

*11.1.5 that the Member be severely reprimanded;*

*11.1.6 that the Member be reprimanded;*

*11.1.7 that the Member be issued an unpublished caution;*

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<sup>9</sup> Regulation 39.3 deals with the circumstances where there is a presumption of misconduct under Disciplinary Bye-Law 8.2 as follows:

*39.3 In circumstances where a presumption arises under Disciplinary Bye-Law 8.2, the Formal Allegation shall be deemed proven unless the Respondent establishes to the satisfaction of the Disciplinary Tribunal in accordance with the Applicable Standard of Proof that it has not been proven, at which point the Formal Allegation against the Respondent shall not be proved in whole or in part unless it has been proven by the Case Presenter to the satisfaction of the Disciplinary Tribunal in accordance with the Applicable Standard of Proof.*

- 11.1.8 *that no further action be taken against the Member;*
- 11.1.9 *that the Member be fined an amount not exceeding €100,000;*
- 11.1.10 *that the Member pay a specified amount in respect of costs and expenses of whatsoever nature incurred by or on behalf of CARB or the Institute subject to such limitations as may be stipulated in the Disciplinary Regulations;*
- 11.1.11 *that the Member pay a specified amount to the Institute, not exceeding €1,000, or such other sum as may be prescribed for the purpose of this Disciplinary Bye-Law by the Board, in respect of costs incurred by a Complainant;*
- 11.1.12 *that the Member waive or repay the whole or part of any fee or commission received;*
- 11.1.13 *that the Member take such steps as may be specified (other than payment of compensation) for the purpose of resolving the issues which gave rise to the disciplinary proceedings (a remedial order); and*
- 11.1.14 *an Interim Order.*

82. And, as I say above, the Disciplinary Tribunal may also made remedial and other orders under Regulations 40, 41 and 42.

- **Lodging an appeal (Regulation 43)**

83. Where the Disciplinary Tribunal finds a case has been proved, its decisions are subject to a right of appeal by the member to the Appeal Panel. On receipt of an appeal, the Chairman of the Appeal Panel will appoint an Appeal Tribunal to hear the appeal. The procedures for lodging an appeal are set out in Regulation 43. The grounds for appeal are set out in Regulation 43.1 as follows:

43.1 *A Respondent may appeal against a finding or order of a Disciplinary Tribunal on the grounds that:*

43.1.1 *the finding is wrong;*

43.1.2 *the order is excessive;*

43.1.3 *the finding and / or the order is flawed because of a serious procedural or other irregularity in the proceedings before the Disciplinary Tribunal; and / or*

43.1.4 *that the award of costs against him or her is manifestly excessive.*

*Save as expressly provided for in these Regulations no appeal shall lie from a decision of a Disciplinary Tribunal and no appeal shall lie solely on the question of costs.*

- **Findings and orders of Appeal Tribunals (Regulation 44)**

84. Regulation 44.1 sets out what an Appeal Tribunal may do on appeal:

44.1 *On any appeal, the Appeal Tribunal may affirm, vary or rescind any finding or order of the Disciplinary Tribunal in respect of which the appeal was brought, and may substitute any other finding or order (on such terms and conditions (if any) as it, in its absolute discretion, considers appropriate) which the Disciplinary Tribunal might have made, or may, if the Appeal Tribunal, in its absolute discretion, considers it appropriate, order that the*

*case which resulted in the finding or order of the Disciplinary Tribunal in respect of which the appeal was brought be heard de novo by a different Disciplinary Tribunal. An Appeal Tribunal may also make an order for costs.*

- **Settlements**

85. A new departure under the 2015 Disciplinary Regulations is the provision dealing with the possible settlement of possible Disciplinary Matters. Chapter 8 sets out the circumstances in which this might be possible. Where it is possible, settlement discussions are on a without prejudice basis and, if agreement is reached in principle, the settlement will be considered by the appropriate body depending on what stage of the process the settlement in principle is reached and Consent Orders or orders made as appropriate.

- **Miscellaneous matters, including issues of costs and publication**

86. Regulation 47 deals with the awarding of costs by a Disciplinary or Appeal Tribunal. Costs may be awarded against a member, etc. In limited circumstances, a member may be awarded costs.
87. Regulation 48 deals with the recovery of fines and costs awarded by a Disciplinary or Appeal Tribunal. Essentially, they become a contract debt recoverable by action.
88. Regulation 49 deals with publication of orders, both Consent Orders and orders of a Disciplinary or Appeal Tribunal. Essentially, the policy is to publish findings and orders and reasoning (or a summary of them) in accordance with CARB's Publication Policy.

- **Register of findings and orders**

89. Regulation 50 provides for the maintenance of a register of Consent Orders and findings and orders of Disciplinary and Appeal Tribunals in accordance with CARB's Publication Policy. The register is open for inspection by Members and the public on the website or during normal business hours at the head office of the Institute.

## **THE FUTURE**

90. As CARB has stated in its Regulatory Strategy 2011-2015:

*The environment in which CARB and chartered accountants operates continually changes. The recent global recession has led to an increased focus on the role played by accountants and regulators which will inevitably result in legislative changes to the regulatory environment. CARB has always emphasised its commitment to a principles based approach to regulation and in particular to a flexible risk based model. We believe that this approach can be used to address the current challenges and allow CARB to continue to adapt to meet the needs of stakeholders.*

91. Moreover, it may well transpire that, at some point in the future, CARB will have an even greater role. The Strategy also notes:

*A second phase of the proposals of the SRG was to extend the remit of CARB to cover the regulation of other accountancy bodies. This recommendation has not, to date, been considered by CARB but will be during the duration of our five year strategy.*

## APPENDIX I

### Bye-Law 41 of Principal Bye-Laws – Establishment of CARB – Objectives & Functions

**BYE-LAW 41 OF THE PRINCIPAL BYE-LAWS  
OF THE INSTITUTE OF CHARTERED ACCOUNTANTS IN IRELAND  
operating as  
CHARTERED ACCOUNTANTS IRELAND  
(effective 5 October 2015)**

**41. Establishment of Chartered Accountants Regulatory Board**

41.1 The Council shall have power to establish a board known as the “Chartered Accountants Regulatory Board”.

41.2 In carrying out its functions the Chartered Accountants Regulatory Board will have regard to the achievement of the following objectives:

41.2.1 to maintain and increase the standing of Chartered Accountants as the leading accounting and business professionals in Ireland; and

41.2.2 to maintain and increase the capacity of the Institute to win, instil and sustain public confidence in the quality, transparency and independence of its regulatory functions.

41.3 The Board shall carry out the functions of the Institute in the following areas:-

41.3.1 the setting of standards of professional conduct for members, member firms, affiliates and students; such standards having effect when adopted by the Council and receiving all other necessary approvals;

41.3.2 the monitoring of compliance with standards of professional conduct for members, member firms, affiliates and students;

41.3.3 the authorisation and regulation of members, member firms and affiliates engaged in public practice;

41.3.4 without prejudice to the generality of the foregoing, the authorisation and regulation of members, member firms and affiliates acting as auditors, investment intermediaries and insolvency practitioners;

41.3.5 the authorisation and/or regulation of members, member firms, affiliates and students engaged in any other activity in respect of which authority to authorise and/or regulate has been conferred on the Institute by any applicable legislation or regulation in any jurisdiction and which function the Council has resolved shall be carried on by the Institute;

41.3.6 the disciplining of members, member firms, affiliates and students;

41.3.7 ensuring compliance by the Institute with its regulatory obligations;

41.3.8 appointing members to, and liaising with, bodies outside the Institute which are relevant to the functions which are the responsibility of the Board; and

41.3.9 such other matters as the Council may from time to time specify.

41.4 The Board shall participate in the national and international development of regulatory policy and professional standards for accountants and in doing so liaise with government, regulators, supervisory authorities, other member bodies and any other third party as deemed appropriate.

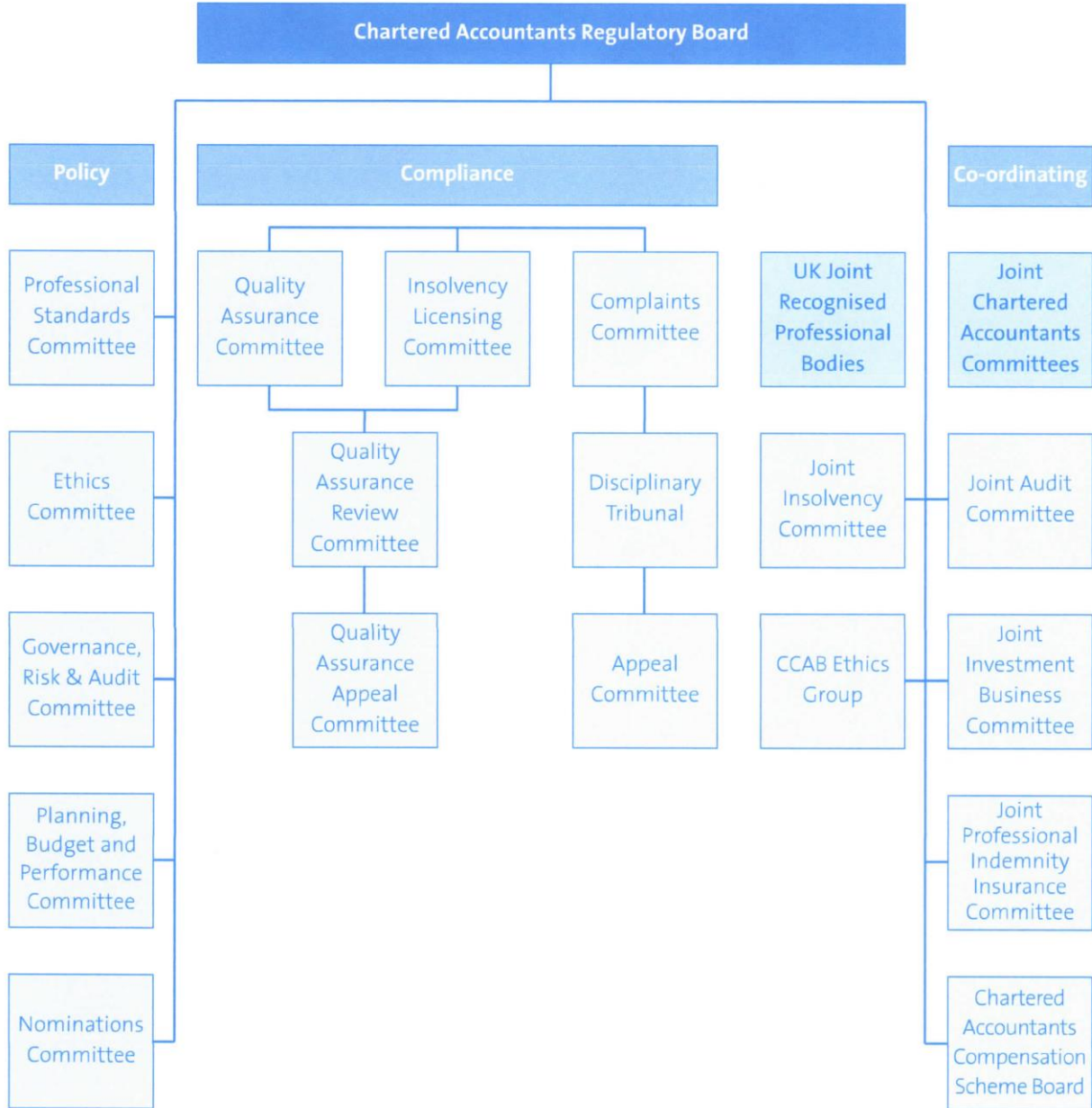
41.5 The Council shall have power to make such regulations (not being inconsistent with any provisions of these Bye-Laws or any applicable legislation) relating to the composition of the Board, the appointment and removal of its members, its functions, its powers (including, without limitation, the power to make regulations binding on members, member firms, affiliates and students (subject to them being adopted by the Council and receiving all other necessary approvals) and the power to delegate, and authorise the sub-delegation of, any or all of its functions and powers), its proceedings, its funding, its work programme and any necessary transitional arrangements and such other matters relating to its affairs as the Council shall from time to time think fit. The Council shall have power from time to time to amend, supplement, revoke or replace any such regulations that it may make under Bye-Law.

41.6 The Council shall have power to remove the members of, or to dissolve, the Chartered Accountants Regulatory Board in accordance with any regulations in that behalf made by the Council.



## APPENDIX II

### CARB COMMITTEE ORGANISATION CHART<sup>10</sup>



<sup>10</sup> The Chart is available on the CARB website.

## APPENDIX III

### REGULATION 2.6 OF PUBLIC PRACTICE REGULATIONS (revised 5 October 2015)

#### RESPONSIBILITIES AND POWERS [OF THE QUALITY ASSURANCE COMMITTEE]

2.6 The *Committee* is responsible for and shall have the requisite powers for:

- (a) implementing these *regulations* on behalf of the *Board*;
- (b) doing all such things as are reasonably necessary for, or incidental to, the proper discharge by the *Committee* of its functions; and
- (c) the following specific activities:

##### *Implementation of regulations and supervision*

- (i) ensuring the implementation of these *regulations* and any other regulations, made by the *Board* from time to time, concerned with the proper performance of professional work by those engaged in *public practice*;
- (ii) monitoring of compliance by *members*, *firms* and *general affiliates* with statutory requirements where the *Institute* has been ascribed supervisory and/or monitoring functions by law and these functions are to be carried out by *CARB* in accordance with Principal *Bye-Law* 41;
- (iii) monitoring of compliance by *members*, *firms* and *general affiliates* with these *regulations*;
- (iv) making appropriate enquires to confirm that a *member*, *firm* or *general affiliate* is complying with these *regulations* (this may include written enquiries, visiting the *firm*, using a periodic return, third party enquiries or in any other manner the *Committee* considers appropriate);
- (v) enforcing these *regulations*;

##### *Authorisations*

- (vi) making appropriate enquiries into the eligibility of a *member* to hold a *practising certificate* or *insolvency practising certificate* (this may include written enquiries, visiting the *firm*, using a periodic return, third party enquiries or in any other manner the *Committee* considers appropriate);
- (vii) granting and renewing *practising certificates*;
- (viii) refusing to grant or renew *practising certificates*;
- (ix) granting and renewing *insolvency practising certificates*;
- (x) refusing to grant or renew *insolvency practising certificates*;
- (xi) granting and refusing to grant *general affiliate* status;
- (xii) imposing restrictions and/or conditions on a *practising certificate*, *insolvency practising certificate* or *general affiliate*;

##### *Regulatory action*

- (xiii) reviewing all returns and reports made under these *regulations* and taking such regulatory action as the *Committee* considers appropriate;

- (xiv) investigating failures to make such returns or reports as are required under these *regulations*;
- (xv) imposing restrictions and/or conditions on a *member, general affiliate* or *firm* in accordance with these *regulations*;
- (xvi) imposing restrictions and/or conditions on *practising certificates, insolvency practising certificates, general affiliate* status or the entitlement to hold *clients' money*;
- (xvii) suspending, in accordance with these *regulations, practising certificates, insolvency practising certificates, general affiliate* status or the entitlement to hold *clients' money*;
- (xviii) withdrawing, in accordance with these *regulations, practising certificates, insolvency practising certificates* or the entitlement to hold *clients' money*;
- (xix) proposing *regulatory penalties*;
- (xx) withdrawing *general affiliate* status;
- (xxi) granting or refusing to grant waivers, relaxations or exemptions from these *regulations*;
- (xxii) imposing urgent orders in accordance with these *regulations*;

#### *Publication*

- (xxiii) publishing its orders, decisions or findings if it considers this to be appropriate and in such manner as it considers appropriate subject to any policy or direction issued by the *Board* from time to time;

#### *Disciplinary action*

- (xxiv) referring matters to the *Head of Professional Conduct* where it considers disciplinary action is appropriate;

#### *Professional indemnity insurance*

- (xxv) approving the form and content of the contract for entry into the *assigned risks pool*;
- (xxvi) ensuring the commissioning of investigations into *firms* applying to be admitted to the *assigned risks pool*; and
- (xxvii) initiating any action which it in its absolute discretion considers necessary in the interests of a *firm's* clients or of the public following an investigation under *regulation 7.26* and notifying the *firm* of any action it should take following the investigation.