

4 May 2022

Financial Reporting Council  
24<sup>th</sup> Floor, Hopewell Centre  
183 Queen's Road East  
Hong Kong

By Email: [consultation@frc.org.hk](mailto:consultation@frc.org.hk)

Dear Sir / Madam,

**Re: Consultation Paper on further reform of the accounting profession**

As one of the largest professional accounting bodies in the world, CPA Australia represents the diverse interests of over 170,000 members working in over 100 countries and regions around the world, including over 14,000 members in Hong Kong. We make this submission on behalf of our members and in the broader public interest.

We thank the Financial Reporting Council (FRC) for its involvement in a webinar organised for our members in Hong Kong on 6 April to understand the background of the consultation, the FRC's regulatory principles and sanctions approaches, and to exchange views and concerns directly with the FRC.

Please find enclosed our responses to some of the questions raised in the consultation paper. In preparing this submission, we drew upon our experiences with the regulation of accountants in Australia and sought the advice of member experts in Hong Kong.

We are generally supportive of the proposals outlined in the Consultation Paper and offer the attached suggestions for further consideration by the FRC.

If you have any queries, please do not hesitate to contact Katherine Psomas, General Manager Professional Conduct at [katherine.psomas@cpaaustralia.com.au](mailto:katherine.psomas@cpaaustralia.com.au) or Jonathan Ng, Policy Adviser at [jonathan.ng@cpaaustralia.com.au](mailto:jonathan.ng@cpaaustralia.com.au).

Yours sincerely,



**Deborah Leung FCPA (Aust.)**  
Executive General Manger, International



**Dr Gary Pflugrath FCPA (Aust.)**  
Executive General Manager, Policy and Advocacy

Encl.

**Question 1. Do you think the proposed disciplinary process is transparent, fair and provides a reasonable opportunity to be heard to regulatees? Please explain with rationale any improvements that you would propose.**

The proposed disciplinary process appears fair and equitable given that should a regulatee be unsatisfied with the outcome of a disciplinary action, the regulatee may appeal the decision through an independent process. However, depending on the cost of the appeal and the timeframe involved, the independent appeals process may not be realistically within reach of smaller independent regulatees who may find themselves unable to pursue such an opportunity. This is particularly the case in those situations where the regulatee has had their licence terminated and is restricted in their earning capacity.

The appeals process in Australia can, on average, extend from six to eight months or more for a matter to be heard and a decision handed down by the [Administrative Appeals Tribunal](#) (AAT). Our experience shows that depending on the seriousness or complexity of the matter, the timeframe can extend beyond this length of time.

The proposal laid out in *Document A paragraph 33* for the Accounting and Financial Reporting Council (AFRC) “to take disciplinary actions by consent” is welcome as it allows a regulatee to rectify or initiate actions to remedy breaches, without causing undue distress for the regulatee in situations where the breach/misconduct is minor or where there is no discernible impact and it can be remedied.

Referring to *Document A paragraph 35*, the possibility of reduced sanctions for regulatee cooperation assists all parties and is worth implementing as a means of saving time and streamlining the process.

Referring to *Document A paragraph 36*, it would be useful to understand the ramifications if a pecuniary penalty is not paid to the AFRC by the deadline specified in the Decision Notice.

It is understood that disciplinary decisions predominantly will be based on the documentary evidence before the tribunal, rather than a face to face hearing. While this may reduce costs to all parties, from our experience in handling disciplinary matters, it may be beneficial to both parties for the option of formal face to face hearings of such matters. The advantage of providing this option is that appropriate questions may be asked, providing greater clarity of the circumstances which may have given rise to the action or actions subject to the hearing.

**Question 2: Are there any improvements that should be made to the proposed disciplinary process to facilitate the AFRC's efficient and effective discharge of its disciplinary function? If so, please explain with rationale.**

Please refer to our response to Question 1.

**Question 3: Do you agree that the proposed guidelines should be principle-based, and that further guidance as to the application of those principles to specific factual scenarios should be provided by way of decision notices, press releases and statements of disciplinary action to be issued in respect of future disciplinary cases? Please explain any improvements that you would propose and the reasons therefor.**

Principle-based guidelines are preferred as they provide direction without being too prescriptive and potentially impeding a fair and equitable outcome for the regulatee. The use of publicly available guidelines provides transparency and consistency within a flexible framework for the AFRC. For example, publicly available guidelines on a website reinforce the perception of transparency.

Further, the proposed approach in *Document B paragraphs 7 and 8* assists in adjudicating in a fair and equitable manner and imposing an appropriate penalty.

**Question 4: Do you have any comment on the list of factors (as set out in paragraphs 9 to 15 of the proposed guidelines) that the AFRC may take into consideration when determining a pecuniary penalty, including those relating to cooperation (or non-cooperation) with the AFRC? Are there any other factors that you believe the AFRC should include in the list? Please explain with rationale.**

The list of factors proposed in the guidelines are fair and equitable.

Referring to *Document B paragraph 10*, we would be happy to work with the AFRC on how they could assess the impact the misconduct had or could have on the public interest in determining a pecuniary penalty.

**Question 5: Do you agree that the proposed guidelines should be principle-based, and that further guidance as to the application of those principles to specific factual scenarios should be provided by way of decision notices, press releases and statements of disciplinary action to be issued in respect of future disciplinary cases? Please explain any improvements that you would propose and the reasons therefor.**

Principle-based guidelines are preferred as it allows for flexibility, whilst ensuring standards are upheld.

We support the public notification of disciplinary decisions. From our experience in Australia, this will improve understanding of how the AFRC will interpret and apply the guidelines to specific factual circumstances. For example, Australia's Tax Practitioners Board publishes [Compliance Case Studies](#).

**Questions 6 and 7:**

No comment.

**Question 8: Do you have any comment on the list of factors (as set out in paragraphs 7 to 10 of the proposed policy) that the AFRC may take into consideration when determining sanctions, including those relating to cooperation (or non-cooperation) with the AFRC? Are there any other factors that you believe the AFRC should include in the lists? Please explain with rationale.**

Please refer to our response to Question 4.

**Questions 9 and 10:**

No comment.

**Question 11: Do you have any other comments on the Proposed Documents that would help the AFRC to discharge its statutory regulatory obligations? If so, please elaborate with rationale.**

The AFRC may find it useful to refer to the experience from Australia where individuals/companies offering tax agent services must be registered with and regulated by the [Tax Practitioners Board](#) (TPB). Various other professionals e.g., certain groups of auditors, liquidators and credit and financial services professionals, must be registered with and regulated by the [Australian Securities and Investments Commission](#) (ASIC).

Both the TPB and ASIC are tasked with investigating and disciplining regulated entities for breaches of legislation. If there is an adverse finding against a tax agent/auditor/liquidator/financial planner etc. the entity can appeal the decision to the AAT.

These regulators also publish the results of their decisions through press releases. For example:

- [Former mortgage broker sentenced for making a false statement to ASIC](#)
- [Tax agent terminated after misappropriating funds while in partnership with wife](#)
- [Lack of supervision means former franchisee fails to obtain tax agent registration](#)

Australian regulators also publish aggregated data on their complaints processes. For example, page 36 and 37 of the [TPB's annual report](#) sets out data on complaints received and the treatment of those complaints.

CPA Australia also publishes aggregated data on our complaints process. Pages 42 and 43 of our most recent [annual integrated report](#) shows information on complaints received and how we acted on those complaints.