



## BYLAW CHANGES

June 9, 2011

**NOTICE** is given that members will be asked to approve the changes made to our bylaws at the Annual Meeting on June 9, 2011. These changes were approved by Council throughout the 2010/2011 year. Your approval as a member can be shown by either submitting your proxy vote or attending the annual meeting.

This annual meeting package is to show members specifically where the proposed changes have been made.

### **SUMMARY OF BYLAW CHANGES THAT REQUIRE APPROVAL:**

#### General Bylaws

Bylaws 77-86 deleted – revised and moved to bylaws 175-183

Bylaws 175-183 – Complaints and Discipline bylaws to replace bylaws 77-86

#### Standards of Professional Conduct Bylaws

Bylaw 104 – Cooperation with the Institute – revised and moved to 193

Bylaw 194 – Hindrance, inappropriate influence and intimidation – new

Bylaw 203.2 – Cooperation with practice inspection and conduct investigation - removed

Bylaw 204.4(20) – Long association of senior personnel with a reporting issuer audit client - revised

Bylaw 204.9 – Definitions – revised

Bylaw 305.1 – Communication of special engagement to incumbent – revised

## General Bylaws

### COMPLAINTS AND DISCIPLINARY PROCEEDINGS

77. ~~The disciplinary work of the Institute shall be carried on by the professional conduct committee, the discipline committee and the council in accordance with the bylaws and the Act.~~
78. ~~The professional conduct committee shall consist of such members, including a chair and one or more deputy chair, as may be determined by council.~~
79. ~~The professional conduct committee shall in the execution of its duties under clause (b) of Subsection 20(1) of the Act and without limiting the generality thereof have power:~~
- ~~(a) to require the sworn affidavit of the person making the charge or complaint stating the particulars in the person's knowledge relevant to the investigation;~~
  - ~~(b) to require by any member, student or firm the production of books, documents and working or other papers in their possession, custody or control;~~
  - ~~(c) to retain the services of any person on a fee basis, whether or not a member, to authorize any such person to investigate all matters as may be requested by the committee or its chair, and through its chair to authorize any such person to interview any member, student, firm or other person and to examine any books, documents and working or other papers; and~~
  - ~~(d) to determine the time and the place of its meetings and the procedure therein and from time to time to do and decide all such other matters as may be necessary for the work of the committee.~~
80. ~~Pursuant to clauses (u) and (v) of Subsection 13(1) of the Act~~
- ~~(a) Meetings of the professional conduct committee shall be held, on reasonable notice, at such times and places as the chair shall determine;~~
  - ~~(b) The chair shall appoint a recording secretary at each meeting. The recording secretary shall take minutes of the deliberations of the committee and circulate such minutes to all committee members as soon as possible after each meeting;~~
  - ~~(c) At the direction of the chair, meetings of the committee may be held via the medium of conference telephone calls;~~
  - ~~(d) On receipt of a written complaint under Subsection 20(1) of the Act, the chair shall either:
    - ~~(i) bring the matter to a meeting of the committee; or~~
    - ~~(ii) request one or more members of the committee to obtain such further information as may be necessary for the committee to review the complaint;~~~~
  - ~~(e) For purposes of clause (d) herein, "written complaint" shall include a notification to the committee pursuant to rule 211.1 if the name of the alleged offending member, student or firm is cited;~~
  - ~~(f) If, after the initial review by the committee of a complaint, the committee decides further investigation is necessary, the chair shall request the recording secretary to notify in writing the member, student or firm whose conduct is the subject of the complaint;~~

- ~~(g) — In its investigation of a complaint, the committee shall conduct itself in accordance with the Act and the bylaws;~~
- ~~(h) — At the conclusion of its investigation, the committee shall vote on a motion as to whether the member, student or firm whose conduct is under investigation should be referred to the discipline committee for hearing, and the recording secretary shall record the vote;~~
- ~~(i) — A decision of a majority of members of the professional conduct committee is the decision of the committee;~~
- ~~(j) — After the resolution of each complaint at a meeting of the professional conduct committee, the chair shall direct the recording secretary of the committee to write a report to the discipline committee for the signature of the chair of the committee in accordance with Subsection 20(2) of the Act;~~
- ~~(k) — Where a decision is made by the professional conduct committee other than by meeting of the committee, the report shall be signed by a majority of members in accordance with Subsection 20(3) of the Act;~~
- ~~(l) — The results of the report shall be communicated promptly to the member, student or firm who is the subject of the investigation; and~~
- ~~(m) — Prosecution of a complaint under Subsection 22(2) of the Act shall be carried out by the chair or such other person as the chair designates.~~

~~81. (1) — No member of the professional conduct committee or the discipline committee who has direct or indirect connection in the subject matter of any complaint shall be involved in the investigation or determination of that complaint.~~

~~(2) — The council may in order to achieve the quorum add members to the discipline committee or the professional conduct committee for the purpose of any inquiry or business.~~

~~82. (1) — The discipline committee shall consist of such members, including a chair and one or more deputy chair, as may be determined by council.~~

~~(2) — The discipline committee may sit and effectively act provided that reasonable notice has been given to its members.~~

~~83. — Pursuant to clauses (u) and (v) of Subsection 13(1) of the Act, the discipline committee, and the council, should an appeal be made to the council, shall be governed by the following:~~

~~(a) — Unless otherwise specially provided, the procedure at all formal hearings and appeals shall be determined by the ruling of the chair of the discipline committee or council, as the case may be;~~

~~(b) — A formal hearing or the hearing of an appeal may be adjourned at any time and no further notice shall be required;~~

~~(c) — The proceedings at any formal hearing or at any appeal shall be recorded;~~

~~(d) — If more than one member or student be involved in any complaint that a member, or student or firm is guilty of professional misconduct or if there be more than one complaint the formal hearing or appeal may proceed as to each complaint or~~

~~member, student or firm separately or together as the chair may from time to time determine;~~

- ~~(e) In any formal hearing the chair of the discipline committee or the council, as the case may be, shall administer oaths and affirmations for the purpose of any of its proceedings and shall require evidence before it to be given under oath or affirmation;~~
- ~~(f) Any complaint that a member, student or firm is guilty of professional misconduct may be amended at the hearing with leave of the discipline committee provided notice of application for amendment setting forth the proposed amendment has been given to the chair of the discipline committee and the member, student or firm who is the subject of the complaint at least fifteen (15) days prior to the date appointed for the hearing before the discipline committee;~~
- ~~(g) Where there is a variance between the wording of a complaint and the evidence presented in support thereof, and where, in the opinion of the discipline committee, the member, student or firm has not been prejudiced by lack of notice, the discipline committee may direct an amendment of the complaint so as to make it conform to the evidence and proceed with the hearing of the complaint, but where, in the opinion of the discipline committee, the member, student or firm may be prejudiced by such amendment, the discipline committee may, if it is of the opinion that such prejudice can be removed by an adjournment, make such amendment and adjourn the hearing of the complaint to a later date;~~
- ~~(h) The discipline committee or the council, as the case may be, shall give its final decision and order, if any, in any proceedings in writing and shall give reasons in writing therefor if so requested by a party;~~
- ~~(i) The discipline committee or council, as the case may be, through its chair, may
  - ~~(i) make such orders or give such directions in proceedings before it, as it considers proper to prevent abuse of its processes;~~
  - ~~(ii) exclude anyone from the hearing except council appearing for a party at the hearing and may exclude any counsel that does not comply with the directions or the rulings of the discipline committee or council; and~~
  - ~~(iii) make such orders and give such direction as it considers necessary for the maintenance of order;~~~~
- ~~(j) In any formal hearing before the discipline committee or the council:
  - ~~(i) a witness may be advised by counsel or an agent as to the witness's rights but such counsel or agent may take no other part in such hearing without leave of the body holding such hearing; and~~
  - ~~(ii) where such a hearing is in camera counsel or agent for a witness shall not be entitled to be present except when that witness is giving evidence;~~~~
- ~~(k) No member of the discipline committee or the council, as the case may be, shall participate in a decision pursuant to any formal hearing or appeal who was not present throughout such hearing or appeal and heard the evidence and argument of the parties, and, except with the consent of the parties, or in case of death, or of illness or other disability rendering it impossible for such member to participate, no decision pursuant to the hearing shall be reached unless all members so present participate in the decision; and~~
- ~~(l) Subject to clause (k) herein, a decision of a majority of members of the discipline committee is the decision of the committee.~~

- ~~84. The professional conduct committee may require from any person making a complaint, and before undertaking an investigation, a reasonable sum as a deposit to cover necessary costs and expenses and in case the complaint is found to be frivolous or vexatious, the deposit may be so applied. Otherwise, subject to Bylaw 85, the deposit shall be returned to the person making the same.~~
- ~~85. The discipline committee may order such costs and expenses of the hearing as it deems just to be paid to any member or student against whom a frivolous or vexatious complaint has been made, such costs and expenses to be paid out of the funds deposited.~~
- ~~86. After all appeals have been exhausted, other members shall within four (4) months be advised by the discipline committee of the offence committed and the decision rendered and, in the case of suspension or expulsion, the name of the offending member, student or firm shall be cited or, in other cases at the discretion of the discipline committee, the name of the offending member, student or firm may be cited.~~

### Complaints & Discipline

- 175.1 Where the institute receives information that indicates an apparent breach of a bylaw and includes the name of the alleged offending member, student or firm is provided, the institute shall advise the professional conduct committee, except as limited by bylaw 211.1.
- 176.1 The professional conduct committee shall in the execution of its duties under Section 20 of the Act and without limiting the generality thereof have authority:
- (a) to require a member, student or firm to provide books, documents and files in their possession, custody or control whether in paper or electronic form,
  - (b) to establish the practices and procedures necessary to carry out its functions and responsibilities.
  - (c) to approve the charge or charges to be heard by a discipline hearing panel, which charge or charges shall be included in a report to the discipline committee.
  - (d) where the committee determines that the original charge or charges are not appropriate, to approve an amended charge or charges, which amended charge or charges shall be included in an amended report to the discipline committee.
- 177.1 The chair of the professional conduct committee shall have the authority:
- (a) to determine whether information received by the institute represents a complaint under subsection 20(1) of the Act,
  - (b) to direct institute staff to obtain additional information prior to making the determination under clause (a),
  - (c) to refer the matter to a committee (other than the professional conduct committee or the discipline committee) or institute staff for intervention or resolution,
  - (d) to determine the scope of the investigation required under subsection 20(1) of the Act,
  - (e) to determine the expanded scope of an investigation or the scope of an additional investigation where information comes to the attention of the investigators which indicates an expansion of an investigation or an additional investigation should be considered,
  - (f) to determine that an investigation be discontinued where the complainant declines to provide information which is essential to complete an appropriate investigation,
  - (g) to appoint the persons who shall investigate the complaint under subsection 20(1) of the Act, and
  - (h) to appoint the person who shall prosecute the complaint under subsection 22(2) of the Act.
- 177.2 The complaint is deemed to be received by the professional conduct committee under subsection 20(1) of the Act when the chair of the committee determines that an investigation shall be made

under clause (a) of bylaw 177.1. The complaint becomes a complaint of the committee at that time and an investigation shall be completed, unless bylaw 177.1 clause (f) applies.

177.3 Where a decision is made by the professional conduct committee other than by meeting of the committee, the report to the discipline committee shall be signed by a majority of the members of the committee in accordance with Subsection 20(3) of the Act;

177.4 For purposes of clause (g) of bylaw 177.1, and except as provided in bylaw 178.1 and 178.2, the chair of the professional conduct committee may authorize any person, including a member of the professional conduct committee or institute staff, to investigate a complaint.

177.5 The person who made the complaint under subsection 20(1) of the Act may request that the 'decision review committee', appointed by council under bylaw 36.1, review the decision made by the professional conduct committee or its chair, where:

- (a) the professional conduct committee has determined under subsection 20(2) of the Act that no further action is required, or
- (b) the chair of the professional conduct committee has determined under bylaw 177.1 that an investigation shall not be made or shall be discontinued.

178.1 A member of council, the discipline committee and the discipline panel pool shall not be appointed as an investigator.

178.2 A member of the professional conduct committee or the discipline committee who has direct or indirect connection to the subject matter of any complaint, the complainant or the member, student or firm that is subject to the complaint shall not participate in the investigation or determination of that complaint.

179.1 The discipline committee shall direct the development of rules of procedure governing discipline hearings and shall have the authority to approve these rules.

180.1 The chair of the discipline committee shall have the authority to appoint the chair and members of the discipline hearing panel to hear a matter referred to the discipline committee under clause (a) of subsection 20(1) of the Act. The members of a discipline panel shall be persons selected from the discipline committee or the discipline panel pool appointed by council under bylaws 52(1) or 52(2).

180.2 For purposes of hearing an appeal under section 28 of the Act, an 'appeal hearing panel' shall consist of a majority of the members of council.

180.3 Except in the case of death or incapacity of a panel member or with the consent of the parties, no decision shall be made by the discipline hearing panel or appeal hearing panel, unless all members present throughout the hearing participate in the decision.

180.4 For purposes of maintaining order at hearings and preventing abuse of the established hearing process, the discipline hearing panel or appeal hearing panel shall have the authority to:

- (i) make such orders or give such directions in proceedings before it as it considers proper;
- (ii) exclude any person from the hearing including counsel appearing for a party at the hearing where that person does not comply with the directions or the rulings of the discipline hearing panel, or appeal hearing panel.

180.5 Unless specified in a discipline order under subsections 23(1) and (2) of the Act, the sanctions in the order shall be effective upon receipt of the written order by the member. A sanction in a discipline order shall be effective as specified when read by the chair of the discipline panel at the conclusion of a hearing where the member or the member's counsel is in attendance.

181.1 Where a member of the institute is also a member of (or is applying for membership in) one or more other institutes, the institute shall notify these other institutes of the decision, determination or order:

- (a) under clause (b) of subsection 20(1) of the Act and clause (a) of bylaw 177.1, to commence an investigation into the member's conduct,
- (b) under clause (f) of bylaw 177.1, to discontinue an investigation into the member's conduct,
- (c) under subsection 20(2) of the Act, that no further action be taken with respect to the matter under investigation,
- (d) under subsection 20(2) of the Act, that the discipline committee hear and determine the complaint of the professional conduct committee relating to the member's conduct,
- (e) under subsection 22(3) of the Act, as to whether the member is guilty of professional misconduct or a breach of a provision of the Act or the bylaws,
- (f) under subsections 23(1) and 23(2) of the Act, as to the sanction orders made against the member,
- (g) under subsection 23(1) of the Act, that the member failed to comply with the order,
- (h) under subsection 28(1) or section 29 of the Act that the member has appealed the determination of the discipline hearing panel, and
- (i) under subsection 28(5) of the Act as to the determination of the appeal body.

182.1 There is a rebuttable presumption that a member, student or firm that has agreed to any facts contained in a certified copy of the settlement agreement referred to in Rule 102.3(b), which is filed with the other institute, has also agreed to those facts for the purpose of any subsequent consideration of the same matter by the professional conduct committee or a discipline panel.

183.1 Subject to bylaw 183.2, a member, student or firm shall not attempt to influence directly or indirectly the decision or determination of the professional conduct committee, discipline committee, discipline hearing panel, appeal hearing panel or chair thereof.

183.2 For purposes of bylaw 183.1, influence includes any attempt to cause council, members of council, members of a committee or staff of the institute to influence the decision or determination of the committee or panel.

183.3 For purposes of bylaws 183.1 and 183.2, the following would not be considered attempts to influence a decision or determination:

- (i) providing information to and responding to enquiries of the professional conduct committee or its investigators,
- (ii) presentation of evidence at a discipline hearing or appeal, or
- (iii) representation or argument at a discipline hearing or appeal.

183.4 A member, student or firm shall not harass, threaten or attempt to coerce a person who has made or is considering making a complaint under subsection 20(1) of the Act.

## **Standards of Professional Conduct**

### Cooperation with the Institute

404193.1 A member, student or firm shall cooperate with the regulatory processes of the Institute in ~~regard to the Institute's registration and regulatory activities.~~

404193.2 At the written request of the Institute on behalf of a committee appointed by Council, a member, student or firm shall provide to the Institute any files, documents or other materials in their possession, custody or control which ~~are relevant to the work of a committee~~ are described in the Institute's request. The information shall be provided within the time specified in the request.

~~404~~193.3 A member, student or firm shall reply in writing to a written request from the Institute and within the time specified in the request.

193.4 A member, student or firm shall attend in the manner and at the time described in the Institute's request.

~~404.4~~193.5 A member, student or firm that fails to comply with bylaws ~~404(1)~~, ~~404(2)~~193.2, or ~~404(3)~~193.3 or shall pay a late fee as prescribed by Council.

Hindrance, inappropriate influence and intimidation

194.1 A member, student or firm shall not, directly or indirectly hinder any regulatory process of the Institute or otherwise attempt to exert inappropriate influence or pressure on the outcome of a regulatory matter of the Institute.

194.2 A member, student or firm shall not threaten or intimidate a complainant, witness, or any other person related to a regulatory matter of the Institute nor shall a member, student or firm threaten or intimidate officers, staff, volunteers or agents of the Institute acting on behalf of the Institute.

Co-operation with practice inspections and conduct investigations

~~203.2~~ A member, student or firm shall co-operate with officers, servants or agents of the Institute who have been appointed to arrange or conduct:

- ~~(a) a practice inspection or review, as appropriate; or~~
- ~~(b) an investigation on behalf of the professional conduct committee.~~

Long association of senior personnel with a reporting issuer audit client

204.4 (20) (a) (i) A member shall not continue as the lead engagement partner or the engagement quality control reviewer on an audit engagement of a *reporting issuer* for more than ~~five~~ seven years in total, and shall not thereafter resume or assume either such role until a further five years have elapsed.

(ii) In the case of an audit engagement of a reporting issuer that is a mutual fund, the lead engagement partner and the engagement quality control reviewer shall not thereafter resume or assume either such role with the reporting issuer or another mutual fund that is in the same mutual fund complex as the reporting issuer until a further five years have elapsed.

**DEFINITIONS**

204.9 For the purposes of rules 204.1 to 204.8 and the related Council Interpretations:

- (d) "assurance engagement" means an assurance engagement as contemplated in ~~"Standards for Assurance Engagements," Section 5025 of the CICA Handbook – Assurance.~~
- (g) "audit engagement" means an engagement to audit financial statements as contemplated in ~~"Audit of Financial Statements – an Introduction," Section 5090 of the CICA Handbook – Assurance.~~
- (ee) "review engagement" means an engagement to review financial statements as contemplated either in ~~"Auditor Review of Interim Financial Statements," Section 7050 or "General Review Standards," Section 8100 of the CICA Handbook – Assurance.~~
- (ff) "specified auditing procedures engagement" means an engagement to perform specified auditing procedures contemplated in ~~"Reports on the Results of Applying Specified Auditing Procedures to Financial Information Other Than Financial Statements," Section 9100 of the CICA Handbook – Assurance.~~

305.1 A member or firm engaged in the practice of public accounting shall, before commencing any engagement for a client for which another member or firm is the duly appointed auditor or accountant, first notify such auditor or accountant of the engagement, unless ~~both~~:

- (a) ~~the client makes an unsolicited request, evidenced in writing, that such notification not be given, and~~
- (b) ~~the CICA Handbook does not recommend in respect of the engagement that the member or firm notify or contact the duly appointed auditor or accountant.~~