

CPA Australia Ltd By-Laws

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Part 1 Definitions and Interpretation

1.1 Dictionary

In these By-Laws words and phrases defined in the Constitution have the corresponding meaning and the following words and phrases shall have the respective meanings set out:

Affiliate	means, in relation to another person (the Principal Party), a person who, in respect of the Principal Party, is one or more of the following: <ul style="list-style-type: none">(a) a related entity within the meaning of that term in the Corporations Act with the words body corporate being replaced with Principal Party and relative being read as including any parent-in-law, sister-in-law, brother-in-law; step-child or grandchild;(b) an employee, co-employee, contractor, partner, joint-venturer, franchisee; and/or(c) where the Principal Party is not a natural person, a person able to Control the Principal Party; and includes a person who, in respect of a related entity, is the Principal Party.
Administrative Matter	means any actual or alleged breach of any of the provisions or any other matter set out in Part A of column 1 of Schedule 5.
Annual Period	means any rolling period of twelve (12) months duration inclusive from midnight on the commencing date until midnight on the anniversary of that date.
Appeals Committee	means an Appeals Committee appointed from time to time from members of the National Disciplinary Panel and includes, where the context permits, each member thereof for the time being.
Approved Controllers	has the meaning given in By-Law 9.2(a)(i).
Approved Practice Entity	has the meaning given in By-Law 9.2.
Approved Provisions	has the meaning given in By-Law 9.2(b)(ii).
Associate	means a Member whose Allocated Membership Status is "Associate".
Branch Council	means, in relation to a Branch, the council for that Branch.
By-Laws	means these By-Laws made by the Board under authority of Articles 51(c) and 52(d) of the Constitution.
Certified Practising Accountant	means a Member whose Allocated Membership Status is "Certified Practising Accountant".

Circulating Resolution	means, in relation to a Tribunal, a resolution signed by the requisite majority of the members of the Tribunal (which may consist of several documents in like form by one or more persons), which on being signed by the last of the members of the Tribunal constituting the requisite majority, shall have effect as a Determination of the Tribunal.
Closing Date	has the meaning given in By-Law 7.2(f).
Complainant	means any person other than an officer of CPA Australia initiating a Complaint.
Constitution	means the Constitution of CPA Australia, as amended from time to time.
CPA Australia	means CPA Australia Ltd ACN 008 392 452.
CPA Program	means the professional education and experience program consisting of: <ul style="list-style-type: none">(a) the Foundation Level Examinations;(b) the Professional Level Examinations; and(c) the Practical Experience Requirement, and, which for the avoidance of doubt must include formal study in the subject matter areas of taxation and audit, in either or both of the Foundation Level Examinations or the Professional Level Examinations.
Degree	means any one of: <ul style="list-style-type: none">(a) a bachelor's degree from an Australian higher education provider;(b) a postgraduate qualification consisting of at least 8 standard units; or(c) any other qualification (including but not limited to a qualification from a university outside Australia or from a professional membership body) assessed by AEI-NOOSR, or any other authority or agency of the Australian government, as being at least equivalent to a bachelor's degree from an Australian higher education provider.
Disciplinary Committee	means a disciplinary committee appointed from time to time from members of the National Disciplinary Panel and includes, where the context permits, each member thereof for the time being.
Disciplinary Procedures	means, in respect of the actual or alleged conduct of any Member whether acting as an accountant or otherwise, any one or more of the following: <ul style="list-style-type: none">(a) initiating a Complaint;(b) referral of any Dispute (with the consent of the Complainant and the Member) to mediation in accordance with By-Law

5.16;

- (c) investigating including sourcing or obtaining evidence and reviewing or considering evidence;
- (d) preparing reports, recommendations and/or notices of referral to a Tribunal;
- (e) deciding whether or not a Member has a case to answer in respect of a Complaint; and/or
- (f) deciding whether or not a Complaint is or at any time becomes an Unviable Complaint.

Dispute	means any disagreement between a Member and another person (including another Member), which in the opinion of a PCO does not concern a Complaint in respect of which a Member has a case to answer.
Disputing Parties	has the meaning given in By-Law 5.16(a).
Divisional General Manager	means, in relation to a Division, a person appointed by the Chief Executive Officer (or his or her delegate) as general manager for that Division.
Divisional General Meeting	means, in relation to a Division, a meeting of Divisional Members.
Divisional General Meeting Member	means, in relation to a Divisional General Meeting, the Divisional Member present at the place of the meeting, in person or by proxy or by attorney.
Divisional Members	means, in relation to a Division, each of the Members attached to that Division.
Divisional Deputy President	means, in relation to a Division, the person for the time being elected to that role pursuant to By-Law 11.10.
Divisional President	means, in relation to a Division, the person for the time being elected to that role pursuant to By-Law 11.10.
Divisional Vice President	means, in relation to a Division, a person for the time being elected to that role pursuant to By-Law 11.10.
Election Event	has the meaning given in By-Law 7.2(a).
Election Rules	has the meaning given in By-Law 7.2.
Expert Advisory Panel	means an Expert Advisory Panel from time to time appointed by the Board pursuant to the power in Article 54 of the Constitution in the manner prescribed in By-Law 5.7(b) and includes each member for the time being thereof.

Fellow Certified Practising Accountant	means a Member whose Allocated Membership Status is "Fellow Certified Practising Accountant".
Foundation Level Examinations	means the examinations collectively referred to by that name, the current versions of which at any time may be found on CPA Australia's website.
Guidelines	means the guidelines from time to time published by the Board to Members (either generally or selectively) in respect of the permitted style of display and use of any of the Intellectual Property of CPA Australia.
ICM	means any person from time to time holding the office of Investigating Case Manager of CPA Australia and reporting to the office of MPC.
KPIs	means the key performance indicators (or any of them) from time to time adopted by the Board for the purpose of measuring the performance from time to time of officers of CPA Australia and Tribunals engaged in regulating the professional conduct of Members including the undertaking of Disciplinary Procedures.
Lodging Period	has the meaning given in By-Law 7.2(b).
MPC	means any person from time to time holding the office or undertaking the duties of Manager Professional Conduct of CPA Australia.
National Chair Panel	means the body comprising Members appointed by the Board from time to time to that panel and, where the context permits, includes each member thereof for the time being.
National Disciplinary Panel	means the body comprising Members and non-Members appointed by the Board from time to time to that panel and, where the context permits, includes each member thereof for the time being.
Non-Administrative Breach	means any actual or alleged breach of any of the provisions set out in Part B of column 1 of Schedule 5.
OPT	means a One Person Tribunal from time to time appointed from members of the National Chair Panel and includes, where the context permits, each member thereof for the time being.
PCO	means any person from time to time holding the office of Professional Conduct Officer of CPA Australia and reporting to the office of MPC.
Practical Experience Requirement	means the supervised work experience requirements to be admitted as a Certified Practising Accountant, the details of which at any time may be found on CPA Australia's website.

Prescribed Amount	means the sum of A\$7,500.00 (exclusive of GST).
Prescribed Notice	has the meaning given in By-Law 7.2(e).
Professional Conduct Reporting Committee	means the Professional Conduct Reporting Committee from time to time appointed by the Board pursuant to the power in Article 54 of the Constitution in the manner prescribed in By-Law 5.8(d) and includes, where the context permits, each member thereof for the time being.
Professional Level Examinations	means the examinations collectively referred to by that name, the current versions of which at any time may be found on CPA Australia's website.
Professional Schedules	means every document so-called from time to time setting out the procedures required to be followed by Members or aspiring Members in compliance with the Constitution or the By-Laws (each of which shall prevail to the extent of any inconsistency with the Professional Schedules).
Public Accounting Services	<p>include, otherwise than provided:</p> <ul style="list-style-type: none">(a) for the Member personally;(b) for an Affiliate of the Member in consideration of payment of less than the Prescribed Amount in any Annual Period; or(c) in the capacity of an employee, for an employer's own use, any activities (whether or not provided for reward) in respect of accounting, book-keeping, taxation, auditing, corporate reconstruction, bankruptcy, insolvency, administration, receivership, financial planning, company secretarial duties, reports associated with any actual or proposed sale or purchase of business or securities including by initial public offering, and all similar activities excluding, however:(d) information technology; and(e) management consulting, <p>so long as the last are not provided in conjunction with any of the other activities listed above.</p>
Public Practice Program	means the program conducted by the Practice Management Distance Learning Unit of CPA Australia and a face to face workshop. Both components are required to be successfully completed prior to a member being eligible to apply for a Public Practice Certificate.
Public Practice Certificate	means a certificate issued pursuant to By-Law 9.3 permitting a Member to provide Public Accounting Services.
Quality Assurance	means the program of periodic peer review of professional practice required to be undertaken by Members holding a Public Practice Certificate in the manner from time to time prescribed by the Board.

Retired Membership List	means the list of retired Members referred to in By-Law 3.1(b)(iv).
Returning Officer	means, where the context admits, an Authority (within the meaning of and appointed pursuant to By-Law 7.1) or, if none, the Secretary save in the case of a Divisional Council in respect of which the Returning Officer shall be the Divisional General Manager of the relevant Division unless the Secretary, at the request of the Board, appoints another person.
Scrutineers	has the meaning given in By-Law 7.2(d).
Serious Conduct	means any actual or alleged breach of any of the provisions set out in Part C of column 1 of Schedule 5.
Specialisation	has the meaning given in By-Law 3.9 and Specialisation List has a corresponding meaning.
Specialisation Guidelines	means the guidelines issued by the Board from time to time and available on CPA Australia's website that set out the requirements to apply for and obtain permission to use and continue to use a Specialisation.
Structural Profile	<p>in respect of a Practice Entity means a profile which includes the following information:</p> <ul style="list-style-type: none">(a) the address of all places at or from which Public Accounting Services are provided;(b) names of all Members Affiliated and relationship;(c) names and respective tertiary qualifications of all non-Members Affiliated and relationship;(d) particulars of the extent and manner by which any Affiliate exercises Control over the Practice Entity;(e) such other particulars from time to time specified by the Board; and(f) details of any changes in any of the above.
Tribunal	means a committee of members of the National Disciplinary Panel, established by the Board when acting as a properly constituted OPT, Disciplinary Committee or Appeals Committee as well as the MPC or any ICM (but only when making a permitted Determination).
Unviable Complaint	<p>means a Complaint that:</p> <ul style="list-style-type: none">(a) concerns a matter occurring more than 5 years prior to the date of the Complaint; or(b) concerns a person who for any reason ceases to be a Member; or(c) is unsupportable on the available evidence; or(d) is or at any time becomes one primarily concerning a fee

dispute (whether as to quantum or otherwise); or

- (e) is or at any time becomes (and for so long as it remains) one being considered by or pending judgement or final decision before any court or other quasi-judicial panel or tribunal in any jurisdiction.

1.2 Interpretation

In these By-Laws:

- (a) to the extent of any inconsistency between these By-Laws and the Constitution, the provisions of the Constitution prevail; and
- (b) unless specified to the contrary:
 - (i) the Forms and Schedules are incorporated in and form part of these By-Laws;
 - (ii) a reference to the singular includes the plural and vice versa;
 - (iii) a reference to a given gender includes all other genders;
 - (iv) a reference to "\$" or "dollar" is to the lawful currency of Australia;
 - (v) other parts of speech and grammatical forms of a word or phrase defined for the purposes of these By-Laws have a corresponding meaning;
 - (vi) use of the word including and similar expressions are not, nor are they to be interpreted as, words of limitation;
 - (vii) a reference to a person includes a natural person, a body corporate, any other organisation whether incorporated or not and other entities recognised by law;
 - (viii) a reference to a statute, regulation, proclamation or ordinance includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another governmental authority with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
 - (ix) a reference to any provision in or having force under authority of the Constitution, By-Laws, Code of Professional Conduct or Applicable Regulations includes any effective modification or re-enactment of, or provision substituted for, that provision;
 - (x) a reference to any governmental or statutory body includes any body which replaces, succeeds to the relevant powers and functions of, or which serves substantially the same purposes or objects as such body;
 - (xi) a reference to any thing is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
 - (xii) a reference to writing means legible writing in visible form in the English language and includes any mode of reproducing words, figures or symbols in tangible and permanently visible form and includes fax transmission;
 - (xiii) where any obligation is imposed on, or any right is conferred on, two or more persons, the obligation binds or right benefits (as the case may be) those persons jointly and each of them severally;
 - (xiv) a reference to time is to local time in the place in which the relevant Division is located or where the relevant act is to be performed;
 - (xv) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
 - (xvi) if the time for performing an obligation under this agreement expires on a day which is not a Business Day, then time is extended until the next Business Day;
 - (xvii) if a Member is not attached to, or regulated by, a Division, a reference to a Division or Divisional Council or Divisional General Manager shall be construed as a reference to the Board;

- (xviii) the language in all parts of these By-Laws shall be in all cases construed in accordance with its fair and common meaning; and
- (xix) the index and any headings are for ease of reference only and do not affect the interpretation of these By-Laws.

Part 2 Notices

Articles 69 to 73 of the Constitution apply to any notice, consent or other communication required to be given for the purposes of these By-Laws.

Part 3 Membership

3.1 Register

- (a) The Board will maintain the Register.
- (b) The Register will record the Allocated Membership Status of each Member, and shall contain:
 - (i) a list of all Members;
 - (ii) a list of all Honorary Members;
 - (iii) a list of all Life Members;
 - (iv) a list all retired Members;
 - (v) a list of all Members holding each Specialisation; and
 - (vi) such other lists as the Board from time to time determines.

3.2 Privacy

A Member may at any time upon request gain access to the information that CPA Australia holds about him or her in accordance with applicable privacy laws, statutes, regulations, ordinances, codes, standards or requirements of any government, governmental or semi-governmental body which relates to privacy.

3.3 Associate - Admission and Readmission

- (a) An applicant for admission to membership as an Associate, or Readmission as an Associate must:
 - (i) apply in writing in the form from time to time prescribed for the purpose to be accompanied by the application fee (if any) and the subscription fee;
 - (ii) satisfy the requirements of the Foundation Level Examinations of the CPA Program by:
 - A. direct participation; or
 - B. being granted such exemptions approved by the Board in its discretion (whether generally or in any particular case) in respect of the applicant having undertaken a corresponding program of equal depth and content; and
 - (iii) produce, unless the Board, in any particular case, dispenses with this requirement, sufficient items of identification described in Schedule 3 to aggregate 100 points.
- (b) The membership of a Member admitted or Readmitted to membership as an Associate on or after 1 January 2004 and before 1 July 2007 will, unless determined to the contrary (either generally or in a particular case), be automatically forfeited at the expiration of 8 years (or such other time period determined by the Board from time to time) after the date on which the Member was admitted as an Associate, if he or she has not by that time advanced to the Membership Status of Certified Practising Accountant.
- (c) The membership of a Member admitted or Readmitted to membership as an Associate on or after 1 July 2007 will, unless determined to the contrary (either generally or in a particular case) by the Board, be automatically forfeited at the expiration of 6 years (or such other time period determined by the Board from time to time) after the date on which the Member was admitted as an Associate, if he or she has not by that time advanced to the Membership Status of Certified Practising Accountant.

- (d) An Associate must not:
 - (i) hold himself or herself out to any person as a Certified Practising Accountant or Fellow Certified Practising Accountant; or
 - (ii) engage in any conduct that is likely to mislead or deceive any person into believing that the Associate is a Certified Practising Accountant or Fellow Certified Practising Accountant.

3.4 Certified Practising Accountant - Admission, Readmission or Advancement

Every applicant for admission to membership as a Certified Practising Accountant, Readmission as a Certified Practising Accountant, or advancement of Allocated Membership Status to "Certified Practising Accountant" must:

- (a) if he or she is not already an Associate, apply in writing in the form from time to time prescribed for the purpose accompanied by the prescribed application fee (if any);
- (b) make payment of the prescribed subscription;
- (c) satisfy the criteria for admission as an Associate (except to the extent that such criteria are waived or varied by the Board generally or in a particular case);
- (d) satisfy the requirements of the Professional Level Examinations of the CPA Program by:
 - (i) direct participation; or
 - (ii) being granted such exemptions approved by the Board in its discretion (whether generally or in any particular case) in respect of the applicant having undertaken a corresponding program of equal depth and content;
- (e) satisfy the requirements of the Practical Experience Requirement of the CPA Program by:
 - (i) direct participation; or
 - (ii) being granted such exemptions approved by the Board in its discretion (whether generally or in any particular case) in respect of any previous relevant experience;
- (f) provide evidence satisfactory to the Board that he or she holds a Degree (except to the extent that this requirement is waived or varied by the Board generally or in a particular case); and
- (g) possess such other qualifications or comply with such other conditions as the Board may prescribe either generally or in any particular case.

3.5 Fellow Certified Practising Accountant - Admission, Readmission or Advancement

Every applicant for admission to membership as a Fellow Certified Practising Accountant, Readmission as a Fellow Certified Practising Accountant, or advancement in Allocated Membership Status to "Fellow Certified Practising Accountant" must:

- (a) apply in writing in the form from time to time prescribed for the purpose to be accompanied by the prescribed application fee (if any);
- (b) make payment of the prescribed subscription;
- (c) satisfy the criteria for admission as a Certified Practising Accountant (except to the extent that such criteria are waived or varied by the Board generally or in a particular case);
- (d) provide evidence satisfactory to the Board of having for a period of at least 5 years either:
 - (i) held a responsible executive position relating to accounting, finance or business; or
 - (ii) been engaged full-time in providing Public Accounting Services;
- (e) provide evidence satisfactory to the Board, including specific details, of having had not less than 15 years experience in accounting, finance or business; and
- (f) possess such other qualifications or comply with such other conditions as the Board may prescribe generally or in any particular case.

3.6 Reinstatement of Status

A person whose membership is suspended or whose Allocated Membership Status is lowered, because he or she has failed to comply with any Continuing Professional Development

requirement referred to in Part 4 of these By-Laws will, unless in the opinion of the Board special circumstances warrant dispensation in any individual case, only be eligible to apply for Reinstatement (which the Board may approve or not in its discretion upon consideration of all the circumstances) within 5 years after the date of such suspension of membership or lowering of Allocated Membership Status if:

- (a) the Member is able to satisfy the Board that, within the 12 months immediately prior to his or her application for Reinstatement, the Member has completed 40 hours of Continuing Professional Development (which shall be disregarded in calculating compliance with the requirement for Continuing Professional Development following any Reinstatement); and
- (b) the Member also satisfies any other requirement for Reinstatement from time to time imposed by the Board either generally or in any particular case,

provided always that any application for Reinstatement made 5 years or more after the date of such suspension of membership or lowering of Allocated Membership Status (as appropriate) shall be treated as a new application for membership or advancement of Allocated Membership Status (as appropriate), in respect of which the Board may impose such conditions as it considers appropriate either generally or in any particular case.

3.7 Readmission after Forfeiture

A person whose membership is forfeited by reason of:

- (a) resignation (together with the application of Article 11(e) of the Constitution); or
- (b) failure to pay any Fee in accordance with Article 40(a) of the Constitution,

will, unless in the opinion of the Board special circumstances warrant dispensation in any individual case, only be eligible to apply (which the Board may approve or not in its discretion upon consideration of all the circumstances) for Readmission within 5 years after the date of such forfeiture if:

- (c) he or she is able to satisfy the Board that, within the 12 months immediately prior to his or her application for Readmission, he or she has completed 40 hours of Continuing Professional Development (which shall be disregarded in calculating compliance with the requirement for Continuing Professional Development following any Readmission);
- (d) he or she undertakes to complete 10 hours of Continuing Professional Development within the first 6 months following Readmission;
- (e) where the returning Member's membership was forfeited by reason of a failure to pay any Fee, the returning Member pays any amount outstanding that the Board determines, together with any prescribed membership application fee; and
- (f) the returning Member also satisfies any other requirement for Readmission from time to time imposed by the Board, either generally or in any particular case,

provided always that:

- (g) By-Laws 3.7(c) to (e) do not apply if the returning member is seeking Readmission as an Associate and was originally admitted as an Associate on or after 1 January 2004; and
- (h) any application for Readmission made 5 years or more after the date of such forfeiture shall be treated as a new application for membership in respect of which the Board may impose such conditions as it considers appropriate either generally or in any particular case.

3.8 Special cases for admission to membership

- (a) Subject to By-Law 3.8(b), a member of any body comprised of members of the financial, accounting and business advisory professions or any other body of professionals or group recognised by the Board from time to time may be admitted to membership of CPA Australia on terms and conditions, prescribed by the Board from time to time.
- (b) A person admitted to membership of CPA Australia pursuant to By-Law 3.8(a) must be designated as holding the Membership Status which in the opinion of the Board most nearly corresponds to that person's membership status held in that other body.

3.9 Specialisations

- (a) A Member may, for such period and upon such terms from time to time approved by the Board, be granted permission to use after the Member's name such specialist designations as the Board may from time to time approve (**Specialisations**), provided

always that a Member shall not be entitled to be granted permission to use more than one Specialisation unless the area of work relevant to any additional Specialisation is, in the opinion of the Board, closely related to any Specialisation already held.

- (b) Every applicant for permission to use a Specialisation must:
 - (i) apply in writing in the manner specified in, and otherwise in accordance with the Specialisation Guidelines; and
 - (ii) comply with such other conditions as the Board may prescribe either generally or in any particular case.
- (c) Permission to use a Specialisation will, unless renewed in accordance with By-Law 3.9(d) or withdrawn pursuant to By-Law 3.9(g), expire in accordance with the expiry rules in the Specialisation Guidelines.
- (d) A Member wishing to renew his or her permission to use a Specialisation may apply for renewal in accordance with the Specialisation Guidelines. Applicants seeking renewal of a Specialisation may, in addition to the specific requirements set out in the Specialisation Guidelines, be required to comply with such other conditions as the Board prescribes either generally or in any particular case.
- (e) Any Member must, for so long as he or she has permission to use a Specialisation, be placed and remain upon the Specialisation List maintained for the purpose. A Member will only be entitled to remain on the Specialisation List (and be entitled to use the Specialisation) for so long as the Member remains engaged in the practical application of relevant skills by performing work (including without reward) in the area of work relevant to the Specialisation held for at least the minimum average weekly time period specified from time to time in the Specialisation Guidelines.
- (f) A Member appearing on the Specialisation List must:
 - (i) inform CPA Australia immediately upon ceasing to be eligible to hold the Specialisation; and
 - (ii) comply with the requirements to undertake Continuing Professional Development set out in Part 4 of these By-Laws and the Specialisation Guidelines and retain records (as set out in the Specialisation Guidelines) in respect of his or her compliance with criteria for remaining on the Specialisation List.
- (g) The Board may, in its discretion, remove from the Specialisation List at any time, a Member who ceases for any reason to qualify to hold a Specialisation, whether or not the Member has so informed the Board.

3.10 Reinstatement of Specialisation

A Member whose Specialisation is removed because he or she failed to comply with any Continuing Professional Development requirement referred to in Part 4 of these By-Laws or in the Specialisation Guidelines will, unless in the opinion of the Board special circumstances warrant dispensation in any individual case, only be eligible to apply (which the Board may approve or not in its discretion upon consideration of all the circumstances) for reinstatement of that Specialisation within 5 years after the date of such removal of Specialisation if the Member meets the conditions for reinstatement of a Specialisation (if any) set out in the Specialisation Guidelines.

3.11 Retired Membership List

A Member may be placed upon the Retired Membership List as a retired Member if he or she:

- (a) has attained the age of 55 years and (as a continuing requirement) is not engaged in full-time gainful employment;
- (b) has applied to CPA Australia in writing in the form from time to time prescribed for the purpose; and
- (c) complies with such other conditions as the Board may prescribe either generally or in any particular case;

and upon entry on the Retired Membership List a Member will:

- (d) not be required to comply with:
 - (i) any Continuing Professional Development requirements of membership; and

- (ii) any requirement to hold a current policy of professional indemnity insurance, unless he or she provides any Public Accounting Services, whether or not provided for reward (for the avoidance of doubt, this includes pro bono work); and
- (e) if placed upon the Retired Membership List prior to 19 April 1977, be released from any requirement to pay an annual membership subscription.

3.12 Membership designations

A Member will be entitled to use, to the extent permitted by law in the jurisdiction in which such use occurs, after the name of the Member letters of designation referable to the Member's Allocated Membership Status in the following manner:

- (a) an Associate may use only the post-nominal **ASA**;
- (b) a Certified Practising Accountant may use only the post-nominal **CPA**; and
- (c) a Fellow Certified Practising Accountant may use only the post-nominal **FCPA**,

provided that, when any such designation is used outside the Commonwealth of Australia, it shall be followed by the word "(Australia)" or its abbreviation "(Aust.)".

3.13 Attachment of Members to Divisions

- (a) Unless the Board determines otherwise, each Member will be attached to the Division which represents the area in which the Member resides. If a Member resides in an area not represented by a Division, his or her membership will be under the control of the Board.
- (b) If a Member changes his or her principal place of residence to an area represented by a different Division to the Division to which the Member is attached, and that Member gives notice to CPA Australia of such change, the Member's Divisional attachment will be transferred to the Division which represents the area where the Member's new principal place of residence is located.

3.14 Migration between Divisions

A Member may continue to use any letters of designation to which the Member is entitled notwithstanding that the Member happens to:

- (a) migrate (whether temporarily or permanently) between areas represented by different Divisions or countries; and/or
- (b) perform work (including without reward) in the areas of accounting, finance or business advice in any area or place other than the area represented by the Division to which the Member was originally attached, however nothing in this By-Law 3.14 operates as a variation to Part 9 of these By-Laws.

3.15 Certificates

- (a) Upon a Member's admission to CPA Australia or a change in a Member's Allocated Membership Status, a Certificate shall be issued to that Member.
- (b) Each Certificate must be under the common seal of CPA Australia (which may be affixed without the authority of the Board and may be a printed reproduction of the common seal of CPA Australia), bearing the signatures of the President, one other Director and the Secretary, whose signatures may be printed reproductions. A record of each Certificate issued will be made in a register kept for that purpose.
- (c) Each Certificate remains the property of CPA Australia. The Board may at any time call for and compel its production and delivery by a Member and may alter or amend the Certificate or issue a new Certificate as a replacement.
- (d) If a person neglects or refuses to return his or her Certificate upon notification from CPA Australia, CPA Australia may institute legal or other proceedings for its recovery.
- (e) A Member may apply for a replacement Certificate if a Certificate is defaced, lost or destroyed. The Board may prescribe a fee and terms for issuing a replacement Certificate.
- (f) If the Board is satisfied that a Member holds any special qualification, for the purposes of demonstrating the Member's special qualification or qualifications, the Board may:
 - (i) issue to such Member a further Certificate or Certificates; or

- (ii) endorse a Certificate for the special qualification or qualifications.

If that Member then ceases to hold the special qualification or qualifications, he or she must return to CPA Australia any Certificate issued or endorsed pursuant to this By-Law 3.15(f) for cancellation.

Part 4 Continuing Professional Development

4.1 Requirement to undertake

Every Member (including suspended Members, but excluding Life Members, Honorary Members and Retired Members) must, in each triennium, undertake at least 120 hours of Continuing Professional Development of which at least 20 hours must be undertaken in each year of the triennium.

4.2 Requirement to keep records

Each Member undertaking Continuing Professional Development must:

- (a) maintain a record of the precise nature of his or her Continuing Professional Development, including date, time expended and topics covered;
- (b) retain such record for at least 12 months after the end of the relevant triennium; and
- (c) produce such record to an officer of CPA Australia for inspection upon request.

4.3 Commencement of Continuing Professional Development trienniums

- (a) For the purposes of Part 4 of these By-Laws the triennium commencement date shall (save in the case of Members admitted prior to 31 December 1998, for whom the triennium commencement date will be 1 January 1999) be determined by their date of admission.
- (b) Members admitted to membership before 30 June in any year will be deemed to have commenced their triennium on 1 January of that year.
- (c) Members admitted to membership on or after 30 June in any year will be deemed to have commenced their triennium on 1 January of the following year.

4.4 Failure to undertake Continuing Professional Development

The Board may, in respect of any Member who, for any reason fails to undertake the required amount of Continuing Professional Development activities in any period or who fails to produce for inspection a record of their Continuing Professional Development activities in a triennium at the request of CPA Australia for inspection (without prejudice and in addition to the provisions of By-Law 3.9(g) applying to Members on the Specialisation List failing to comply with By-Law 3.9(f)(ii)):

- (a) if an Associate, suspend their membership; and
- (b) if a Certified Practising Accountant or Fellow Certified Practising Accountant, lower their Allocated Membership Status to "Associate".

4.5 Regulatory standards

Members must meet the requirements of applicable regulatory standards and ensure they are acting with sufficient professional competence. Where members hold any statutory registration such as, without limitation, company auditor, company liquidator, tax agent, trustee in bankruptcy, financial service licensee or representatives appropriate Continuing Professional Development must be undertaken in the speciality area and the Member must meet any prescribed minimum Continuing Professional Development requirements required to maintain such registrations.

4.6 Other requirements

Members who are undertaking Self Managed Superannuation Funds Audits are required to meet the minimum approved competency standards established jointly by CPA Australia, ICAA and NIA and documented in the relevant Professional Schedule.

Part 5 Regulation of Professional Conduct

5.1 Delegation of Powers

- (a) The Board, pursuant to the powers contained in Article 54(a) of the Constitution, delegates (non-exclusively and in addition to any other specific delegation of power whether described in these By-Laws or elsewhere) to the Chief Executive Officer or his

delegate the power to make, vary, suspend and omit Professional Schedules, to the extent only they are not inconsistent with these By-Laws and the Constitution.

- (b) The Board, pursuant to the powers contained in Article 54(a) of the Constitution, delegates (non-exclusively and in addition to any other specific delegation of power whether described in these By-Laws or elsewhere) such of the powers conferred by Articles 14, 39, 40, 43 and 52(e) of the Constitution described below to each of the following persons, committees and Tribunals to be exercised by each of them non-exclusively and concurrently with the Board and every other like power from time to time in force:
- (i) to every PCO, the power to:
 - A. undertake Disciplinary Procedures; and
 - B. be commissioned by the MPC or an ICM by way of sub-delegation to undertake Disciplinary Procedures;
 - (ii) to every ICM, the power to:
 - A. undertake, or commission a PCO by way of sub-delegation to undertake, Disciplinary Procedures;
 - B. commission an Expert Advisory Panel by way of sub-delegation to provide to it interpretation and/or any expert assistance on any Complaint to assist the undertaking of Disciplinary Procedures;
 - C. refer a Complaint to an OPT or Disciplinary Committee for Determination;
 - D. be commissioned by the OPT, Disciplinary Committee and/or Appeals Committee by way of sub-delegation to undertake further investigation of any Complaint as necessary to assist the undertaking of Disciplinary Procedures; and
 - E. make a Determination in respect of:
 - (1) a Complaint concerning an Administrative Matter after forming an opinion for the purposes of Article 39(a) of the Constitution whether the person while a Member whether acting as an accountant or otherwise engaged in or suffered any of the matters complained of and impose any one or more of the penalties set out under Articles 39(b)(iii) to (xi) inclusive of the Constitution; and
 - (2) payment of costs and expenses not exceeding the Maximum Costs reasonably incurred by CPA Australia in the investigation and determination of the matter;
 - (iii) to the MPC, the power to:
 - A. supervise, undertake, or commission a PCO by way of sub-delegation to undertake, Disciplinary Procedures;
 - B. commission an Expert Advisory Panel by way of sub-delegation to provide to it interpretation and/or any expert assistance on any Complaint to assist the undertaking of Disciplinary Procedures;
 - C. refer a Complaint to an OPT or Disciplinary Committee for Determination;
 - D. be commissioned by the OPT, Disciplinary Committee and/or Appeals Committee by way of sub-delegation to undertake further investigation of any Complaint as necessary to assist the undertaking of Disciplinary Procedures;
 - E. investigate and create reports and undertake such further activities as from time to time specified by the Board; and
 - F. make a Determination in respect of:
 - (1) a Complaint concerning an Administrative Matter after forming an opinion for the purposes of Article 39(a) of the Constitution whether the person while a Member whether

- acting as an accountant or otherwise engaged in or suffered any of the matters complained of and impose any one or more of the penalties set out under Article 39(b)(iii) to (xi) inclusive of the Constitution;
- (2) payment of costs and expenses not exceeding the Maximum Costs reasonably incurred by CPA Australia in the investigation and determination of the matter; and/or
 - (3) suspension of the membership of any Member in the circumstances prescribed and in accordance with Article 39(c) of the Constitution.
- (iv) to an Expert Advisory Panel, the power to be commissioned by the MPC or an ICM by way of sub-delegation to provide to it interpretation and/or any expert assistance on any Complaint to assist the undertaking of Disciplinary Procedures;
- (v) to the Professional Conduct Reporting Committee, the power to supervise the conduct of Disciplinary Procedures and any Tribunal in the manner set out in By-Law 5.8;
- (vi) to an OPT, the power to:
- A. undertake Disciplinary Procedures;
 - B. commission the MPC or an ICM by way of sub-delegation to undertake further investigation of any Complaint as necessary to assist the undertaking of Disciplinary Procedures;
 - C. refer a Complaint to a Disciplinary Committee for Determination;
 - D. make a Determination in respect of:
 - (1) a Complaint concerning an Administrative Matter or Non-Administrative Breach after forming an opinion for the purposes of Article 39(a) of the Constitution whether the person while a Member whether acting as an accountant or otherwise engaged in or suffered any of the matters complained of and impose any one or more of the penalties set out under Article 39(b)(iii) to (xi) inclusive of the Constitution; and/or
 - (2) payment of costs and expenses not exceeding the Maximum Costs reasonably incurred by CPA Australia in the investigation and determination of the matter;
- (vii) to a Disciplinary Committee, the power to:
- A. undertake Disciplinary Procedures;
 - B. commission the MPC or an ICM by way of sub-delegation to undertake further investigation of any Complaint as necessary to assist the undertaking of Disciplinary Procedures;
 - C. make a Determination in respect of:
 - (1) any Complaint after forming an opinion for the purposes of Article 39(a) of the Constitution whether the person while a Member whether acting as an accountant or otherwise engaged in or suffered any of the matters complained of and impose any one or more of the penalties set out under Article 39(b) of the Constitution;
 - (2) any re-hearing of a Complaint on appeal from the MPC or an ICM pursuant to By-Law 5.14(r); and/or
 - (3) payment of costs and expenses not exceeding the Maximum Costs reasonably incurred by CPA Australia in the investigation and determination of the matter;
- (viii) to an Appeals Committee, the power to:

- A. undertake Disciplinary Procedures;
 - B. commission the MPC or an ICM by way of sub-delegation to undertake further investigation of any Complaint as necessary to assist the undertaking of Disciplinary Procedures;
 - C. make a Determination in respect of:
 - (1) any re-hearing of a Complaint on appeal from the Determination of a Disciplinary Committee pursuant to By-Law 5.14(s); and/or
 - (2) in the event the appeal is unsuccessful, payment of costs and expenses not exceeding the Maximum Costs reasonably incurred by CPA Australia in connection with the hearing of the appeal; and
- (ix) to the Chief Executive Officer, the power to:
- A. determine, pursuant to Article 40(a)(i) of the Constitution, that a Member has forfeited his or her membership;
 - B. remove or suspend a Member's rights and privileges for such time as deemed appropriate, pursuant to Article 40(a)(ii) of the Constitution;
 - C. determine, pursuant to Article 43(a) of the Constitution, that an Honorary Member has forfeited his or her distinction as an Honorary Member; and/or
 - D. determine, pursuant to Article 43(b) of the Constitution, that a Life Member has forfeited his or her distinction as a Life Member; and/or
 - E. make a Determination in respect of:
 - (1) any application by a person whose name has been removed from the Register under the Constitution for Readmission in the circumstances prescribed in and in accordance with Article 14(a) of the Constitution; and/or
 - (2) any application for Reinstatement by a Member whose membership has been suspended or whose Allocated Membership Status has been lowered.

5.2 Initiation of a Complaint

- (a) A Complaint, other than one made by an officer of CPA Australia, shall be initiated by the Complainant forwarding to CPA Australia particulars of the matter complained of in writing in such form (including ensuring compliance with the Privacy Act 1988 (Cth)) from time to time approved by the MPC.
- (b) A Complaint by an officer of CPA Australia may be initiated informally or formally in any form from time to time approved by the MPC.
- (c) Upon receipt a Complaint shall be referred to a PCO who shall open a file and undertake or commission Disciplinary Procedures in relation to the Complaint. The PCO shall cause an acknowledgement of receipt to be forwarded to the Complainant within 14 days of opening the file.
- (d) As soon as expedient after receipt of a Complaint (and if considered reasonable in the circumstances, in conjunction with undertaking any Disciplinary Procedures) the PCO shall notify the Member concerned and provide such details as considered by the PCO to be desirable.
- (e) A Complainant may by notice at any time withdraw a Complaint. Withdrawal shall not in any way affect the Disciplinary Procedures nor the Complaint, however, if an ICM is of the opinion the Member concerned has a case to answer and the Complaint does not become an Unviable Complaint, the ICM may proceed with the matter.

5.3 Conduct of Disciplinary Procedures

The following procedures shall apply to the process of investigating and sourcing and obtaining evidence in respect of the actual or alleged conduct of any Member whether acting as an accountant or otherwise:

- (a) A Complaint shall be dismissed and the file in respect of the Complaint closed (and the Complainant and Member concerned notified in writing accordingly) without proceeding before a Tribunal if at any time a PCO, ICM or member of the Expert Advisory Panel decides the Member has no case to answer in respect of the Complaint or that the Complaint is or at any time becomes an Unviable Complaint otherwise than because the matter is being considered by or pending judgement or final decision before a court, in which event the file shall be held in abeyance pending such judgement or final decision. A PCO shall not dismiss a Complaint and close the file in respect of the Complaint for reason the PCO has decided a Member has no case to answer in respect of the Complaint or that the Complaint is or at any time becomes an Unviable Complaint, however, unless the matter has first been reviewed by an ICM.
- (b) The grounds upon which a Member shall be considered to have no case to answer in respect of a Complaint shall be:
 - (i) if there is insufficient evidence on the balance of probabilities to support the Complaint; or
 - (ii) if the Member has offered a satisfactory and sufficient explanation with respect to the matters complained of.
- (c) A Member about whom a Complaint has been made shall be afforded an opportunity of providing a satisfactory and sufficient explanation with respect to the matters complained of. If a Member shall fail to provide a satisfactory and sufficient explanation in writing with respect to the matters complained of within ten (10) Business Days (or such further period as an ICM may agree in any particular circumstance) of receipt or deemed receipt of a request by an officer of CPA Australia, the Member shall be deemed to have a case to answer in respect of the Complaint.
- (d) A Complainant or Member may be requested to provide further information in respect of the Complaint at any time and from time to time. A Complainant declining or failing to provide further information within 20 Business Days of a request shall be deemed to have withdrawn their Complaint.
- (e) Information furnished by a Member pursuant to By-Law 5.3(c) or (d) may contain personal information and sensitive information within the meaning in the Privacy Act 1988 (Cth). This information is collected for the primary purpose described in Article 5 of the Constitution, and the secondary purpose of CPA Australia dealing with the Complaint in the manner set out in these By-Laws. A Member, by the act of furnishing such information to CPA Australia is, unless and until, in any particular instance, the Member specifically advises CPA Australia in writing to the contrary, given to consent to CPA Australia providing to a Complainant a copy or written summary of all and any information furnished by the Member to CPA Australia regarding a Complaint.
- (f) A Member must, within ten (10) Business Days (or such further period as may be allowed in any particular circumstance) of receipt or deemed receipt of a request by an officer of CPA Australia, provide all particulars requested as directed whether in writing or by personal attendance at the office of CPA Australia nominated for the purpose and produce any and all information recorded on any media in the possession power or control of the Member relating to the matters in issue in the Complaint. Such a request may be made concurrently with affording the Member an opportunity of providing a satisfactory and sufficient explanation with respect to the matters complained of in the manner set out in By-Law 5.3(c). The Member may, where personal attendance is required, be permitted to attend by prior arrangement by means of telephone hook-up, conference call or other instantaneous communication, which may be recorded. Any failure of a Member to comply with such a request strictly within the time specified shall be a breach of this By-Law and dealt with concurrently with the Complaint.
- (g) A person undertaking Disciplinary Procedures shall be entitled to obtain and rely upon evidence by transcript of oral statements or upon statutory declaration or by affidavit or declaration made in accordance with the Federal Court Rules then having force.
- (h) If, in the opinion of the person undertaking Disciplinary Procedures, a Member has a case to answer in respect of a Complaint, the matter shall be referred to the appropriate Tribunal for Determination and the Member and Complainant notified accordingly unless By-Law 5.3(i) applies.
- (i) If, in the opinion of the person undertaking Disciplinary Procedures, a Member has a case to answer in respect of a Complaint considered capable of being remedied and

concerning compliance with the requirements of membership of CPA Australia regarding any of the matters following:

- (i) payment of any monies owing to CPA Australia on any account whatsoever excepting only in respect of costs the subject of a Determination;
- (ii) Quality Assurance;
- (iii) Continuing Professional Development;
- (iv) the holding of a Public Practice Certificate;
- (v) professional indemnity insurance within the meaning in By-Law 9.5; and
- (vi) the Practice Entity through or by which the Member provides Public Accounting Services;

then the person undertaking Disciplinary Procedures may, in their discretion, withhold referring the matter to the appropriate Tribunal for Determination so long as the Member concerned promptly enters into (by signing and returning to CPA Australia within ten (10) Business Days, or such further period as may be allowed in the circumstances, of receipt or deemed receipt of an offer or request so to do), and continues to strictly perform, a written undertaking in the form approved by the MPC to remedy all matters complained of within such time period approved by the MPC.

5.4 PCOs

- (a) PCOs shall perform, as delegates of the Board, the activities described in By-Law 5.1(b)(i) in the manner set out in By-Laws 5.2, 5.3 and this By-Law 5.4.
- (b) A PCO may at any time be commissioned by the MPC or an ICM by way of sub-delegation to undertake the whole or any part of the Disciplinary Procedures in respect of a Complaint.
- (c) A PCO shall provide such advice or assistance as from time to time requested by any of the MPC, an ICM, Expert Advisory Panel, OPT, Disciplinary Committee or Appeals Committee.
- (d) Each PCO shall report to the MPC and maintain such records and provide such reports as the MPC shall from time to time require.

5.5 ICMs

- (a) ICMs shall perform, as delegates of the Board, the activities described in By-Law 5.1(b)(ii).
- (b) An ICM may at any time commission an Expert Advisory Panel by way of sub-delegation to provide to it interpretation and/or any expert assistance on any Complaint to assist the undertaking of Disciplinary Procedures.
- (c) Each ICM shall report to the MPC and maintain such records and provide such reports as the MPC shall from time to time require.
- (d) An ICM shall, at the discretion of the MPC, take responsibility for and deal with every Complaint in respect of which it is considered a Member has a case to answer (and which that is not an Unviable Complaint) until resolved by dismissal or Determination and the relevant file closed and in so doing shall, amongst other things:
 - (i) provide (or seek from an external service provider) advice or assistance as from time to time requested by any of the MPC, a PCO, Expert Advisory Panel, OPT, Disciplinary Committee or Appeals Committee;
 - (ii) refer, at the discretion of the MPC, every Complaint relating to a Non-Administrative Breach to an OPT or Disciplinary Committee for Determination;
 - (iii) refer every Complaint relating to Serious Conduct to a Disciplinary Committee for Determination;
 - (iv) deal expeditiously with any Complaint relating to an Administrative Matter by making a Determination after making and/or reviewing a report and granting the Member concerned the right to be heard with respect to the Complaint in such manner from time to time prescribed by the MPC; and

- (v) in conjunction with the Chair of the National Disciplinary Panel, appoint and arrange hearings by and attendances and assist with deliberations at any Tribunal and cause publication of Determinations made.

5.6 MPC

- (a) The MPC shall perform, as delegate of the Board, the activities described in By-Law 5.1(b)(iii).
- (b) The MPC may at any time commission an Expert Advisory Panel by way of sub-delegation to provide to it interpretation and/or any expert assistance on any Complaint to assist the undertaking of Disciplinary Procedures.
- (c) The MPC may allocate, in the discretion of the MPC, the undertaking of Disciplinary Procedures between PCOs, ICMs, Expert Advisory Panels and external service providers.
- (d) The MPC shall maintain such records and provide such reports as the Board shall from time to time require.

5.7 Expert Advisory Panel

- (a) An Expert Advisory Panel shall perform, as delegate of the Board, the activities described in By-Law 5.1(b)(iv).
- (b) An Expert Advisory Panel shall at all times comprise at least five (5) but no more than nine (9) persons (at least two (2) of whom must be Members) from time to time appointed by the Board. Persons appointed to the Expert Advisory Panel shall hold office (subject to re-appointment) for a period of two (2) years and appointments shall be made to reflect a mix of competence and expertise in the areas following:
 - (i) Public Accounting Services including audit;
 - (ii) legal;
 - (iii) Disciplinary Procedures;
 - (iv) compliance;
 - (v) broad Membership knowledge; and
 - (vi) knowledge of the Constitution, By-Laws, Code of Professional Conduct and Applicable Regulations.
- (c) Members of the Expert Advisory Panel shall be remunerated at the rates from time resolved by the Board.
- (d) The Expert Advisory Panel shall consult and advise any PCO, ICM or Tribunal as from time to time requested in respect of Disciplinary Procedures.
- (e) The Expert Advisory Panel shall maintain such records and provide such reports as the Board shall from time to time require.

5.8 Professional Conduct Reporting Committee

- (a) The Professional Conduct Reporting Committee shall perform, as delegate of the Board, the activities described in By-Law 5.1(b)(v).
- (b) The mission of the Professional Conduct Reporting Committee shall be to ensure Members comply with mandatory professional standards through the maintenance and continuous enhancement and development of a best practice procedure for expeditiously resolving Complaints and regulating the professional conduct of Members generally.
- (c) The objectives of the Professional Conduct Reporting Committee shall be to:
 - (i) continuously monitor effectiveness of the procedure described in By-Law 5.8(b); and
 - (ii) assist Members maintain the quality of their professional activities.
- (d) The Professional Conduct Reporting Committee shall at all times comprise at least three (3) but no more than five (5) persons from time to time appointed by the Board including the Chair for the time being of the National Disciplinary Panel who shall also act as Chair of the Professional Conduct Reporting Committee. Persons appointed to the

Professional Conduct Reporting Committee shall, apart from the Chair of the National Disciplinary Panel, hold office (subject to re-appointment) for a period of two (2) years.

- (e) The Professional Conduct Reporting Committee shall possess and undertake the responsibilities following:
 - (i) consult as from time to time considered desirable with the MPC, the National Disciplinary Panel, or any Tribunal in respect of strategic initiatives;
 - (ii) monitor the conduct of Disciplinary Procedures and performance of PCOs, ICMs and Tribunals and report to the Board as to those matters at least twice yearly, including making recommendations with respect to matters arising;
 - (iii) set training and accreditation requirements from time to time for ICMs; and
 - (iv) continuously review the Constitution, By-Laws, Code of Professional Conduct and Applicable Regulations with respect to the experience and conduct of Disciplinary Procedures and Tribunals and, if considered desirable in light of the objectives set out in By-Law 5.8(c), make recommendations to the Board to effect appropriate amendments.
- (f) Members of the Professional Conduct Reporting Committee shall be remunerated at the rates from time to time resolved by the Board.
- (g) The Professional Conduct Reporting Committee shall maintain such records and provide such reports as the Board shall from time to time require.

5.9 OPT

- (a) An OPT shall perform, as delegate of the Board, the activities described in By-Law 5.1(b)(vi).
- (b) An OPT shall be appointed on a case by case basis (with the consent of the nominee in each case) by the MPC or an ICM in conjunction with the chair of the National Chair Panel from persons being Members who are also members of the National Chair Panel.
- (c) A Member acting as an OPT shall be remunerated at the rate from time to time resolved by the Board.
- (d) An OPT may at any time commission the MPC or an ICM by way of sub-delegation to undertake further investigation of any Complaint as necessary to assist the undertaking of Disciplinary Procedures.
- (e) An OPT shall deal expeditiously with any Complaint referred to the OPT by making a Determination after reviewing a report on the matter and presiding over a hearing upon notice to the Member concerned.

5.10 Disciplinary Committee

- (a) A Disciplinary Committee shall perform, as delegate of the Board, the activities described in By-Law 5.1(b)(vii).
- (b) A Disciplinary Committee shall be appointed on a case by case basis (with the consent of the nominees in each case) by the MPC or an ICM in conjunction with the chair of the National Chair Panel from persons who are National Disciplinary Panel members, at least two (2) of whom shall (if applicable) be appointees of the relevant Division (if any) to which the Member concerned is attached.
- (c) The quorum for a Disciplinary Committee hearing and Determination shall be three (3) persons comprising one member of the National Chair Panel (who shall chair proceedings) plus two members of the National Disciplinary Panel.
- (d) A Disciplinary Committee shall deal expeditiously with any Complaint referred to it by making a Determination after reviewing a report on the matter and presiding over a hearing upon notice to the Member concerned.

5.11 National Disciplinary Panel

- (a) The National Disciplinary Panel shall comprise persons from time to time being Members or non-Members appointed by the Board as possessing, in the opinion of the Board, skills complementary to the other members of the National Disciplinary Panel and shall at all times comprise at least five (5) persons but no more than the number of persons equal to ten (10) plus the product of five (5) and the number of Divisions from time to time.

Persons appointed to the National Disciplinary Panel (including the Chair) shall hold office (subject to re-appointment) for a period of two (2) years.

- (b) Members of the National Disciplinary Panel (including the Chair) shall be remunerated at the rates from time to time resolved by the Board.

5.12 National Chair Panel

- (a) The National Chair Panel shall at all times comprise at least three (3) but no more than ten (10) persons from time to time appointed by the Board from Members who have been appointed to the National Disciplinary Panel. Persons appointed to the National Chair Panel shall hold office (subject to re-appointment) for a period of two (2) years.
- (b) The Board may from time to time appoint a person, being a Member, to act as chair of the National Chair Panel and Chair of the National Disciplinary Panel.
- (c) The duties of the chair of the National Chair Panel shall include:
 - (i) in conjunction with the MPC, determining the tribunal dates and nominating members of the National Disciplinary Panel to hear and determine Complaints;
 - (ii) providing to the Board an annual report of the activities of the National Disciplinary Panel; and
 - (iii) such other duties from time to time resolved by the Board.
- (d) The duties of members of the National Chair Panel may include:
 - (i) acting as an OPT (except in the case of a conflict of interest);
 - (ii) acting as chair of a Disciplinary Committee (except in the case of a conflict of interest);
 - (iii) acting as chair of each Appeals Committee (except in the case of a conflict of interest); and
 - (iv) such other duties as may from time to time be resolved by the Board.
- (e) Members of the National Chair Panel (including the chair, if any) shall be remunerated at the rates from time to time resolved by the Board.

5.13 Appeals Committee

- (a) An Appeals Committee shall perform, as delegate of the Board, the activities described in By-Law 5.1(b)(viii).
- (b) An Appeals Committee shall be appointed on a case by case basis (with the consent of the nominees in each case) by the MPC or an ICM in conjunction with the chair of the National Chair Panel from persons who are National Disciplinary Panel members.
- (c) The quorum for an Appeals Committee hearing and Determination shall be three (3) persons comprising the chair of the National Chair Panel or his or her nominee or, if no chair be appointed, a member of the National Chair Panel (who shall chair proceedings) plus at least two members of the National Disciplinary Panel.
- (d) An Appeals Committee shall deal expeditiously with any Complaint referred to it by making a Determination after reviewing a report on the matter and presiding over a hearing upon notice to the Member concerned.

5.14 Conduct of Tribunals

- (a) A Tribunal shall be validly constituted if a quorum be present and shall be conducted under the direction of a Chair.
- (b) No person may serve upon more than one Tribunal concurrently.
- (c) No person may serve upon more than one Tribunal in respect of the same Complaint.
- (d) Every Tribunal, other than one constituted by the MPC or an ICM, may be assisted by a PCO and/or ICM, and the MPC, an ICM or a PCO (or legal counsel other than in the case of an OPT) may present the case to answer against the Member concerned. For the removal of doubt, nothing in By-Laws 5.14(b) or (c) prohibits the same MPC, ICM or PCO from assisting more than one Tribunal concurrently nor more than one Tribunal in respect of the same Complaint.

- (e) Referral of a Complaint to a Tribunal shall be effected by service upon the Member concerned at least fifteen (15) Business Days prior to the proposed hearing date of:
- (i) a notice in such form from time to time approved by the MPC specifying details of:
 - A. the time, date and place appointed for the hearing; and
 - B. particulars of the case to answer the subject of the Complaint by reference to the particular provisions of the Constitution, By-Laws, Code of Professional Conduct or Applicable Regulations alleged to have been breached by the Member; together with
 - (ii) a copy of the evidentiary and any other materials intended to be placed before the Tribunal in support of the allegations in the Complaint.
- (f) Service upon a Member of all materials referred to in By-Law 5.14(e) may not be effected by facsimile but shall be effected:
- (i) if by delivery in person, which for the purposes of this By-Law 5.14 shall include leaving the materials with a person apparently above the age of 16 years:
 - A. at the residential address of that Member; or
 - B. in the apparent employment of an entity with which that Member is Affiliated apparently occupying (exclusively or otherwise) any business premises; or
 - C. at such address as may at the applicable time be recorded in the Register;by a person licensed to serve process in the place in which service is to be effected; and
 - (ii) if by post, by any system of secure mail delivery which requires a signed receipt from the addressee upon delivery;
- and, in the absence of any prior acknowledgement or other response from or appearance by the Member at the appointed hearing, the matter cannot proceed to be heard unless the Tribunal is satisfied on the balance of probabilities that the materials have been properly served upon the Member concerned in accordance with this By-Law.
- (g) A Member wishing to be heard before the Tribunal dealing with a Complaint concerning the Member must, at least five (5) Business Days prior to the appointed hearing date, notify the ICM of:
- (i) their wish to be heard, specifying whether by personal attendance (and, if so, by whom including the name and occupation of any agent proposed to make oral submissions on their behalf) or by written submission or both;
 - (ii) the content of any written submission proposed to be presented to the Tribunal, providing a copy; and
 - (iii) the name and occupation of any witness proposed to be called upon by the Member to give evidence on their behalf including a summary of the nature and relevance of such evidence.
- Failure of a Member to strictly comply with the requirements of this By-Law 5.14(g) may render the Member liable to pay the costs of any adjournment ordered by a Tribunal for reason of late notification of required information.
- CPA Australia may further respond (if at all) by written submissions served upon the Member no later than five (5) Business Days prior to the appointed hearing date.
- (h) A Tribunal must ask a Member about to appear before it whether or not the Member objects to any member of the Tribunal hearing the matter. A Member concerned with the independence, objectivity, or conduct, whether actual or perceived, of any member of any Tribunal appointed to hear a Complaint concerning the Member may voice such objection, specifying the grounds, upon invitation immediately prior to commencement of the hearing. If the Tribunal considers the objection sustained the Tribunal shall be re-cast and, if necessary, a new hearing date appointed without penalty to the Member. If the Tribunal considers the objection unsustainable, however, the matter shall proceed with the Tribunal as originally constituted.

- (i) A Tribunal may proceed to hear a Complaint and make a Determination whether or not the Member concerned is in attendance. A Tribunal shall always, however, afford the Member concerned the right of being heard by written submission and/or orally by themselves or an agent including (save in the case of an ICM or OPT where no legal representation shall be permitted) legal counsel following presentation of the case to answer against the Member concerned by the MPC, an ICM or a PCO or (save in the case of an OPT) legal counsel. The Tribunal may also allow the Member to be heard by prior arrangement by telephone hook-up, conference call or other instantaneous communication, which may be recorded. The person presenting the case to answer shall have the right of reply which shall not be limited to the matters provided to the Member pursuant to By-Law 5.14(e). Any Tribunal may at any time seek guidance in their deliberations from legal counsel.
- (j) A Tribunal shall have regard to the following in forming an opinion for the purposes of making a Determination:
 - (i) the Tribunal shall enjoy the same powers and authorities and be governed by the same rules with respect to investigating and sourcing and obtaining evidence in respect of the actual or alleged conduct of any Member whether acting as an accountant or otherwise as is applicable to Disciplinary Procedures;
 - (ii) the Tribunal shall apply the rules of natural justice and reach a Determination on the evidence before it upon the balance of probabilities;
 - (iii) the Tribunal may call upon any non-Members considered relevant to its deliberations to attend before it by consent for questioning;
 - (iv) the Tribunal may, provided at least ten (10) Business Days prior notice has been given, call upon any other Member considered relevant to its deliberations to attend before it for questioning and to produce any and all information recorded on any media in the possession power or control of the Member relating to the matters in issue in the Complaint specified in such notice. The Tribunal may allow such Member to attend by prior arrangement by means of telephone hook-up, conference call or other instantaneous communication, which may be recorded. Any failure of a Member to comply with such a request shall be a breach of this By-Law and such conduct shall be made subject of a Complaint accordingly;
 - (v) the Tribunal may in its absolute discretion receive and consider such further or other evidence or Complaints in respect of the Member concerned that may by howsoever means come to its attention;
 - (vi) unless in the discretion of the Tribunal there are considered to be:
 - A. unusual or exceptional circumstances (such as, for example, in the case of a second or further offence); or
 - B. mitigating circumstances;any penalty (not exceeding the Maximum Fine) shall be imposed and any costs and expenses (not exceeding the Maximum Costs) ordered to be paid shall be calculated by reference to the model scale of penalties and costs set out in column 2 of Schedule 5;
- (k) A Member may in writing at any time or orally before the Tribunal:
 - (i) admit the whole or any part of a Complaint;
 - (ii) consent to a Determination including the imposition of any penalty; and
 - (iii) submit particulars of any mitigating circumstances (which shall exclude the Member's period of membership) in respect of the Complaint;and the same shall be taken into account by a Tribunal in making a Determination including imposing any penalty and assessing costs and expenses to be paid to CPA Australia in respect of the matter.
- (l) A Tribunal may at any time in its discretion (including as to costs thereby incurred) adjourn, re-convene or cancel any hearing or remit the matter to another Tribunal.

- (m) A Tribunal may hand down its Determination immediately following the close of submissions with or without retiring to deliberate, or may reserve its Determination for handing down on a future date to be advised. A Tribunal may also make a Determination by Circulating Resolution (whether or not, in the Tribunal's discretion, preceded by a meeting, telephone hook-up, conference call or other instantaneous communication between members of the Tribunal) where:
 - (i) a Member has consented to a Determination pursuant to By-Law 5.14(k), or
 - (ii) has advised pursuant to By-Law 5.14(g) the Member will not, whether by him or herself or an agent, be making a personal appearance before the Tribunal.
- (n) The Determination of a Tribunal shall be by majority ruling and in the case of a deadlock the chair shall have a casting vote.
- (o) The proceedings before a Tribunal shall be recorded as follows:
 - (i) Save in the circumstances mentioned in paragraph (ii) below, all proceedings before a Tribunal shall be recorded in a medium of the Tribunal's choosing and, where considered appropriate in the opinion of the Tribunal or ICM, transcribed. The cost of making the recording and/or transcript shall be apportioned in the discretion of the Tribunal but must be fully borne by the Member concerned where the Member has requested (as a Member may) to be provided with a copy.
 - (ii) In the case of a proceeding undertaken by Circulating Resolution or a Tribunal constituted by an ICM, no transcript of proceedings shall be recorded but the chair of the Tribunal shall write a summary record of the proceeding.
- (p) A written record of every Determination made by a Tribunal shall be prepared by or under the direction of the chair of the Tribunal setting out:
 - (i) a recital of the charges comprising the case to answer set out in the Complaint;
 - (ii) whether or not the charges were admitted by the Member;
 - (iii) principal facts established to the satisfaction of the Tribunal; and
 - (iv) the finding of the Tribunal (setting out in summary form reasons for such finding) including any penalty imposed.
- (q) A copy of every Determination made together with any transcript of the proceeding shall be placed on the file maintained by CPA Australia in respect of the Member concerned and details published in the manner prescribed in By-Law 5.15.
- (r) Save as provided to the contrary in the Constitution, any Member aggrieved by a Determination by the MPC or of an Administrative Matter by an ICM shall have the right of appeal (to be exercised by notice specifying the grounds of appeal to be received by the MPC or ICM concerned within 20 Business Days after the date upon which notice of the Determination complained of was given to the Member) by referral to a Disciplinary Committee, who shall have the power to obtain and receive additional evidence and advice as necessary and in relation to whose Determination no further appeal shall be possible. Any penalty or costs and expenses imposed by the MPC or ICM shall be stayed pending such Determination. Referral shall be effected in the manner prescribed in By-Law 5.14(e) with the additional requirement that a copy of the record of proceedings before the MPC or ICM shall also be served upon the Member concerned.
- (s) Save as provided to the contrary in the Constitution, any Member aggrieved by a Determination of a Disciplinary Committee (other than pursuant to By-Law 5.14(r)) shall have a right of appeal (to be exercised by written notice specifying the grounds and reasons in support of appeal to be received by the MPC within 20 Business Days after the date upon which notice of the Determination complained of was given to the Member) by referral to an Appeals Committee for a review of the Determination upon any one or more of the following grounds only:
 - (i) that a breach of the rules of natural justice occurred in connection with the making of the Determination;
 - (ii) that procedures that were required by law to be observed in connection with the making of the Determination were not observed;

- (iii) that the Disciplinary Committee did not have jurisdiction to make the Determination;
 - (iv) that the Determination was not authorised by the enactment in pursuance of which it was purported to be made;
 - (v) that the making of the Determination was an improper exercise of the power conferred upon the Disciplinary Committee pursuant to the Constitution;
 - (vi) that the Determination involved an error of law, whether or not the error appears on the record of the proceedings or the Determination;
 - (vii) that the Determination was induced or affected by fraud;
 - (viii) that there was no evidence or other material to justify the making of the Determination; or
 - (ix) that the penalty imposed was excessive in all the circumstances.
- (t) The reference in By-Law 5.14(s)(v) to an improper exercise of power shall be construed as including a reference to:
- (i) taking an irrelevant consideration into account in the exercise of a power;
 - (ii) failing to take a relevant consideration into account in the exercise of a power;
 - (iii) an exercise of a power for a purpose other than a purpose for which the power is conferred;
 - (iv) an exercise of a discretionary power in bad faith;
 - (v) an exercise of a personal discretionary power at the direction or behest of another person;
 - (vi) an exercise of a discretionary power in accordance with a rule or policy without regard to the merits of the particular case;
 - (vii) an exercise of a power that is so unreasonable that no reasonable person could have so exercised the power;
 - (viii) an exercise of a power in such a way that the result of the exercise of the power is uncertain; and
 - (ix) any other exercise of a power in a way that constitutes abuse of the power.
- (u) The ground specified in By-Law 5.14(s)(viii) shall not be made out unless:
- (i) the Disciplinary Committee making the Determination was required by law to reach that decision only if a particular matter was established, and there was no evidence or other material (including facts of which the Disciplinary Committee was entitled to take notice) from which the Disciplinary Committee could reasonably be satisfied that the matter was established; or
 - (ii) the Determination was based upon the existence of a particular fact, and that fact did not exist.
- (v) Referral to and proceedings before an Appeals Committee, from whose Determination no further appeal shall be possible, shall be conducted in accordance with the remaining provisions of Part 5 of these By-Laws to the extent to which they are not inconsistent with By-Laws 5.14(s) to (u) inclusive and the following:
- (i) a copy of the transcript of proceedings before the Disciplinary Committee shall be served upon the Member concerned at the time notice of the hearing is given;
 - (ii) matters to be considered by the Appeals Committee shall comprise of all materials previously before the Disciplinary Committee, the transcript of those proceedings and the Determination made, the Member's notice of appeal and grounds, the notice of hearing and proof of service, and any further submissions made by the Member or CPA Australia at the hearing (either orally or in writing) of which a written outline shall have been provided to the MPC at least fifteen (15) Business Days prior to the appointed hearing date in the case of the Member and at least ten (10) Business Days (and served upon the Member at least five (5) Business Days) prior to the appointed hearing date in the case of CPA Australia; and

- (iii) for the removal of doubt, the Member shall not be afforded the opportunity to cross-examine any witness who appeared at the original hearing irrespective of whether the Member in fact chose to cross-examine the witness in the course of the original hearing before the Disciplinary Committee.
- (w) Service of a notice of appeal to the MPC by a Member shall operate to stay recovery of any penalty or costs imposed by the Disciplinary Committee pending the Determination of the appeal by the Appeals Committee.
- (x) No appeal shall lie in respect of a Determination:
 - (i) that is final (i.e. unable to be appealed from, including by expiry of any time limit for giving notice of appeal) as otherwise provided by these By-Laws; or
 - (ii) to which the Member has consented.

5.15 Publication

An ICM must cause a note of every Determination and a brief record of the proceeding to be published on CPA Australia's website and in the Publication including, unless the penalty imposed is admonishment, the name of the Member unless the Determination is subject to a re-hearing by way of appeal or there are exceptional circumstances including the matters following:

- (a) there are questions relating to the independence, conduct or outcomes of the proceeding;
- (b) it is likely that publication of the name of the Member may cause significant detriment to his or her future livelihood which the Tribunal considers is harsh or may cause additional penalty to the Member having regard to the nature of the conduct under consideration;
- (c) the Member has taken actions (for example, making restitution) to compensate for or to mitigate the loss or damage to third parties; and
- (d) the Member has assisted in the Disciplinary Procedures;

provided always:

- (e) if the conduct in respect of which the penalty is being imposed involves fraud, deception or dishonesty or could cause loss and damage to third parties who would not be aware of the conduct but for publication of the Member's name, then the Tribunal must always publish the Member's name regardless of any mitigating factors; and
- (f) in circumstances where the Member's name has already been published by any other party (whether in any proceeding in a court or by any governmental or semi-governmental authority or howsoever otherwise) in connection with or in any way related to substantially the same conduct as was under consideration by the Tribunal, then the Tribunal must consider that publication by the Tribunal of the Member's name will not, of itself, be harsh or cause any additional penalty to the Member.

5.16 Mediation

- (a) If a PCO or ICM is of the opinion that a Dispute has arisen between a Member and any other person, including another Member (**Disputing Parties**), the PCO or ICM as appropriate may recommend to the Disputing Parties that the Dispute be submitted to mediation.
- (b) Mediation shall be conducted in accordance with the procedure set out in this By-Law 5.16 and shall be voluntary and confidential between the Disputing Parties.
- (c) CPA Australia shall not be responsible for the conduct or costs of mediation nor selection of the mediator.
- (d) Upon receiving the written consent of each of the Disputing Parties to:
 - (i) submit the Dispute to mediation upon the basis of the provisions of this By-Law 5.16 (by which the Disputing Parties must agree to be bound);
 - (ii) negotiate in good faith with the other Disputing Parties in selection of a mutually acceptable mediator;
 - (iii) accept as mediator the person appointed pursuant to By-Law 5.16(e) in the circumstances set out; and

- (iv) comply with any direction or requirement of the mediator including execution of a formal appointment, release and/or indemnity and a decision as to costs of the mediation;

the PCO shall circulate to the Disputing Parties a list of suggested mediators considered by the MPC to be competent to conduct the mediation.

- (e) the Disputing Parties must jointly appoint a mediator (whether from the circulated list or otherwise) within ten (10) Business Days of service on the Disputing Parties of the list of suggested mediators, failing which a mediator is to be appointed by the then president of the Bar Council or such similar body representing the legal advocacy profession in the place in which the Dispute arose on the application of any of the Disputing Parties;
 - (f) the mediation will be held in the nearest capital city to the place in which the Dispute arose, unless the Disputing Parties otherwise agree;
 - (g) the mediation must be conducted in accordance with the guidelines issued by the Australian Commercial Disputes Centre Mediation;
 - (h) if the Dispute is not resolved within twenty (20) Business Days after the mediator has been appointed, or any other time to which the Disputing Parties agree in writing, the mediation ceases;
 - (i) unless the Disputing Parties agree otherwise in respect of any mediation, they must pay and bear an equal share of the mediator's costs;
 - (j) if the Dispute is resolved under mediation then the Disputing Parties must sign the terms of the agreement which will become final and binding on them; and
 - (i) written statements prepared for the mediator or for a Disputing Party; and
 - (ii) any discussion between the Disputing Parties and between them and the mediator during mediation;
- cannot be used in any subsequent proceedings in connection with the Dispute.
- (k) Subject to By-Law 5.16(l), no party may commence legal proceedings in relation to any Dispute undergoing mediation until:
 - (i) the mediation has ceased pursuant to By-Law 5.16(h); or
 - (ii) a decision has been made by the mediator and ten (10) Business Days has elapsed since the date of that decision.
 - (l) Should any Disputing Party reasonably consider that injunctive, declaratory or other interlocutory relief (including for specific performance) is necessary or desirable in order to protect or preserve its rights in respect of any matter the subject of a Dispute undergoing mediation, that Disputing Party may apply to a court for such equitable remedies at any time, whereupon the mediation shall cease.

Part 6 Reports & Performance

6.1 Board may request reports

The Board shall be provided with regular reports by the chair of the National Disciplinary Panel and such other persons as the Board may from time to time require in such form and substance from time to time specified by the Board for the purpose of monitoring (including by assessing measurable outcomes against relevant KPIs (if any)):

- (a) the success in regulating the conduct of Members in achievement of the relevant objects for which CPA Australia is established; and
- (b) the performance of officers of CPA Australia and Tribunals engaged in regulating the professional conduct of Members;

with the object of:

- (c) driving continuous improvement in the delivery of services relating to the regulation of the professional conduct of Members;
- (d) enhancing the public perception of Members by publishing performance reports to demonstrate transparency;
- (e) enhancing (by better targeting) Member education; and

- (f) reducing the number of Complaints.

6.2 Other reports

Without limiting the provisions of By-Law 6.1, the MPC shall, if so requested by the Board, cause the Board to receive on a bi-monthly basis or such other basis as the Board may determine a report containing, for the prior two month period and year to date, such details of:

- (a) work volume against available resources; and
- (b) actual performance against relevant KPIs (if any),

with respect to the regulation of professional conduct of Members allocated between Divisions, nature of Complaint and/or such component parts of activities undertaken by officers of CPA Australia and Tribunals as the Board may from time to time specify.

Part 7 Election Procedure

7.1 Election Authority

The Board may from time to time appoint the Australian Electoral Commission, a similar statutory authority, a share registry or such other organisation as the Board may from time to time determine in any jurisdiction in the Commonwealth of Australia or elsewhere (**Authority**) to conduct, in accordance with the procedures (save only those concerning Scrutineers) set out in the following provisions of this By-Law 7, any elections required by the Constitution to be conducted in order to give effect to an appointment. In the absence of any appointment of an Authority, By-Laws 7.2 to 7.4 following shall apply.

7.2 Procedures Common to all Elections

Any election required by the Constitution to give effect to an appointment shall be conducted in manner following (**Election Rules**):

- (a) Nominations for candidates shall be called by the Secretary (upon the instruction of a chair or other authorised person as appropriate or as provided by the Constitution) by notification to Members entitled to vote in the relevant election (including in the case of nominations for the position of Divisional Councillor and otherwise in the Secretary's discretion, by advertising the same upon that part of the website maintained by CPA Australia that is designed for Members and not accessible by the general public) prior to the date of a requirement to make an appointment or hold a meeting for the purpose (solely or amongst others) of the election (**Election Event**). The prior notice period shall be a date reflecting the minimum period (**Notification Period**) specified for the purpose in By-Law 7.3.
- (b) Nominations of candidates must be:
 - (i) in writing in the English language;
 - (ii) signed by at least two (2) Members entitled to vote;
 - (iii) countersigned by the candidate;
 - (iv) accompanied by statements signed by the candidate:
 - A. setting out personal particulars of the candidate (and no more) described in Part A of Schedule 1; and
 - B. outlining the matters (and no more) described in Part B of Schedule 1;
 - C. for nominations to Branch Council, Divisional Council or as an office bearer the statement shall be no more than fifty (50) words;
 - D. for nominations to the Board, the number of words is at the discretion of the nominee; and
 - (v) lodged with the Returning Officer before the date specified in the notice calling for nominations being no later than a date reflecting the minimum period prior to the Election Event (**Lodging Period**) specified for the purpose in By-Law 7.3.
- (c) If the number of candidates nominated for election does not exceed the number of vacancies, no election shall be held and such nominees shall be declared elected by the Secretary (who shall procure a record of the same) after receiving the report of the Returning Officer (if not the Secretary) and such result shall be announced by the chair (subject to receiving the Secretary's record of the same) at the relevant meeting,

whereupon vacancies shall be declared filled accordingly. The chair shall sign the Secretary's record which shall be retained as conclusive evidence of the election.

- (d) If the number of candidates exceeds the number of vacancies, a secret ballot shall be conducted and counted by the Returning Officer in the manner provided in By-Laws 7.2(e) to (n) inclusive. The Returning Officer may conduct the ballot under the supervision of one or more **Scrutineers** being Members appointed by the Secretary for the purpose (at the remuneration from time to time determined by the Board and upon other terms in the Secretary's discretion).
- (e) Every Member entitled to vote shall be given notice (**Prescribed Notice**) of the closing date for casting votes in the election being, if no period be prescribed by the Constitution, a date reflecting the period so described in By-Law 7.3.
- (f) The Prescribed Notice may be given in such manner (whether orally and/or by ordinary prepaid post and/or electronically) approved by the Secretary and shall include:
 - (i) a ballot paper in or to the effect of Form 1 annexed headed sufficiently to identify the nature of the election and listing in alphabetical order of family name all candidates opposite a box in which numeric preferences may be placed;
 - (ii) an instruction to voters (amongst any others considered by the Secretary to be expedient) that:
 - A. voting is not compulsory;
 - B. in order to cast a valid vote, a voter shall place the number 1 opposite the name of their preferred candidate to signify first preference and may also place ascending consecutive numbers opposite respective names of other candidates in descending order of preference; and
 - C. that ballot papers returned that are incomplete, incorrectly completed or received later than a date reflecting a time (being the minimum period prior to the Election Event (**Closing Date**) specified in By-Law 7.3), will be declared invalid and not considered;
 - (iii) a rendering of the statement of personal particulars and any other matters provided by each candidate pursuant to (and to the extent only in compliance with) By-Law 7.2(b)(iv) in form and substance approved by the Secretary (and in the event of a difference of opinion between the Secretary and a candidate, by the determination, from which no appeal shall be possible, of the President or the President's nominee) having regard to:
 - A. not unduly favouring any one or more candidates;
 - B. not defaming nor making derogatory remarks concerning CPA Australia or any Member or other person; and
 - (iv) an envelope or other container (in which the completed ballot paper is to be returned to the Returning Officer) endorsed with the words "Voting Paper" and provision for endorsement by the voter with identifying personal information required by the Returning Officer in a format permitting removal without breaking the seal of the envelope or, in the event of electronic voting approved by the Secretary, such secure electronic format providing a mechanism capable, in the Secretary's opinion, of achieving the same secure, secret and effective purpose.
- (g) Any Member desirous of altering a previously submitted ballot paper may do so prior to the Closing Date by seeking from the Returning Officer a replacement ballot paper or permission to withdraw and re-lodge a ballot paper submitted (with authority) electronically. The Returning Officer shall only issue a replacement ballot paper or grant such permission (if at all in the discretion of the Returning Officer) after first cancelling the original ballot paper previously submitted. Any Member who has lost their ballot paper may have issued to them a substitute ballot paper upon providing to the Returning Officer a written declaration to that effect.
- (h) Each candidate may by themselves or a duly appointed alternate observe the counting of ballots provided always the identity of voters shall remain secret.
- (i) Unless the Returning Officer forms, on reasonable grounds, a contrary opinion, the Returning Officer shall accept the Member's identification referred to in By-Law 7.2(f)(iv)

and, in the presence of the Scrutineers (if any) separate the form of identification from the envelope or other method of conveyance of the completed ballot paper (**Container**) and retain each in discrete places. The Returning Officer shall then count each and, upon being satisfied of numerical equality, shall destroy all identification. The Returning Officer shall then separate each Container from each completed ballot paper and retain each in discrete places. The Returning Officer shall then count each and, upon being satisfied of numerical equality, shall destroy all Containers.

- (j) Upon standing possessed of all completed ballot papers the Returning Officer shall, in the presence of the Scrutineers (if any), examine each completed ballot paper for validity and reject (in consultation with any Scrutineers) any deemed invalid, which shall not be counted for the purposes of the election.
- (k) The candidate receiving the greatest first preferences shall be elected so long as, out of the sum total of valid (in the opinion of the Returning Officer in consultation with any Scrutineers) votes counted, that candidate has received more than one half (an **absolute majority**) of first preferences.
- (l) if no candidate has received an absolute majority of first preferences then:
 - (i) the candidate receiving the fewest first preferences shall be excluded and each ballot paper counted to that excluded candidate shall be counted to the candidate (if any) next in order of each respective voter's preference, and the candidate receiving the greatest preferences shall be deemed provisionally elected (subject only to confirmation at the Election Event) so long as they have received an absolute majority of votes; but
 - (ii) if no candidate then has an absolute majority of votes, the process of excluding the candidate with the fewest preferences and counting the votes to that excluded candidate to the candidate (if any) next in order of each respective voter's preference shall be repeated until one candidate shall have an absolute majority of votes, whereupon that candidate shall be deemed provisionally elected (subject only to confirmation at the Election Event); and
 - (iii) if two or more candidates receive an equal number of votes, then the casting vote of the President or the nominee of the President shall determine (for the purposes of election only) which one of them:
 - A. has to be excluded; or
 - B. shall be elected,
 as the case may be.
- (m) If one or more vacancies remain after a person (**First Elected**) has been elected in accordance with By-Law 7.2(k) or 7.2(l), then:
 - (i) the Returning Officer shall, in the presence of the Scrutineers (if any), compile all valid ballot papers for which the First Elected received a first preference;
 - (ii) those ballot papers shall be re-allocated across the remaining candidates using the next highest preference indicated in each ballot paper such that the next highest preference is deemed to be a first preference for the purposes of this By-Law 7.2(m); and
 - (iii) the provisions of By-Laws 7.2(k) and 7.2(l) shall then be applied until the next candidate (**Next Elected**) is elected.

If one or more vacancies remain after the Next Elected has been elected, then the provisions of this By-Law 7.2(m) shall be repeated (with the necessary changes) until all vacancies are filled.
- (n) Subject to the specific Election Rules described in Part 7 of these By-Laws, the Secretary shall determine conclusively all questions of detail concerning any election.
- (o) On completion of counting valid (in their unfettered opinion) votes, the Returning Officer and any Scrutineers shall provide a written report of the result to the Secretary (if not the Returning Officer) whereupon the procedures described in By-Law 7.2(c) shall apply, subject only to the application (if any) of By-Law 7.2(l)(iii).

7.3 Notice Periods

For the purposes of By-Law 7.2 the following time periods (when expressed in days, concluding at 5pm on the last day in the place notice is to be given) shall apply:

	Divisional Councillors	Office Bearers	Directors
Notification Period	90 days	Nil (automatic pursuant to the Constitution)	90 days
Lodging Period	60 days	Board: 15 minutes; Division: 7 days	60 days
Prescribed Notice	30 days	As declared by the chair of the relevant meeting	30 days
Closing Date	5 days	As declared by the chair of the relevant meeting	5 days

7.4 Retention of Ballot Papers

Immediately after an Election Event the Returning Officer shall close up under the seals of the Returning Officer and any Scrutineers all ballot papers and proxy forms received in respect of the election and retain the same in safe custody for a period of one month after the relevant Election Event and then destroy them. All signature slips, envelopes and other documents received by the Returning Officer from Members during the course of the election shall be destroyed immediately after the Election Event.

7.5 Representative Councillors

Election of Representative Councillors pursuant to Article 62 of the Constitution shall be conducted in accordance with the procedures from time to time adopted (in their absolute discretion) by the relevant Divisional Council or a body, group or committee under Article 62(a)(iii) of the Constitution as the case may be.

7.6 Divisional Councillors

Election of Divisional Councillors pursuant to By-Law 11.2(a) shall be conducted in accordance with the Election Rules provided always (subject to maximum tenure restrictions) that a Divisional Councillor retiring pursuant to Article 66 of the Constitution shall be deemed to have been validly nominated for re-election for the ensuing term unless they have notified the relevant Divisional General Manager to the contrary prior to 5pm on 31 October in the relevant year.

7.7 Office Bearers

Election to the offices described in Article 67 of the Constitution and By-Law 11.10 shall be conducted in accordance with the Election Rules, subject to the following amendments and additions:

- (a) By-Law 7.2(f)(iv) shall be replaced by the requirement that completed ballot papers shall be handed to the Returning Officer at the conclusion of the ballot.

- (b) By-Laws 7.2(g) and 7.2(h) shall have no application.
- (c) A candidate may be nominated for more than one position but upon election to one position all other nominations shall automatically lapse.
- (d) Immediately prior to the holding of the ballot and in the discretion of the chair, each candidate shall be allowed a period not exceeding five (5) minutes in which to outline reasons why they are seeking election to office and policies they would pursue if elected.

7.8 Board

Election of Directors pursuant to Article 44 of the Constitution shall be conducted in accordance with the Election Rules, excluding By-Laws 7.2(c), 7.2(k) and 7.2(l), subject to the following amendments and additions:

- (a) In respect of Directors described in Article 44(a)(i) of the Constitution, By-Law 7.2(a) shall be read and construed with the words “entitled to vote in the relevant election (including in the case of nominations for the position of Divisional Councillor and otherwise in the Secretary’s discretion, by advertising the same upon that part of the website maintained by CPA Australia that is designed for Members and not accessible by the general public)” replaced with the words “by advertising the same upon that part of the website maintained by CPA Australia that is designed for Members and not accessible by the general public or otherwise at the discretion of the Secretary”. The following words shall also be added at the end of By-Law 7.2(a) “Each Divisional Council shall also be entitled to submit applications from up to three (3) candidates”.
- (b) In respect of Directors described in Article 44(a)(ii) of the Constitution, By-Law 7.2(a) shall be read and construed with the words “notification to Members entitled to vote in the relevant election (including in the case of nominations for the position of Divisional Councillor and otherwise in the Secretary’s discretion, by advertising the same upon that part of the website maintained by CPA Australia that is designed for Members and not accessible by the general public)” replaced with the words “advertising or otherwise seeking applications in such manner as the Secretary may in the discretion of the Secretary determine”.
- (c) By-Law 7.2(a) shall be read and construed with the words “Nominations for candidates” omitted and replaced with “Applications from candidates”.
- (d) By-Law 7.2(b) shall be replaced with the following words:

“Applications from candidates must be:

 - (i) in writing in the English language;
 - (ii) signed by the candidate;
 - (iii) accompanied by statements signed by the candidate:
 - A. responding to the Nomination and Remuneration Committee’s selection criteria;
 - B. setting out personal particulars of the candidate (and no more) described in Part A of Schedule 1; and
 - C. outlining the matters (and no more) described in Part B of Schedule 1;
 - D. the number of words is at the discretion of the applicant; and
 - (iv) lodged with the Returning Officer before the date specified in the notice calling for applications being no later than a date reflecting the minimum period prior to the Election Event (**Lodging Period**) specified for the purpose in By-Law 7.3.”
- (e) By-Law 7.2(e) shall be read and construed with the word “Member” omitted and replace with “Representative Councillor”.
- (f) The candidate for a position on the Board who is approved by the Representative Council in accordance with its Charter will be elected and appointed to that position.
- (g) Save in the case of a casual vacancy to be filled pursuant to Article 44(g) of the Constitution, the Board shall, pursuant to Article 54(a) of the Constitution, appoint a Nomination and Remuneration Committee prior to expiry of the Lodging Period with the powers and authorities set out in its Charter together with the following additional powers and authorities:

- (i) the Nomination and Remuneration Committee shall meet as soon after expiry of the Lodging Period as expedient and may meet as and when it determines;
 - (ii) the Nomination and Remuneration Committee shall review all applications and supporting materials received for appointment as a Director, arrange reference checks, undertake interviews and make to the Representative Council such recommendations in respect of appropriateness of candidates as the Nomination and Remuneration Committee, in its discretion, may determine by preparing a report listing candidates in numeric order of appropriateness (from most to least appropriate) and including such other supporting material as the Nomination and Remuneration Committee considers relevant, in respect of each category of Directors under Articles 44(a)(i) and (ii) of the Constitution;
 - (iii) the report required to be prepared pursuant to paragraph (ii) above shall be delivered to the Secretary no later than thirty (30) days after expiry of the Lodging Period;
 - (iv) the Nomination and Remuneration Committee may make such other enquiries to assist in its deliberations as the Nomination and Remuneration Committee, in its discretion, may determine, and shall not be bound by the rules of natural justice; and
 - (v) in the deliberations of the Nomination and Remuneration Committee (which shall not be recorded and shall be confidential) the chair shall have a casting vote.
- (h) The Secretary shall circulate the report of the Nomination and Remuneration Committee to members of the Representative Council contemporaneously with the Prescribed Notice and the Representative Council shall, in following the Election Rules, have due regard to, but shall not be bound by, the report of the Nomination and Remuneration Committee.

For the avoidance of any doubt, irrespective of whether a Member or person has submitted an application during the Lodging Period or been recommended by the Nomination and Remuneration Committee, the Representative Council has the discretion and power to nominate and appoint:

- (i) any Member attached to a Division as the Member for that Division who is appointed as a Director pursuant to Article 44(a)(i) of the Constitution; and
 - (i) any person (not being a Member or employee of CPA Australia) as an External Director pursuant to Article 44(a)(ii) of the Constitution.
- (i) Save in the case of a casual vacancy to be filled pursuant to Article 44(g) of the Constitution, this By-Law 7.8(i) applies if as at the end of a Lodging Period only one candidate has applied for election as a Director pursuant to Article 44(a)(i) of the Constitution in respect of a particular Division:
- (i) the Representative Council shall be immediately notified by the Secretary;
 - (ii) a secret ballot shall be conducted by the Representative Council and counted by the Returning Officer in the manner provided in By-Laws 7.2(e) to 7.2(n) inclusive (as those By-Laws are affected by this By-Law 7.8);
 - (iii) if the sole candidate is approved by the Representative Council in accordance with its Charter, the candidate will be declared elected and appointed as a Director; and
 - (iv) if the sole candidate is not approved by the Representative Council in accordance with its Charter, the Representative Council must use its best endeavours to appoint an alternative person from the relevant Division pursuant to Article 44(a)(i) of the Constitution as a Director as soon as possible, with assistance from the Nomination and Remuneration Committee as requested by the Secretary. In providing assistance to the Representative Council, the Nomination and Remuneration Committee must conduct further searches for candidates and use its best endeavours to provide additional recommendations to the Representative Council as soon as possible.
- (j) Save in the case of a casual vacancy to be filled pursuant to Article 44(g) of the Constitution, this By-Law 7.8(j) applies if as at the end of a Lodging Period the number of candidates for the External Directors does not exceed the number of vacancies for the External Directors pursuant to Article 44(a)(ii) of the Constitution:

- (i) the Representative Council shall be immediately notified by the Secretary;
 - (ii) a secret ballot shall be conducted for each of the candidates by the Representative Council and counted by the Returning Officer in the manner provided in By-Laws 7.2(e) to 7.2(n) inclusive (as those By-Laws are affected by this By-Law 7.8);
 - (iii) a candidate who is approved by the Representative Council in accordance with its Charter will be declared elected and appointed as an External Director; and
 - (iv) if a candidate is not approved by the Representative Council in accordance with its Charter, the Representative Council must use its best endeavours to appoint an alternative person or persons (as appropriate) (not being a Member or employee of CPA Australia) as an External Director(s) pursuant to Article 44(a)(ii) of the Constitution as soon as possible, with assistance from the Nomination and Remuneration Committee as requested by the Secretary. In providing assistance to the Representative Council, the Nomination and Remuneration Committee must conduct further searches for candidates and use its best endeavours to provide additional recommendations to the Representative Council as soon as possible.
- (k) The Representative Council shall inform the Secretary of the names of the persons it has appointed as Directors by the Closing Date or as soon as the person is appointed a Director in accordance with By-Law 7.8(i)(iv) or 7.8(j)(iv), who shall in turn inform the President as soon as possible.

Part 8 Form of Proxy

For the purposes of the Constitution and these By-Laws every instrument of proxy shall be in the form or to the effect of Form 2 annexed provided that where notice has been given of a meeting of Members at which it is intended to propose a resolution as a special resolution, the opportunity shall be offered to Members of voting by proxy for or against such special resolution by the addition of the following (or similar) words to Form 2:

This form is to be used *in favour of/against the Special Resolution
* Strike out whichever is not desired
(unless otherwise instructed the proxy may vote as the proxy sees fit)

Part 9 Public Accounting Services

9.1 Provision of Public Accounting Services

No Member shall provide, whether or not for reward and whether on their own account or by means of any entity recognised by law with which they are Affiliated, Public Accounting Services within the Commonwealth of Australia unless the Member holds a current Public Practice Certificate except:

- (a) in the capacity of Affiliate of a Member holding a current Public Practice Certificate;
- (b) in the capacity of Affiliate of an Approved Practice Entity Affiliated with a Member holding a current Public Practice Certificate;
- (c) so long as the Member, being also a member of a body specified in Schedule 2, is permitted (or a Practice Entity Affiliated with the Member is permitted) by the constitution of such body to provide Public Accounting Services, and the Member has notified the Board of such conduct and permission;
- (d) being a Member holding an Allocated Membership Status of at least Certified Practising Accountant and permitted to practice as a legal practitioner in any jurisdiction within the Commonwealth of Australia, where the Member has the bona fide and reasonable expectation of rendering, and/or does render in any Annual Period, gross fees not exceeding the Prescribed Amount in consideration of providing of Public Accounting Services; or
- (e) so long as the Member:
 - (i) holds current a policy of professional indemnity insurance in accordance with By-Law 9.5(a); and
 - (ii) has the bona fide and reasonable expectation of rendering, and/or does render in any Annual Period, gross fees not exceeding the Prescribed Amount in consideration of providing of Public Accounting Services.

9.2 Approved Practice Entities

A Practice Entity is an Approved Practice Entity for the purpose of these By-Laws if (and only if) so approved by the Board in writing in every case upon application for approval being submitted by the Member Affiliated with the Practice Entity and for so long as:

- (a) Being a partnership, the partnership is Controlled by:
 - (i) a Member or Members or at least one Member together with (**Approved Controllers**):
 - A. such members of a body specified in Schedule 2 as shall be permitted by the constitution of such body to provide Public Accounting Services; and/or
 - B. such other person or entity as the Board may, upon such terms and conditions as the Board may in the discretion of the Board determine, approve either generally or in any particular case taking into account, in the case of a natural person who is not Affiliated with the Member, the matters following:
 - (aa) the tertiary or other professional qualifications possessed by the person;
 - (bb) competence, experience or skill demonstrated by the person in their profession or calling;
 - (cc) the commercial, community or educational status of the person; and
 - (dd) such other matters as the Board may prescribe either generally or in any particular case; and/or
 - (ii) a body corporate or bodies corporate complying with By-Law 9.2(b); and/or
 - (iii) a trust or trusts complying with By-Law 9.2(c).
- (b) Being a body corporate:
 - (i) the director or (if more than one) all directors comprise respectively a Member or Members or at least one Member together with Approved Controllers;
 - (ii) the constitution of the body corporate contains provisions (**Approved Provisions**) that:
 - A. that instrument may only be amended with approval of the Board;
 - B. any change in Control must be notified to CPA Australia within five (5) Business Days prior to the change occurring, accompanied by the Structural Profile applying after the change;
 - C. Public Accounting Services shall be provided at all times in accordance with the minimum professional, ethical and technical requirements from time to time contained in these By-Laws, Code of Professional Conduct and all other rules and pronouncements contained in or made under authority of the Constitution; and
 - D. all stationery and other information provided (in any media) in conjunction with or in anticipation of providing Public Accounting Services shall contain the name of every natural person providing the same and their qualifications including, in the case of a Member, the designation appropriate to the Member other than any Specialist Designation, the use of which shall be optional.
- (c) Being a trust:
 - (i) the trustee of which is:
 - A. a Member or Members; and/or
 - B. a body corporate complying with By-Law 9.2(b); and
 - (ii) which is Controlled by a Member or Members or at least one Member together with Approved Controllers; and

- (iii) the trust deed or other instrument constituting the trust contains the Approved Provisions.

9.3 Issue of Public Practice Certificates

(a) A Public Practice Certificate shall be issued to a Member by the Board for an initial period not exceeding twelve (12) months expiring on 31 December next and shall be capable of renewal on an annual basis thereafter so long as the Member is not in default of their continuing obligations set out in By-Law 9.4. Every applicant for issue of a Public Practice Certificate (including following cancellation of a previously held Public Practice Certificate) shall:

- (i) make application in writing in the form from time to time prescribed for the purpose to be accompanied by the prescribed application fee (if any) and the prescribed subscription (if any);
- (ii) hold an Allocated Membership Status of at least Certified Practising Accountant or satisfy the criteria for admission as a Certified Practising Accountant;
- (iii) in the event the applicant has within the last five (5) years or is proposing to migrate from a Division outside the Commonwealth of Australia to a Division within the Commonwealth of Australia pursuant to By-Law 3.9, provide evidence satisfactory to the Board (whether generally or in any particular case) of having passed, within the last five (5) years immediately preceding the application, examinations approved by the Board in the subjects of company law, taxation and audit procedures applicable to the jurisdiction of the Division to which they are or would be attached and if none, as applying generally in the Commonwealth of Australia;
- (iv) provide evidence satisfactory to the Board of ability to satisfy the ongoing requirements referable to holders of a Public Practice Certificate contained in By-Law 9.4;
- (v) provide evidence satisfactory to the Board of having for a period of at least three (3) years within the last five (5) years immediately preceding the application been engaged in full time employment in either:
 - A. an area of work relating to accounting, finance or business advice; or
 - B. providing Public Accounting Services;
- (vi) if the applicant has previously held a Public Practice Certificate, satisfy the Board that, within the twelve (12) months immediately prior to the application, the Member has completed forty (40) hours of Continuing Professional Development referable to Public Accounting Services (which shall be disregarded in calculating compliance with the general requirement for Continuing Professional Development pursuant to By-Law 4.1);
- (vii) if the Member proposes to provide Public Accounting Services by or through a Practice Entity, evidence satisfactory to the Board that such entity is an Approved Practice Entity;
- (viii) possess such other qualifications or comply with such other conditions as the Board may prescribe either generally or in any particular case;

and, unless the applicant last held a Public Practice Certificate (if at all) less than five (5) years prior to the making of the application, the applicant shall also:

- (ix) provide evidence satisfactory to the Board of having successfully completed, no more than five (5) years prior to the date of application, the Public Practice Program: by
 - A. direct participation; or
 - B. being granted such credits or dispensations approved by the Board in its discretion (whether generally or in any particular case) in respect of the applicant having undertaken a corresponding program conducted by one of the bodies of accountants listed in Schedule 2 or such other professional practice qualification program as the Board may from time to time approve.

- (b) The Board may issue, re-issue, refuse to issue or re-issue, cancel or suspend for any period a Public Practice Certificate upon such terms and conditions as the Board deems fit. The Public Practice Certificate of any Member ceasing for any reason to be a Member shall automatically be cancelled upon such cessation. Any refusal, cancellation or suspension, including by reason of breach by the Member concerned of the continuing requirements of By-Laws 9.4(a) to 9.4(e) inclusive, must be notified to the Member concerned within five (5) Business Days of the refusal, cancellation or suspension being made, accompanied by reasons for the same provided always the giving of notice shall not be a prerequisite for nor in any way effect the validity of any such refusal, cancellation or suspension.
- (c) Each Public Practice Certificate shall be and remain the property of CPA Australia and the Board may at any time call for and compel its production and delivery and may alter or amend the same or issue a replacement. Any Member or former Member suffering suspension or cancellation of their Public Practice Certificate shall return the same to the Board for dealing with accordingly. A Member shall not make or allow to be made any photographic or other imitation of their Public Practice Certificate.
- (d) The Board delegates (non-exclusively) the powers set out in By-Law 9.3(a) to 9.3(c) inclusive to the Chief Executive Officer or his delegate. A Member aggrieved by a decision of the Board (including its delegate) to refuse to issue or re-issue, cancel or suspend a Public Practice Certificate shall have the right of appeal to an Appeals Committee exercisable pursuant to By-Law 5.14(s) in the same manner as an appeal from a Determination of a Disciplinary Committee and upon the same terms contained in By-Laws 5.13 and 5.14 as can be applied to the context (including the power to make a Determination in respect of costs and expenses reasonably incurred by CPA Australia in the investigation and Determination of the matter), but without publication as provided by By-Law 5.15.

9.4 Rights and responsibilities of holders of a Public Practice Certificate

Every Member holding current a Public Practice Certificate shall, for so long as the Member shall hold the Public Practice Certificate:

- (a) hold current an enforceable policy of professional indemnity insurance which complies with By-Law 9.5;
- (b) comply with all Quality Assurance requirements and successfully complete a periodic Quality Assurance review;
- (c) do all acts matters and things necessary to maintain an Allocated Membership Status of at least a Certified Practising Accountant;
- (d) comply with any and all laws relating to Public Accounting Services having force in the place in which the Member offers Public Accounting Services including by payment of any applicable fees or levies;
- (e) if providing Public Accounting Services by or through a Practice Entity that is an Approved Practice Entity or a Practice Entity permitted by By-Law 9.2, submit to the Board within five (5) Business Days prior to any change and as and when from time to time required by the Board (and at least annually within the time prescribed for payment of annual subscriptions by Members), a Structural Profile in respect of the Practice Entity and, if so required, evidence satisfactory to the Board the Practice Entity remains an Approved Practice Entity or a Practice Entity permitted by By-Law 9.2; and
- (f) be permitted to use, by themselves or by an Approved Practice Entity Affiliated with the Member, such Intellectual Property of CPA Australia comprising:
 - (i) the designation Certified Practising Accountant; and
 - (ii) any logo, including the logo specifically applicable to providing Public Accounting Services;as licensee under limited licence from CPA Australia, provided always such use:
 - (iii) be strictly within the Guidelines (and for the removal of doubt, any use otherwise than strictly within the Guidelines is prohibited);
 - (iv) be solely in relation to providing Public Accounting Services;

- (v) may be determined and the licence of user revoked upon two (2) Business Days notice from the Board to the Member concerned without the necessity of ascribing a reason; and
- (vi) shall be determined and the licence of user revoked automatically and without the necessity of any notice upon the relevant Public Practice Certificate being cancelled or suspended or upon the Member concerned ceasing for any reason to be a Member or suffering a suspension of membership.

9.5 Professional Indemnity Insurance

- (a) Every Member providing Public Accounting Services shall (whether or not holding a current Public Practice Certificate or being entered on the Retired Membership List) hold current an enforceable policy of professional indemnity insurance that satisfies at least the minimum requirements set out in By-Law 9.5(b).
- (b) The minimum requirements for a policy of professional indemnity insurance are:
 - (i) the minimum sum insured shall be the greater of:
 - A. the sum of A\$250,000;
 - B. any sum from time to time prescribed by any legislative enactment having effect in the Division to which the Member is attached; and
 - C. any sum from time to time prescribed by the Board either generally or in any particular instance;
 - (ii) the assured shall be the relevant Member and any Approved Practice Entity with which the Member is Affiliated;
 - (iii) there shall be terms (save only to the extent the Board in any particular case otherwise allows) providing for:
 - A. run-off cover in respect of Members ceasing to provide Public Accounting Services;
 - B. an excess for each and every claim not exceeding the greater of:
 - (aa) 3% of the gross income of the assured in the immediately prior year; and
 - (bb) 1% of the policy limit;
 - C. cover with respect to losses arising out of the dishonesty of the Member or any Affiliate; and
 - D. indemnity to attach to any civil liability arising out of or in any way related to the provision of Public Accounting Services by the assured.
- (c) A Member required by By-Law 9.5(a) to hold current a policy of professional indemnity insurance shall provide to the Divisional General Manager of the Division to which they are attached:
 - (i) an original certificate of currency of such policy of insurance within ten (10) Business Days of issue, renewal or replacement of such policy;
 - (ii) notification of any cancellation, lapse or failure to renew such policy of insurance within five (5) Business Days of the same occurring; and
 - (iii) an authorisation (remaining current as a continuing requirement) in such form as the Divisional General Manager may from time to time require to the relevant insurer to provide to any officer of CPA Australia information upon request relating to the identity of the assured, currency, sums insured and terms of such policy of insurance.

Part 10 Divisional General Meetings

10.1 Calling Divisional General Meetings

Each Divisional Council may by resolution of the Divisional Council call a Divisional General Meeting at such time and at such place as determined by the Divisional Council.

10.2 Divisional Annual General Meeting

- (a) Each Division must hold a Divisional General Meeting, called the Divisional Annual General Meeting by no later than 31 March in every year, which must be held in the capital city of the State or Territory which that Division represents.
- (b) The business of a Divisional Annual General Meeting shall be to receive and consider the report of the Divisional Council for the preceding year and to consider any other business relating to the activities of the Division which may be raised at the Divisional Annual General Meeting.

10.3 Notice of Divisional General Meetings

- (a) Notice of a Divisional General Meeting and any proxy form for the Divisional General Meeting may be given to the Divisional Members in the form and in the manner in which the Divisional Council resolves.
- (b) Notice of a Divisional General Meeting shall be deemed to be sufficiently given to all Divisional Members if the notice of meeting is published in the Publication.
- (c) A person may waive notice of any Divisional General Meeting by written notice to CPA Australia.
- (d) A person who has not duly received notice of a Divisional General Meeting may, before or after the meeting, notify CPA Australia of the person's agreement to anything done or resolution passed at the meeting.
- (e) A person's attendance at a Divisional General Meeting waives any objection which that person may have had to a failure to give notice, or the giving of a defective notice, of the meeting, unless the person at the beginning of the meeting objects to the holding of the meeting.
- (f) Anything done (including the passing of a resolution) at a Divisional General Meeting is not invalid because a person does not receive notice of the Divisional General Meeting and/or a proxy form, or the Division accidentally does not give notice of the Divisional General Meeting or a proxy form to a person.

10.4 Quorum of Divisional General Meetings

- (a) Unless a quorum for a Divisional General Meeting is present at the time when the meeting commences, no business may be transacted at that meeting except, subject to By-Law 10.5, the election of the chair of that meeting.
- (b) A quorum for a Divisional General Meeting is 6 Divisional General Meeting Members entitled to vote on a resolution at that meeting or if only one Divisional General Meeting Member is entitled to vote at that meeting, then that Divisional General Meeting Member (or a person appointed as a proxy or attorney of that Divisional General Meeting Member). Each individual present may only be counted once towards a quorum. If a Divisional General Meeting Member has appointed more than one proxy or attorney, only one of them may be counted towards a quorum.
- (c) If a quorum is not present within 15 minutes after the time appointed for the commencement of a Divisional General Meeting, the meeting is dissolved unless the chair of the meeting or the Divisional Council adjourns the meeting to a date, time and place determined by that chair or the Divisional Council.
- (d) If a quorum is not present within 15 minutes after the time appointed for the commencement of an adjourned Divisional General Meeting, the meeting is dissolved.

10.5 Chair of Divisional General Meetings

- (a) Subject to By-Laws 10.5(b) and 10.5(c), the Divisional President, in the Divisional President's absence, the Divisional Deputy President or in the absence of the Divisional President and the Divisional Deputy President, a Divisional Vice President (drawn by lot unless agreed amongst themselves, if more than one Divisional Vice President is present) or in absence of the Divisional President, the Divisional Deputy President and all Divisional Vice Presidents, a Divisional Councillor to be chosen by the Divisional Members present at the meeting and the proxies and attorneys who are present at the meeting representing Divisional Meeting Members, must chair each Divisional General Meeting.

- (b) If at a Divisional General Meeting:
 - (i) no person entitled to chair the meeting is present within 15 minutes after the time appointed for holding the meeting; or
 - (ii) all of the persons entitled to chair the meeting who are present within 15 minutes of the time appointed for holding the meeting decline to chair all or part of the meeting,

the Divisional Members who are present at the meeting and the proxies and attorneys who are present at the meeting representing Divisional General Meeting Members shall (by majority vote) elect one of the Divisional Members who is present at the meeting to chair that meeting.

- (c) The chair of a Divisional General Meeting may, for any item of business at that meeting or for any part of that meeting, vacate their position as chair in favour of another person nominated by him or her.

10.6 Conduct of Divisional General Meetings

- (a) The chair of a Divisional General Meeting is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting. The chair of a Divisional General Meeting shall maintain order at the meeting and conduct the meeting in a proper and orderly manner.
- (b) The chair of a Divisional General Meeting may make rulings without putting the question (or any question) to the vote if that action is required to ensure the orderly conduct of the meeting.
- (c) The chair of a Divisional General Meeting may determine the procedures to be adopted for proper and orderly discussion or debate at the meeting, and the casting or recording of votes at the meeting.
- (d) The chair of a Divisional General Meeting may determine any dispute concerning the admission, validity or rejection of a vote at the meeting.
- (e) The chair of a Divisional General Meeting may at any time terminate discussion or debate on any matter being considered at the meeting and require that matter be put to a vote.
- (f) The chair of a Divisional General Meeting may refuse to allow debate or discussion on any matter which is not business referred to in the notice of that meeting without being referred to in the notice of meeting.
- (g) The chair of a Divisional General Meeting may refuse any person admission to, or require a person to leave and remain out of, the meeting if that person:
 - (i) in the opinion of the chair, is not complying with the reasonable directions of the chair;
 - (ii) has any audio or visual recording or broadcasting device;
 - (iii) has a placard or banner;
 - (iv) has an article the chair considers to be dangerous, offensive or liable to cause disruption;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner;
 - (vi) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession; or
 - (vii) is not, in relation to the relevant Division, a Divisional Member, a Divisional Councillor, a Divisional General Manager or a person to whom By-Law 10.7(d) applies.
- (h) If the chair of Divisional General Meeting considers that there are too many persons present at the meeting to fit into the venue where the meeting is to be held, the chair may nominate a separate meeting place using any technology that gives Divisional General Meeting Members as a whole a reasonable opportunity to participate.
- (i) The chair of a Divisional General Meeting may delegate any power conferred by this By-Law 10.6 to any person.

10.7 Attendance at Divisional General Meeting

- (a) Subject to these By-Laws, a Divisional General Meeting Member who is entitled to attend and cast a vote at a Divisional General Meeting, may attend and vote in person or by proxy or by attorney.
- (b) The chair of a Divisional General Meeting may require a person acting as a proxy or attorney at that meeting to establish to the chair's satisfaction that the person is the person who is duly appointed to act. If the person fails to satisfy this requirement, the chair may exclude the person from attending or voting at the meeting.
- (c) A Divisional Councillor is entitled to receive notice of and to attend all Divisional General Meetings of his or her Division and is entitled to speak at those meetings.
- (d) A person requested by the Divisional Council to attend a Divisional General Meeting is, regardless of whether that person is a Divisional Member or not, entitled to attend that meeting and, at the request of the chair of the meeting, is entitled to speak at that meeting.

10.8 Authority of proxies and attorneys at Divisional General Meetings

- (a) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Divisional Member, the person so appointed has the same rights to speak, demand a poll, join in demanding a poll or act generally at a Divisional General Meeting to which the appointment relates, as the appointing Divisional Member would have had if that Divisional Member was present at the meeting.
- (b) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Divisional Member, the appointment is taken to confer authority to:
 - (i) vote on any amendment moved to a proposed resolution and on any motion that a proposed resolution not be put or any similar motion; and
 - (ii) vote on any procedural motion, including any motion to elect the chair of the Divisional General Meeting to which the appointment relates, to vacate the chair or to adjourn the Divisional General Meeting,even though the appointment may refer to specific resolutions and may direct the proxy or attorney how to vote on particular resolutions.
- (c) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Divisional Member, the appointment is taken to confer authority to attend and vote at a Divisional General Meeting which is rescheduled, postponed or adjourned to another time or changed to another place, even though the appointment may refer to a specific meeting to be held at a specified time or place.

10.9 Multiple appointments

- (a) If more than one attorney appointed by a Divisional Member is present at a Divisional General Meeting and CPA Australia has not received notice of any revocation of any of the appointments:
 - (i) an attorney appointed to act at that particular meeting may act to the exclusion of an attorney appointed pursuant to a standing appointment; and
 - (ii) subject to By-Law 10.9(a)(i), an attorney appointed pursuant to the most recent appointment may act to the exclusion of an attorney appointed earlier in time.
- (b) An appointment of a proxy of a Divisional Member is revoked (or, in the case of a standing appointment, suspended for that particular Divisional General Meeting) if CPA Australia receives a further appointment of a proxy from that Divisional Member which would result in there being more than one proxy of that Divisional Member entitled to act at the Divisional General Meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this By-Law 10.9(b).
- (c) The appointment of a proxy for a Divisional Member is not revoked by an attorney for that Divisional Member attending and taking part in a Divisional General Meeting to which the appointment relates, but if that attorney votes on a resolution at that Divisional General Meeting, the proxy is not entitled to vote, and must not vote, as the Divisional Member's proxy on that resolution.

10.10 Voting at Divisional General Meeting

- (a) A resolution put to the vote at a Divisional General Meeting must be decided on a show of hands, unless a poll is demanded in accordance with By-Law 10.13 and that demand is not withdrawn.
- (b) A Divisional Council may at any time resolve that in lieu of submitting a resolution to a Divisional General Meeting it shall submit a resolution or resolutions to Divisional Members by means of a postal ballot, which ballot shall be conducted as nearly as practicable in the manner set out in this By-Law 10.10(b) and the result of such postal ballot shall have the same force and effect as a resolution passed at a Divisional General Meeting. The following rules shall apply to any postal ballot held pursuant to this By-Law 10.10(b):
 - (i) Prior to sending to Divisional Members the voting papers, the Divisional Council shall appoint five (5) Divisional Members to be scrutineers, at least three (3) of whom shall act as such.
 - (ii) The Divisional Council shall cause voting papers to be posted to each Divisional Member who would have been entitled if present to vote at the Divisional General Meeting at the Divisional Member's registered address. Such voting papers shall set out any resolutions proposed by the Divisional Council and shall contain full directions as to the method and procedures for voting.
 - (iii) All Divisional Members wishing to vote on any resolution must do so by voting in the manner indicated in the directions.
 - (iv) Within seven (7) days after the last day upon which votes can be received pursuant to the directions given in By-Law 10.10(b)(ii) the scrutineers or at least three (3) of them shall meet and examine the voting papers.
 - (v) Envelopes containing the voting papers may be opened either before or at such meeting of the scrutineers but may only be opened in the presence of at least one of the scrutineers. The scrutineers shall reject the vote of any Divisional Member who at the date of such meetings was in arrears for more than three (3) months with any Fee (including any subscription) or Fine or who has failed to observe the directions referred to in By-Law 10.10(b)(ii) (unless in their opinion the Member has clearly indicated the way in which the Member wishes to vote) and they may reject any other vote which in their view ought properly be rejected.
 - (vi) The scrutineers shall as soon as practicable report the result of the voting to the Divisional President and shall include in such report a statement of the number of votes rejected by them and the reasons for such rejection. The President shall arrange for the result of the postal ballot to be given to Divisional Members within a reasonable time after the receipt of such report, whether by publication in the Publication or otherwise. The report of the scrutineers as to the result of the ballot shall be conclusive. A resolution passed by such ballot shall have the same effect as if it were a resolution passed at a Divisional General Meeting held on the date of the report of the scrutineers.
 - (vii) Where for any reason the Divisional President is unable to exercise any powers granted to the Divisional President under this By-law 10.10, the power shall be exercised by a Divisional Councillor appointed by the Divisional Council for that purpose.
- (c) Subject to By-Law 10.12, on a show of hands at a Divisional General Meeting, each Divisional General Meeting Member having the right to vote on the resolution has one vote, provided that where a person is entitled to vote in more than one capacity, that person is entitled only to one vote.
- (d) Subject to By-Law 10.12, on a poll at a Divisional General Meeting, each person present at the meeting and having the right to vote on the resolution has, if they are a Divisional General Meeting Member, one vote, and further has one vote for each Divisional General Meeting Member that the person represents.
- (e) Where the Divisional Council has determined other means (including electronic) permitted by law for the casting and recording of votes by Divisional Members on any resolution to be put at a Divisional General Meeting, each Divisional Member having a right to vote on the resolution has one vote.

- (f) An objection to a right to vote at a Divisional General Meeting or to a determination to allow or disregard a vote at the meeting may only be made at that meeting (or any resumed meeting if that meeting is adjourned). Any objection pursuant to this By-Law 10.10(f) must be decided by the chair of the Divisional General Meeting, whose decision, made in good faith, is final and conclusive.
- (g) A resolution at a Divisional General Meeting is passed if more votes are cast by Divisional Members entitled to vote in favour on the resolution than against it.
- (h) In the case of an equality of votes on a resolution at a Divisional General Meeting, whether on a show of hands or on a poll, the chair of that meeting shall have a casting vote on that resolution.
- (i) Unless a poll is demanded and the demand is not withdrawn, a determination by the chair of a Divisional General Meeting following a vote on a show of hands that a resolution has been passed or not passed, and an entry to that effect in the minute book of the Division shall be conclusive evidence of that fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

10.11 Voting by representatives at Divisional General Meetings

- (a) The validity of any resolution passed at a Divisional General Meeting is not affected by the failure of any proxy or attorney to vote in accordance with directions (if any) of the appointing Divisional Member.
- (b) If a proxy of a Divisional Member purports to vote contrary to the relevant Divisional Member's directions to the proxy, on a show of hands the vote of that proxy is invalid and the Division must not count it. If a poll is demanded, the vote of a proxy of a Divisional Member must be treated as if cast in the way directed by the Divisional Member to the proxy.
- (c) A vote cast at a Divisional General Meeting by a person appointed by a Divisional Member as a proxy or attorney is valid despite:
 - (i) the revocation of the appointment (or the authority pursuant to which the appointment was executed); or
 - (ii) the previous death or unsoundness of mind of the appointing Divisional Member,provided that no notice in writing of that matter has been received by the Division before the commencement of that meeting.

10.12 Restrictions on voting rights at Divisional General Meetings

- (a) The authority of a proxy or attorney for a Divisional Member to speak or vote at a Divisional General Meeting to which the authority relates is suspended while the Divisional Member is present in person at that meeting.
- (b) A Divisional General Meeting Member is not entitled to vote on any resolution, either personally or by proxy or attorney, if:
 - (i) the Divisional General Meeting Member's Allocated Membership Status is Associate, unless:
 - A. the Divisional General Meeting Member was an Associate as at 30 June 1990; or
 - B. the Divisional General Meeting Member successfully completed the Associate Program examination prescribed by the Board on or before 31 December 1990 and has complied with the requirements for admission or advancement as an Associate in accordance with the By-Laws in force on 30 June 1990;
 - (ii) the Divisional General Meeting Member is an Honorary Member;
 - (iii) the Divisional General Meeting Member's membership has been suspended and the Divisional General Meeting Member has not been Reinstated; or
 - (iv) any Fee, Fine, or other amount due and payable to CPA Australia in respect of that Divisional General Meeting Member's membership of CPA Australia has not been paid and is more than three (3) months overdue.

- (c) The Division must disregard any vote on a resolution at a Divisional General Meeting purported to be cast by a Divisional General Meeting Member where that person is not entitled to vote on that resolution. A failure by the Division to disregard a vote on a resolution as required by this By-Law 10.12(c) does not invalidate that resolution or any act, matter or thing done at the meeting, unless that failure occurred by wilful default of the Division or of the chair of that meeting.

10.13 Polls

- (a) A poll on a resolution at a Divisional General Meeting may be demanded by a Divisional Member only if at least four (4) other Divisional Members join in the demand for a poll.
- (b) No poll may be demanded at a Divisional General Meeting on the election of a chair of that meeting, or unless the chair of the meeting otherwise determines, the adjournment of that meeting.
- (c) A demand for a poll may be withdrawn.
- (d) A poll demanded on a resolution at a Divisional General Meeting for the adjournment of that meeting must be taken immediately. A poll demanded on any other resolution at a Divisional General Meeting must be taken in the manner and at the time and place the chair of the meeting directs.
- (e) The result of a poll demanded on a resolution of a Divisional General Meeting is a resolution of that meeting.
- (f) A demand for a poll on a resolution of a Divisional General Meeting does not prevent the continuance of that meeting or that meeting dealing with any other business.

10.14 Proxies

- (a) A Divisional Member who is entitled to attend and vote at a Divisional General Meeting may appoint a person as proxy to attend and vote for the Divisional Member.
- (b) A form of appointment of proxy is valid if it is in the form (including electronic) prescribed in these By-Laws, or which the Divisional Council may otherwise accept.
- (c) If the name of the proxy or the name of the office of the proxy in a proxy appointment of a Divisional Member is not filled in, the proxy of that Divisional Member is:
 - (i) the person specified by the Division in the form of proxy in the case that the Divisional Member does not choose; or
 - (ii) if no person is so specified, the chair of that meeting.

10.15 Receipt of appointments

- (a) An appointment of proxy or attorney for a Divisional General Meeting is effective only if the Division receives the appointment (and any authority pursuant to which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time appointed for the meeting to commence or (in the case of an adjourned meeting) resume.
- (b) Where a notice of meeting specifies an electronic address or other electronic means by which a Divisional Member may give the Division a proxy appointment, a proxy given at that electronic address or by that other electronic means is taken to have been given by the Divisional Member and received by the Division if the requirements set out in the notice of meeting are complied with.

10.16 Adjournments of Divisional General Meetings

- (a) The chair of any Divisional General Meeting at which a quorum is present may at any time during the meeting, and shall if so directed by the meeting, adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered at the meeting or any discussion or debate, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the chair.
- (b) If the chair of a Divisional General Meeting exercises the right to adjourn that meeting pursuant to By-Law 10.16(a), the chair may (but is not obliged to) obtain the approval of Divisional General Meeting Members to the adjournment.
- (c) No person other than the chair of a Divisional General Meeting may adjourn that meeting.

- (d) Subject to By-Law 10.16(f), the Division may give such notice of a Divisional General Meeting resumed from an adjourned meeting as the Divisional Council resolves. Failure to give notice of an adjournment of a Divisional General Meeting or the failure to receive any notice of the meeting does not invalidate the adjournment or anything done (including the passing of a resolution) at a resumed meeting.
- (e) Only business left unfinished is to be transacted at a Divisional General Meeting which is resumed after an adjournment.
- (f) If a meeting is adjourned for 30 days or more, the Division must give notice of the adjourned meeting as if the adjourned meeting was an original meeting.

10.17 Cancellations and postponements

- (a) A Divisional Council may by resolution cancel or postpone a Divisional General Meeting or change the place for the meeting, prior to the date on which the meeting is to be held.
- (b) The Divisional Council may give notice of a cancellation or postponement or change of place of a Divisional General Meeting as the Divisional Council resolves. Failure to give notice of a cancellation or postponement or change of place of a Divisional General Meeting or the failure to receive any notice of the meeting does not invalidate the cancellation, postponement or change of place of a meeting or anything done (including the passing of a resolution) at a postponed meeting or the meeting at the new place.
- (c) The only business that may be transacted at a Divisional General Meeting the holding of which is postponed is the business specified in the original notice calling the meeting.

Part 11 Divisional Councils

11.1 Powers and duties of Divisional Councils

- (a) Subject always to the control of the Board, a Divisional Council shall have the following powers and discretions on behalf of CPA Australia within the limits of its own Division:
 - (i) to recommend to the Board:
 - A. the appointment, duties, salaries and emoluments of such officers and agents in respect of its Division for permanent, temporary or special services as it may from time to time think fit;
 - B. the removal or suspension of such officers and agents in respect of its Division as it may from time to time think fit.
 - (ii) to appoint legal advisers to its Division;
 - (iii) to take cognisance of anything affecting CPA Australia or the professional conduct of Members and shall forthwith make a report thereof to the Board;
 - (iv) to receive any moneys payable to CPA Australia and it may make and give receipts releases and other discharges therefore and for the claims and demands of CPA Australia; and
 - (v) to establish a Divisional Branch at any place in the State or Territory or place in which such Division is established, provided that any such Divisional Branch is governed by rules approved by the Board. It may at any time discontinue any such Divisional Branch. For the avoidance of doubt, a Divisional Branch is not a Branch for the purposes of the Constitution or these By-Laws.
- (b) Subject always to the control of the Board, a Divisional Council must exercise the following duties on behalf of CPA Australia within the limits of its own Division:
 - (i) to forthwith notify the Secretary in writing of all applications for admission and changes in status and of all suspensions and forfeitures and supply the Secretary with such particulars thereof as the Secretary may from time to time require;
 - (ii) to arrange for the holding of examinations from time to time in its Division; and
 - (iii) to furnish each year to the Board a report of the activities of its Division during the previous year and such other information as the Board may require.

11.2 Filling of vacancies on Divisional Councils

- (a) Vacancies caused by retirements by rotation pursuant to Article 66 of the Constitution shall be filled by electing replacements by no later than 31 December during the calendar year immediately prior to the vacancies arising. The elections shall be conducted in the manner prescribed by Part 7 of these By-Laws. Divisional Councillors so elected shall take office on the first day of January next following the year during which the election occurs.
- (b) Any vacancy occurring in a Divisional Council by the retirement of a Divisional Councillor by rotation under Article 66 of the Constitution and not filled pursuant to By-Law 11.2(a) may be filled by such Divisional Council appointing a Divisional Member who shall retain office as a Divisional Councillor for such period as that Divisional Member would have been entitled to retain office had that Divisional Member been elected as a Divisional Councillor pursuant to By-Law 11.2(a).
- (c) If the Divisional Members or the Divisional Council fail at any time to elect Divisional Members to fill such vacancies in place of those retiring, the retiring Divisional Councillors or such of them as have not had their places filled shall continue in office in every respect as though they had been duly appointed at the time.
- (d) Any casual vacancy occurring in the Divisional Council may be filled by such Divisional Council electing a Divisional Member who shall retain office as a Divisional Councillor for as long as the vacating Divisional Councillor would have retained the office if no vacancy had occurred, and shall be deemed to have commenced holding office on the date on which the vacating Divisional Councillor commenced that Divisional Councillor's term of office.
- (e) A Divisional Council may at any time and from time to time appoint a Divisional Member as an additional Divisional Councillor provided that the total number of Divisional Councillors shall not at any time exceed the number determined by the Board pursuant to Article 66 of the Constitution. Any Divisional Councillor so appointed shall hold office only until the expiration of the then current term and shall then be eligible for re-election.

11.3 Meetings of Divisional Councils

- (a) Subject to these By-Laws, a Divisional Council may meet, adjourn and otherwise regulate its meetings as it thinks fit provided that each Divisional Council must meet at least once every three months.
- (b) A Divisional General Manager must call a Divisional Council meeting on the request of the following person(s) from that Division:
 - (i) the Divisional President;
 - (ii) a Divisional Deputy President;
 - (iii) a Divisional Vice President; or
 - (iv) the number of Divisional Councillors which is sufficient to form of quorum under By-Law 11.3(j).
- (c) Notice of a Divisional Council meeting must be given to each Divisional Councillor of that Division (except a Divisional Councillor on leave of absence approved by the Division) and an alternate divisional councillor appointed by a Divisional Councillor on leave of absence approved by that Division. Notice of a Divisional Council meeting may be given in person, or by post or by telephone, fax or other electronic means.
- (d) A Divisional Councillor or alternate divisional councillor may waive notice of a Divisional Council meeting by giving notice to that effect to the Division in person or by post or by telephone, fax or other electronic means.
- (e) A person who attends a meeting of a Divisional Council waives any objection that person and:
 - (i) if the person is a Divisional Councillor, any alternate divisional councillor appointed by that person; or
 - (ii) if the person is an alternate divisional councillor, the Divisional Councillor who appointed that person as alternate divisional councillor,may have to a failure to give notice of the meeting.

- (f) Anything done (including the passing of a resolution) at a Divisional Council meeting is not invalid because either or both a person does not receive notice of the meeting or the Division accidentally does not give notice of the meeting to a person.
- (g) Each Divisional Councillor, by consenting to be a Divisional Councillor, consents to the holding of a Divisional Council meeting using any technology (or any combination of technologies) which permits each Divisional Councillor to communicate with every other participating Divisional Councillor. A Divisional Councillor may withdraw the consent given pursuant to this By-Law 11.3(g).
- (h) If a Divisional Council meeting is held in 2 or more places linked together by any technology consented to by all Divisional Councillors or any combination of any such technologies:
 - (i) a Divisional Councillor present at one of the places is taken to be present at the meeting unless and until the Divisional Councillor states to the chair of the meeting that the Divisional Councillor is discontinuing his or her participation in the meeting; and
 - (ii) the chair of that meeting may determine at which of those places the meeting will be taken to have been held, provided that at least one of the persons present at the meeting was at that place for the duration of the meeting.
- (i) If, due to any unforeseen circumstances a Divisional Councillor is unable to attend or vote at any meeting of the Divisional Council and:
 - (i) the Divisional Councillor has not appointed an alternate divisional councillor who would be entitled to attend such a meeting in accordance with By-Law 11.7; or
 - (ii) if the Divisional Councillor has appointed an alternate divisional councillor in accordance with By-Law 11.7, the alternate divisional councillor appointed by that Divisional Councillor is unable to attend,then that Divisional Councillor may by signed notice to the Division at least 48 hours prior to the relevant Divisional Council meeting authorise a Member attached to that Division to:
 - (iii) attend that meeting of the Divisional Council; and
 - (iv) vote on his or her behalf on all questions arising at the meeting or upon any particular question arising at that meeting.
- (j) Each Divisional Council shall determine and may from time to time vary the quorum necessary for the transaction of its business. A quorum for a Divisional Council meeting must be present at all times during the meeting. Each individual present is counted towards a quorum in respect of each appointment as an alternate divisional councillor of another Divisional Councillor in addition (if applicable) to being counted as a Divisional Councillor.
- (k) A Divisional Council shall cause to be regularly entered, in books provided for the purpose, minutes of the proceedings of its meetings. The minutes of any meeting of a Divisional Council signed by the chair of the succeeding meeting of the Divisional Council shall, unless the contrary is proved, be conclusive evidence of the proceedings recorded in those minutes.

11.4 Chair of Divisional Council meetings

At all meetings of a Divisional Council, the Divisional President shall preside as chair or, in the Divisional President's absence, the Divisional Deputy President shall preside as chair, or in the Divisional Deputy President's absence, a Divisional Vice President (chosen by the Divisional Councillors present, if more than one Divisional Vice President is present) shall preside as chair. In the absence of the Divisional President, the Divisional Deputy President and all Divisional Vice Presidents at a Divisional Council meeting, the Divisional Council may elect a Divisional Councillor as chair of that meeting.

11.5 Divisional Council resolutions

- (a) A resolution of a Divisional Council is passed if more votes are cast by Divisional Councillors entitled to vote in favour of the resolution than against it.

- (b) Subject to this By-Law 11.5, each Divisional Councillor present in person or by his or her alternate divisional councillor has one vote on a matter arising at a Divisional Council meeting.
- (c) Subject to By-Law 11.10, in case of an equality of votes on a resolution at a Divisional Council meeting, the chair of that meeting has a casting vote on that resolution in addition to any vote the chair has in his or her capacity as a Divisional Councillor in respect of that resolution, provided that the chair is entitled to vote on the resolution and that a quorum of Divisional Councillors is present and entitled to vote on the resolution.

11.6 Valid proceedings

- (a) An act at any meeting of a Divisional Council or a committee of a Divisional Council or an act of any person acting as a Divisional Councillor is not invalidated by:
 - (i) a defect in the appointment or continuance in office of a person as a Divisional Councillor, a member of the committee or of the person so acting; or
 - (ii) a person so appointed being disqualified or not being entitled to vote, if that circumstance was not known by the Divisional Council, committee or person (as the case may be) when the act was done.
- (b) The continuing Divisional Councillors may act notwithstanding any vacancy in their number, provided that not less than one-half of the members thereof continue in office. If there are less than one-half of the members continuing in office, the Divisional Council must not act except in emergencies, to appoint Divisional Councillors up to the minimum of one-half of the members thereof or to call and arrange to hold a Divisional General Meeting.

11.7 Alternate divisional councillors

- (a) A Divisional Councillor may appoint a Member attached to that Division as an alternate divisional councillor of that Divisional Councillor for any period.
- (b) The appointing Divisional Councillor may terminate the appointment of his or her alternate divisional councillor at any time by giving written notice to the Division and the alternate divisional councillor.
- (c) A notice of appointment, or termination of appointment, of an alternate divisional councillor by the appointing Divisional Councillor is effective once given to the Division and the alternate divisional councillor.
- (d) An alternate divisional councillor is entitled to receive notice of Divisional Council meetings and to attend, count in the quorum of, speak at, and vote at a Divisional Council meeting at which his or her appointing Divisional Councillor is not present.
- (e) Subject to these By-Laws and the instrument of appointment of an alternate divisional councillor, an alternate divisional councillor may exercise all the powers (except the power pursuant to By-Law 11.7(a)) of a Divisional Councillor, to the extent that that his or her appointing Divisional Councillor has not exercised them.
- (f) The office of an alternate divisional councillor is terminated if the appointing Divisional Councillor ceases to be a Divisional Councillor.

11.8 Written resolutions of Divisional Council

- (a) A Divisional Council may pass a resolution without a Divisional Council meeting being held if notice in writing of the resolution is given to all Divisional Councillors and a majority of the Divisional Councillors entitled to vote on the resolution (not being less than the number required for a quorum at a Divisional Council meeting) sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) A resolution pursuant to By-Law 11.8(a) may consist of several documents in the same form each signed by one or more Divisional Councillors and is effective when signed by the last of the Divisional Councillors constituting the majority of the Divisional Councillors. A facsimile transmission or other document produced by electronic means under the name of a Divisional Councillor with the Divisional Councillor's authority is taken to be a document signed by the Divisional Councillor for the purposes of By-Law 11.8(a) and is taken to be signed when received by the Division in legible form.
- (c) For the purposes of By-Law 11.8(a), the reference to Divisional Councillors includes any alternate divisional councillor who is appointed by a Divisional Councillor who is at the

relevant time on leave of absence approved by the Division but does not include any other alternate divisional councillor.

11.9 Termination of office of Divisional Councillors

A person ceases to be a Divisional Councillor if the person:

- (a) ceases to be attached to the Division;
- (b) ceases to be a Member;
- (c) fails to attend 3 consecutive meetings of Divisional Council without the consent of that Divisional Council (either personally or by an alternate divisional councillor);
- (d) resigns by notice in writing to CPA Australia;
- (e) is not re-elected pursuant to Article 66 of the Constitution on the expiry of their term in office;
- (f) is requested in writing by all the other Divisional Councillors of that Division to resign in such case that Divisional Councillor is entitled to appeal to a Divisional General Meeting of the Division to which that Divisional Councillor is attached;
- (g) is declared that his or her office of Divisional Councillor is vacant by a resolution of a Divisional General Meeting of the Division;
- (h) becomes Insolvent;
- (i) becomes of unsound mind or a person whose property is liable to be dealt with pursuant to a law about mental health;
- (j) his or her membership subscription is overdue for 60 days or more;
- (k) his or her membership is suspended; or
- (l) is, or becomes, an employee of CPA Australia.

11.10 Election of Divisional President, Divisional Deputy President and Divisional Vice Presidents

- (a) Prior to the thirty-first day of December in each year, each Divisional Council shall elect from amongst:
 - (i) those Divisional Councillors who are not retiring at the end of that year; and
 - (ii) those persons who have been elected during that year as new Divisional Councillors for terms commencing on the first day of January next following the end of that year,a Divisional President, a Divisional Deputy President and three Divisional Vice Presidents.
- (b) Each person so elected as Divisional President, Divisional Deputy President or Divisional Vice President pursuant to By-Law 11.10(a) shall hold office for a term of 1 year commencing on 1 January of the calendar year following and ending on 31 December in that calendar year.
- (c) If a casual vacancy occurs for the position of Divisional President, Divisional Deputy President or Divisional Vice President during the term of their office, the relevant Divisional Council may appoint a Divisional President, Divisional Deputy President or Divisional Vice President (as the case may be) to fill the casual vacancy for as long as the vacating officeholder would have retained office if no vacancy had occurred.
- (d) All such elections shall be conducted in the manner set out in Part 7 of these By-Laws.

11.11 Committees

- (a) A Divisional Council may delegate any of its powers to a committee (which may consist entirely of Divisional Councillors or a combination of Divisional Councillors and any other persons the Divisional Council may determine). A delegation of those powers may be made for any period and on any terms (including the power to further delegate) as the Divisional Council resolves. The Divisional Council may revoke or vary any power so delegated.
- (b) A committee must exercise the powers delegated in accordance with any directions of the Divisional Council.

- (c) Subject to the terms of appointment or reference of a committee, By-Laws 11.3 and 11.8 apply with necessary changes to meetings and resolutions of a committee of a Divisional Council, except that until otherwise determined by the Divisional Council, a quorum for a committee meeting is the number equal to half of the total number of the members of such committee entitled to vote on a resolution that may be proposed at that meeting plus one (if this number is not a whole number, then it shall be rounded down to the next whole number).
- (d) A report or resolution of any committee to whom a delegation is made in accordance with By-Law 11.11(a) shall not bind the Divisional Council until adopted or confirmed by the Divisional Council, unless at the time of delegation power to do so was given to that committee.

Part 12 Miscellaneous

12.1 Maximum Costs

The Maximum Costs are as specified in Schedule 4.

12.2 Maximum Fine

The Maximum Fine is as specified in Schedule 4.

FORM 1

CPA AUSTRALIA LTD BALLOT PAPER

(..... Division)

ELECTION OF DIVISIONAL COUNCIL 20.....

Election closes AM/PM Day
of 20.....

DIVISIONAL COUNCIL

..... To be Elected

LIST OF CANDIDATES

(Names to be inserted in alphabetical order of surname)

(Retiring councillors seeking re-election to be denoted by means of an asterisk)

- (Name 1)
- (Name 2)
- (etc)

DIRECTIONS AS TO VOTING

Place the number 1 in the square opposite the name of the candidate of your first preference and place the number 2, 3, 4 (and so on as required) against the names of each subsequent candidate so as to indicate your order of preference for that candidate. Your ballot will not be invalid if you only partially complete the numbering but you must vote for at least one candidate.

Enclose completed ballot paper in envelope marked "Ballot Paper" and seal the envelope.

Sign slip attached to such envelope, adding full name, address and membership number.

Place envelope with ballot paper enclosed in another envelope and forward it to:

THE RETURNING OFFICER

so as to reach him/her not later than AM/PM on day

of 20

FORM 2

CPA AUSTRALIA LTD FORM OF PROXY

I, of
(full name – please print) (address)

being attached to the Division of CPA
Australia Ltd (**Company**), hereby

appoint of
(Name of proxy – please print) (Division)

or failing such appointment or the absence of that person the Chairperson of the Meeting as my proxy to
vote for me on my behalf at the [.....(insert whether Annual or Extraordinary)..... General
Meeting of the Company/Divisional General Meeting/Divisional Annual General Meeting] to be held on
the day of 20... at (**insert address of meeting**) and at any
adjournment thereof.

**Please tick (✓) one box only for each resolution. Unless otherwise instructed below, the proxy may
vote as he or she thinks fit, or abstain.**

[Ordinary/Special] Resolution

	For	Against	Abstain
(Details of resolution)			

DATED this day of 20... ..

Signed:

Status:

DIRECTIONS

- No member shall be entitled to vote either personally or by proxy if their subscription is overdue for three months or they are otherwise precluded from voting by the operation of [Article 32(b)/of the Company's Constitution/By-Law 10.13 of the Company's By-Laws].
- The above instrument appointing a proxy must be submitted to the Company Secretary of CPA Australia Ltd at CPA Australia Ltd's registered office at Level 28, 385 Bourke Street Melbourne, Victoria or faxed to +61(03)96021163. The Company Secretary shall endorse on the instrument a certificate that the appointer is a member qualified to vote at the meeting or meetings to which such instrument relates.
- The above instrument must be lodged at the registered office of CPA Australia Ltd not less than 48 hours before the time for holding the meeting at which the person named in such instrument proposes to vote.

CERTIFICATE OF COMPANY SECRETARY

I hereby certify that the appointer named above is a member qualified to vote, in accordance with the Constitution, at the meeting to be held on the date mentioned herein.

..... Company Secretary

SCHEDULE 1

Part A: Personal Particulars of a Candidate

- full name, business and preferred contact address
- membership status*
- recognised tertiary qualifications
- any civil or military awards or honours
- time period as a Member*
- details of current employment
- offices or committee positions held at any time referable to CPA Australia

*Not applicable for candidates applying for a position as an External Director.

Part B: Personal Resume of a Candidate

- the candidate's service to the accounting profession (generally or specifically)*;
- the area of accountancy in which the candidate practises*;
- any special interests of the candidate whether inside or outside the accounting profession;
- reasons why the candidate seeks appointment to the relevant position and issues the candidate would pursue if elected; and
- for Board appointments, a statement addressing the relevant selection criteria and the names of two (2) professional referees.

*Not applicable for candidates applying for a position as an External Director.

SCHEDULE 2

List of Bodies of Accountants for Public Accounting Services purposes

The Institute of Chartered Accountants in Australia

SCHEDULE 3

Proof of Identity – 100 Point Check

Number of Points	Item
70 points	<ul style="list-style-type: none"> • Birth Certificate • Passport • Citizenship Certificate • National Identity Card issued in Hong Kong; Malaysia, Singapore, or PRC.
40 points	(one permitted - so long as it bears name plus signature or photograph): <ul style="list-style-type: none"> • Licence issued under law (eg: driver's licence) • Permit issued under law • Public Service ID Card • Social Security ID Card issued by an arm of government • Tertiary Student Card
40 points	A written reference dated not more than three (3) months prior to the date of application bearing the signature of the candidate, witnessed and verified by a referee ordinarily resident in the place in which the application is lodged, and demonstrating a minimum of 12 months association with: <ul style="list-style-type: none"> • a financial institution • an approved referee
25 points	<ul style="list-style-type: none"> • internationally recognised credit card (if issued by independent financial institutions they count for 25 points each) • Australian Medicare Card

SCHEDULE 4

Maximum Fine

The sum of A\$100,000.00 or such other amount from time to time determined by the Board.

Maximum Costs

In respect of the MPC or an ICM, the sum of A\$750 or such other amount from time to time determined by the Board.

In respect of an OPT, the sum of A\$3,000 or such other amount from time to time determined by the Board.

In respect of a Disciplinary Committee, the sum of A\$50,000 or such other amount from time to time determined by the Board.

In respect of an Appeals Committee, the sum not exceeding all costs and expenses (including an allowance for the cost of application of internal resources of CPA Australia) actually incurred by CPA Australia in respect of the matter (including, if any, in undertaking Disciplinary Procedures) or such other amount from time to time determined by the Board.

SCHEDULE 5

<p style="text-align: center;">COLUMN 1</p> <p>Any actual or alleged breach of the specific provisions of the Constitution, By-Laws or any Code of Professional Conduct or Applicable Regulations within the meaning in Article 39(a) of the Constitution set out below:</p>	<p style="text-align: center;">COLUMN 2</p> <p style="text-align: center;">(Model Penalties)</p>
<p><u>Part A: Administrative Matters</u></p> <p>Any matter concerning payment of any monies owing to CPA Australia on any account whatsoever excepting only in respect of costs the subject of a Determination.</p>	<p>Fine of \$500 for a first offence and minimum of \$1,000 for each subsequent offence.</p>
<p><u>Part B: Non-Administrative Breaches</u></p> <p>Any actual or alleged breach relating to:</p> <ul style="list-style-type: none"> • Quality Assurance; • Continuing Professional Development; • the holding of a Public Practice Certificate; • professional indemnity insurance within the meaning in By-Law 9.5; • the Practice Entity through or by which the Member provides Public Accounting Services; and/or • Trust accounts. 	<p>At the discretion of the Tribunal any of the penalties described in Article 39(b) of the Constitution.</p>
<p><u>Part C: Serious Conduct</u></p> <p>Any actual or alleged breach other than those constituting Administrative Matters or Non-Administrative Breaches.</p>	<p>At the discretion of the Tribunal any of the penalties described in Article 39(b) of the Constitution.</p>

SCHEDULE A - TRANSITION

This Schedule A including the heading and index reference shall only remain as a schedule to the By-Laws and have effect as such so long as the Board has not by ordinary resolution at any meeting of the Board resolved it shall henceforth be omitted. Upon such resolution being passed this Schedule A including the heading and index reference shall, with effect from the date specified in the resolution, be omitted from the By-Laws and cease to have any force nor effect accordingly.

So long only as this Schedule A shall remain in force and effect, however, then:

- (a) Any Complaint of which notification shall have been given to a Member prior to 30 April 2007 shall, unless and until the Member concerned otherwise elects, be governed by the By-Laws and Board resolutions relating to disciplinary matters in force as at that date (***Old Procedures***), and shall proceed to Determination or dismissal as appropriate accordingly.

- (b) The Old Procedures shall continue to govern every Complaint, matter and Member concerned described in paragraph (a) as to Tribunal (including Disciplinary Committee and Appeals Committee proceedings), Disciplinary Procedures, penalty, publication and otherwise until such time as the matter be completed by closure of the relevant file.

SCHEDULE B - TRANSITION POST THE AMENDING DATE

This Schedule B including the heading and index reference shall only remain as a schedule to the By-Laws and have effect as such so long as the Board has not by ordinary resolution at any meeting of the Board resolved it shall henceforth be omitted. Upon such resolution being passed this Schedule B including the heading and index reference shall, with effect from the date specified in the resolution, be omitted from the By-Laws and cease to have any force nor effect accordingly.

So long only as this Schedule B shall remain in force and effect, however, then:

- (a) Any Complaint of which notification shall have been given to a Member prior to 30 June 2009 shall, unless and until the Member concerned otherwise elects, be governed by the By-Laws and Board resolutions relating to disciplinary matters in force as at that date (**Pre 2009 Procedures**), and shall proceed to Determination or dismissal as appropriate accordingly.
- (b) The Pre 2009 Procedures shall continue to govern every Complaint, matter and Member concerned described in paragraph (a) as to Tribunal (including Disciplinary Committee and Appeals Committee proceedings), Disciplinary Procedures, penalty, publication and otherwise until such time as the matter be completed by closure of the relevant file.

Amended effective 29 October 2009

Amended effective: 1 July 2009

Amended effective: 4 August 2008

Amended effective: 1 May 2008

Amended clauses 4.8 & 4.9: 15 February 2008

First Approved – Effective: 1 May 2007