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THE BAHAMAS INSTITUTE OF CHARTERED ACCOUNTANTS (COMMITTEES) REGULATIONS, 2016

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**THE BAHAMAS INSTITUTE OF CHARTERED
ACCOUNTANTS ACT, 2015**

(No. 13 of 2015)

**THE BAHAMAS INSTITUTE OF CHARTERED
ACCOUNTANTS (COMMITTEES) REGULATIONS, 2016**

The Council, in exercise of the powers conferred by section 33 of The Bahamas Institute of Chartered Accountants Act, 2015 (*No. 13 of 2015*), with the approval of the Governor-General, makes the following regulations —

PART I – PRELIMINARY

1. Citation.

These Regulations may be cited as The Bahamas Institute of Chartered Accountants (Committees) Regulations, 2016.

2. Interpretation.

In these Regulations —

“**Act**” means The Bahamas Institute of Chartered Accountants Act;

“**member**” means a member —

- (a) of the Investigations, Disciplinary or Appeal Committee or any other Committee appointed pursuant to the Act; or
- (b) of the Disciplinary or Appeal Panel;

“**relevant person**” means a person against whom a complaint has been made.

PART II – COMMITTEES

3. Council may delegate powers to committees.

(1) Subject to the Act and these Regulations, the Council may delegate any of its powers as it deems fit —

- (a) to a committee consisting of such members of the Institute; or
- (b) to any officer of the Institute.

- (2) The Council may from time to time revoke all or any of the powers delegated to any committee or officer and discharge any committee or officer as the case may be from performing the delegated duties in whole or in part.
- (3) A committee, if so authorized by the Council, shall have power to delegate to a sub-committee any of the powers conferred upon it.
- (4) A sub-committee shall in exercise of the powers so delegated conform to any Regulations that may be imposed by the appointing committee.

4. Committees to regulate own proceedings.

- (1) Subject to the Act and any Regulations made thereunder, every committee shall have the power to regulate its own proceedings.
- (2) A committee appointed pursuant to these Regulations may continue to act, provided there is a quorum at its meeting.

5. Committees to issue guidance notes.

A committee may, from time to time, publish guidance notes in order to clarify, explain, illustrate, or illuminate any procedure, process or matter for which it is responsible.

6. Chairman.

The Council shall annually appoint a chairman of each committee and may appoint a vice-chairman for each such committee who shall preside at meetings in the absence of the chairman.

7. Mode of meetings.

- (1) Committee meetings may be held by —
 - (a) telephone conference;
 - (b) video conference; or
 - (c) any other similar means.
- (2) The mode by which a meeting is held must enable all persons notionally attending the meeting to hear and be heard by all the other participants.

8. Decisions between meetings.

- (1) The chairman of each committee appointed pursuant to these Regulations shall have the power to take decisions relating to procedural matters, between meetings of his committee.

- (2) Where the chairman exercises his power to Make decisions referred to in paragraph (1), such decisions shall be reported at the next meeting of the relevant committee.

9. Majority decisions.

- (1) Except where otherwise provided by these Regulations, all decisions of a committee shall be determined by a majority of the votes of the members present and each member shall have one vote.
- (2) Where there is an equality of votes, the chairman of the relevant committee shall have a second vote.

10. Duty to cooperate.

Every member and relevant person shall promptly comply with any request made by, and cooperate with, any committee or officer appointed pursuant to these Regulations in the performance of any of its responsibilities and the exercise of any of its powers.

11. Sharing of information and cooperation.

- (1) Any committee or officer appointed under these Regulations may cooperate with—
 - (a) other bodies in accordance with prevailing legislation including those bodies having statutory responsibility for —
 - (i) the regulation of a relevant person;
 - (ii) the prevention or detection of crime, the apprehension or prosecution of offenders, or the assessment or collection of any tax or duty or of any imposition of a similar nature; and
 - (iii) matters of public protection;
 - (b) any responsible officer or other committee of the Institute, and such cooperation shall include, the sharing of information and attendance at meetings.
- (2) Any committee or officer appointed under these Regulations may share information with the professional indemnity and (if different) fidelity guarantee insurers of a relevant person, on the basis that the recipient treats the information as confidential.

PART III – CODE OF CONDUCT

12. Application of Part.

This Part applies to—

- (a) members of the Investigations, Disciplinary or Appeal Committee or any other committee appointed pursuant to the Act; and
- (b) members of the Disciplinary or Appeal Panel.

13. Interpretation.

In this Part unless the context expressly provides otherwise —

“**breach**” means a breach of the Code of Conduct;

“**Code of Conduct**” means the Code of Conduct of the International Federation of Accountants or such other code as may be established or adopted by the Council from time to time;

“**IFAC**” means the International Federation of Accountants governed by Articles 60-79 of the Swiss Civil Code.

14. Conduct of members, etc.

Every member appointed to carry out functions pursuant to the Act shall —

- (a) be governed by these Regulations; and
- (b) adhere to the Code of Conduct,

and the Council may —

- (i) pay the reasonable expenses of any member of the Institute serving on a committee or panel in connection with the carrying out of functions pursuant to the Act; and
- (ii) remunerate and pay the reasonable expenses of any person who is not a member of the Institute, but serves on a committee or panel in connection with the carrying out of functions pursuant to the Act.

REPORTING AND INVESTIGATION OF BREACH OF CODE

15. Duty to report breach.

- (1) A member must inform the Council in writing of a breach of which he is aware, whether committed by himself or any other member.
- (2) Where a member is the subject of regulatory or disciplinary investigations or proceedings, whether by the Institute or any other body, government department or any other regulatory authority the member shall —

- (a) inform the Council if he becomes aware that he is the subject of an investigation or proceedings;
- (b) not attend any further meetings of the relevant committee nor participate in any hearings of the relevant panel for the duration of the investigation or proceedings.

16. Investigation.

- (1) An alleged breach shall be investigated by a person (hereinafter referred to as an “Investigator”) appointed by the Council.
- (2) If the Investigator determines that the matter ought to be considered by the Council, he shall —
 - (a) procure a report supported by the available relevant documentary evidence;
 - (b) ensure that such report is placed before the Council with due dispatch,and he may obtain written legal or other advice to include in the report.
- (3) Where a matter is investigated, the Investigator shall endeavour to obtain the comments of the member in question on the matter and include the same in any report placed before the Council.
- (4) Where an alleged breach is referred to the Council for consideration, the member shall stand down from membership of any such panel or committee until the Council has made a decision on the matter.

CONSIDERATION AND DETERMINATION BY COUNCIL

17. Consideration by Council.

- (1) The Council shall consider the report submitted by the Investigator and may require a member —
 - (a) to provide further information; or
 - (b) to give such other assistance as it may require in its consideration of the case,and it shall be the responsibility of the member to comply with such request.
- (2) Prior to making a determination, the Council shall give the member an opportunity to be heard or to make written representations.

18. Determination of Council.

- (1) Where the Council determines that an alleged breach has been proved, the Council —

- (a) shall inform the member of its finding and provide written reasons for its decision; and
 - (b) may make such order as it deems fit, including terminating the appointment of the member with or without notice.
- (2) If the Council finds no case to answer, or otherwise decides not to terminate the appointment of such member, the member shall be reinstated on the committee or panel at the conclusion of the consideration of the matter by the Council.
 - (3) The decision of the Council shall be final.

CONFLICT OF INTEREST AND CONFIDENTIALITY

19. Conflict of interest.

- (1) No member of the Council shall be eligible for appointment on the Disciplinary or Appeal Panels or the Investigations, Disciplinary or Appeal Committees.
- (2) A member must ensure that he does not act in a way in which there is or might reasonably be assumed to be a conflict of interest between his duties as a member and his private interests.
- (3) Where a conflict of interest arises between the duty of a member and his private interest, that member must —
 - (a) disclose his interest to the Institute;
 - (b) take no part in the consideration of the matter; and
 - (c) in the case of a matter which is considered at a meeting, request that his disclosure be recorded in the minutes of the meeting.
- (4) Where individuals in the firm of a member wish to act for a member of the Institute, associate, student or firm of the Institute facing disciplinary or regulatory proceedings brought by the Institute, that member must not disclose to others in his firm, any information about the disciplinary and regulatory matters of the Institute.
- (5) No member shall hold himself out or his firm as having expertise in dealing with cases where a member of the Institute, associate, student or firm of the Institute is facing disciplinary or regulatory proceedings brought by the Institute.

20. Giving of advice or evidence.

- (1) No member shall agree to advise or act —
 - (a) for any member of the Institute, associate, student or firm of the Institute facing disciplinary or regulatory proceedings brought by the Institute;

- (b) as an expert witness in cases where any member, associate, student or firm of the Institute is facing disciplinary or regulatory proceedings brought by the Institute.
- (2) Where a member is requested in writing by any member of the Institute, associate, firm, or student of the Institute to provide evidence in relation to a disciplinary matter, he shall —
 - (a) agree to do so only where his evidence relates to a matter of fact;
 - (b) ensure that his evidence is accurate;
 - (c) ensure that the conduct of the member is beyond reproach; and
 - (d) not give expert evidence, either in relation to the Institute procedures or on a point of practice or law, or character evidence.

21. Confidentiality.

A member shall at all times preserve the confidentiality of all disciplinary matters and shall —

- (a) not discuss or comment on the matter publicly or privately;
- (b) refrain from making any public or private statements on the matter, notwithstanding that the case has been concluded or was heard in public;
- (c) take reasonable steps to ensure that all papers or information received in the performance of his duties are kept safe and confidential; and
- (d) not use any papers or information received in the performance of his duties for any purpose other than the performance of his duties as a member.

Made this 19th day of February, 2016.

Signed
DARNELL OSBORNE
Chairman
The Bahamas Institute of Chartered Accountants

Signed
MARGUERITE PINDLING
Governor-General