



**GOVERNANCE REVIEW TASK TEAM
REPORT AND RECOMMENDATIONS**
16 May 2019



PREFACE

While SAICA and the accounting profession have recently received considerable criticism, the Governance Review Task Team (GRTT) wishes to emphasize that the vast majority of the profession provide valuable and professional services in a competent and ethical manner.

Much of the criticism has arisen from allegations of inappropriate work carried out by firms, corporate scandals involving Chartered Accountants and allegations of corruption. The Board of SAICA has implemented various actions to address these specific issues, however, the Board had already been considering the appropriateness of the governance framework for some time.

At the Annual General Meeting held on 26 June 2018, the Chairman of SAICA announced that the Board would set up a process to review the governance structure of SAICA and to involve Members in the process.

In a letter to Members sent out on 31 August 2018, the Chairman of SAICA announced that a GRTT had been formed to assess the appropriateness of the current SAICA governance structures and to make recommendations on how they can be improved to deal with issues more effectively and in a timelier manner.

When SAICA was established in 1980, its governance structure comprised a Council based on geographic representation. Over the years, the structure was changed to include representation from various Member constituencies such as small and medium practices, Members in business, Members based in other countries and the Association for the Advancement of Black Accountants of Southern Africa (ABASA), however the fundamental structure remained the same. Given the rate of change in the profession together with the numerous challenges faced by the profession, the Board felt that the structure was no longer appropriate to deal with both current and future challenges facing the accountancy profession.

The GRTT was convened by the Board with a specific mandate, which was listed in its terms of reference. Under the Chairmanship of Roy Andersen, the GRTT have met on numerous occasions to debate the questions put before it and this report provides the proposed new governance structure together with a set of recommendations and documents as part of the deliverables on the questions put to it in the terms of reference.

The view of the GRTT is that, if the recommendations in this report are implemented, the governance framework and the reputation of SAICA will be materially enhanced to the benefit of the profession.



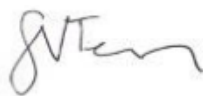
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1 GRTT Proposal Highlights

In executing its terms of reference (detailed below), the GRTT has completed a review of the current SAICA Constitution and By-laws and has made substantial proposed changes to them. In addition, the GRTT has drafted charters for both a Board and proposed Council which are included as appendices to the By-Laws. All revisions have been aligned with corporate governance best practice, including King IV™.

The highlights of the new governance framework are:

1. There shall be a professional and diverse Member elected Board comprising 8-12 members.
2. The majority of the Board members shall be CAs(SA).
3. Two to three non-executive Board members shall be non CAs(SA) and must be independent.
4. The majority of the Board members shall be independent.
5. The Board shall oversee the disciplinary processes and report regularly to the Members and other stakeholders.
6. Board members and Board Committee members shall be remunerated for their services in accordance with a Member approved Remuneration Policy.
7. The existing Advisory Council shall be dissolved and be replaced by a Council representing relevant constituencies, whose primary task shall be to provide strategic and membership related input to the Board and provide input into the nomination of Board members.
8. The Board shall ensure that KPIs are set and monitored for the CEO and his or her executive team.
9. The Purpose and Objects of SAICA have been updated in the Constitution.
10. Transitional arrangements have been proposed to ensure a smooth transition from the current Constitution to the new Constitution and the establishment of the new Board and Council.

2 Terms of Reference

The GRTT was mandated to consider and draft recommendations for the following:

1. Recommend a simplified and fit-for-purpose governance model;
2. Identify and recommend a nomination and appointment process for the Board and Board structures;
3. Define a balanced Board which will encompass greater diversity and inclusion of stakeholders from outside the membership base of SAICA (i.e. independent representatives who have the necessary skills and experience to provide strategic guidance to executive management), and possibly give consideration to the inclusion of designations from within the membership-base being Associate General Accountants (AGAs) and Accounting Technicians (AT(SA));
4. Review the roles and responsibilities of Board members, including the Chairman and Vice Chairmen, and Board sub-committee members;
5. Recommend an appropriate size and structure for the Board and Board Sub-Committees;
6. Recommend a transitional process to ensure continuity and effectiveness of the Board;
7. If a regional and/or constituency model is recommended, to provide guidance to enable the Board to distinguish between governance, representation and engagement activities (i.e. to provide clarification on the functions of constituency representatives in terms responsibilities and accountability to SAICA in relation to their Board role versus their regional and/or constituency role);
8. To consider the appropriateness of remunerating members of the Board;
9. Recommend a strong succession planning process including tenure of service for Board members;
10. A procedure for the removal/termination of services of Board members;
11. Engage and consult extensively with stakeholders (including Members) as part of the governance review process;
12. Confirm the extent to which King 4 should be followed; and
13. Provide guidance and direction to the Board on urgent items that need to be addressed to restore trust in the profession.

3 The Task Team

The task team comprised:

Chairman: Roy Andersen: Studied at the University of the Witwatersrand, qualifying as a Chartered Accountant (SA) in 1972 and as a Certified Public Accountant in 1975 in Texas. He served as Chairman of Ernst & Young and thereafter President of the Johannesburg Stock Exchange, CEO of Liberty and Chairman of Sanlam. He has served over a period of 30 years on the boards of ten companies listed on the JSE and London Stock Exchange. He is a member of the King Committee and serves as a Major General in the SANDF.



Graham Terry: has held many prestigious positions at SAICA including deputy chief executive of SAICA in 1995. He held the position for four years before being appointed Vice President and Executive Director of Strategy in 2000. He has also been a guest speaker at numerous conferences, has numerous articles published on accounting, auditing and sustainability, and chaired many boards. In 2009 a working group known as the Integrated Reporting Committee of South Africa was put together and Mr Terry was appointed chairman of the working group. He served as a technical advisor to S. A. representatives on several international committees and was involved in the establishment of FASSET on which board he served for 5 years, the last as chairman. He is currently an integrated reporting advisor. He lectures at universities and does presentations at conferences in South Africa and internationally. In 2017 he was appointed as a practical professor at the University of Johannesburg where he is co-ordinating courses and research on integrated reporting and thinking

Gil Gorgulho: is the managing partner at Crowe HZK and also serves on the Management Committee of the firm. He is also a Director of Horwath Technical Services SA (Pty) Ltd. He has a range of experience in Financial Reporting, Processes & Controls; Governance, Risk & Audit Committee and IT Strategy, Software & Systems as well as extensive experience in technical audit, accounting and consulting activities for a wide variety of industries. In July 2010 he was nominated as Vice-President of SAICA for the Southern Region and he served as President from May 2012 until June 2014. He also served as Vice Chairman of the National SAICA Board (2013-2015) and as Chairman (2015 – 2017).





Gloria Serobe: Gloria is founder and executive director of WIPHOLD. She obtained a B.Com degree from the University of Transkei and holds an MBA degree from Rutgers University, USA. She has won numerous awards, including the Business Women Association's Corporate Business Woman of the Year and Lifetime Achiever: South African Premier Business Awards 2016. Gloria serves on several boards, including Adcorp, Hans Merensky and Sasfin. She was the Chairman of the Board of the Independent Ports Regulator; served on the boards of Old Mutual, Nedbank and Johannesburg Securities Exchange; is an honorary member of the Actuarial Society of South Africa; and a member of the SAICA Advisory Council.

Suresh Kana: was Chairman of the SAICA Board from 2013 to 2015. Mr Kana joined the King Committee in 2000 and has been involved in the development of the King II, King III and King IV Reports. The leadership of SA's corporate governance committee moved from Prof Mervyn King to Prof Suresh Kana in October 2018. His board positions on JSE-listed companies included chairman of the Imperial Group and he is currently Chairman of Murray & Roberts. He also chairs the Audit Committee of the UN World Food Programme based in Rome. He is the Lead Independent Director of JSE Ltd and a non-executive director of Quilter plc. He is a trustee of the IFRS Foundation.



Ignatius Sehoole: served as an articled Clerk at Deloitte and Touche. Mr Sehoole served as an Executive President of the South African Institute of Chartered Accountants from 2000 to 2009 and currently serves as a director on a number of large corporations. He has been CEO of numerous organizations and has recently been appointed as the CEO of KPMG. Mr Sehoole resigned from the task team on 29 March 2019 due to potential conflict of interest as the CEO designate for KMPG.

Tumeka Matshoba-Ramuedzisi. Is the Managing Director: Audit & Assurance at Ramuedzisi Chartered Accountants and Registered Auditors. She has served on the Board of Morokotso Trust (Implats Limited employee share ownership scheme) and currently serves on the Boards of the National Lotteries Participants Trust, Ditikeni Investment Company Limited and Reunert Limited. In addition, she currently serves on the Audit and Risk Committees of the Council of the Tshwane University of Technology and the Financial and Fiscal Commission.



4 Schedules attached to this Report

The following deliverables are included as schedules to this report:

1. Proposed two key governance documents, being:
 - a. Constitution (Schedule 1).
 - b. By-Laws (including the Board and Council charters) (Schedule 2).
2. Proposed Transitional Arrangements: Advertisement for Board Members including criteria (Schedule 3).
3. Results of questionnaire (Schedule 4)

5 Process followed

5.1 Convening of the Governance Review Task Team

The GRTT was convened in terms of a SAICA Board resolution and convened its first meeting on 27 August 2018. Since then the GRTT met numerous times to reach a final proposal on a new governance structure for approval first by the existing Board of SAICA and then by the Members of the Institute at the AGM scheduled to be held on 26 June 2019.

5.2 Consideration of the unique elements of a South African Institute

Two important elements were considered when drafting the new governance structure.

Firstly, the history of our country cannot be ignored. Historical injustices and the need to address imbalances resulting from those injustices need to be a crucial part of the new governance structure. Transformation is a crucial element that needs to be addressed by SAICA, not only in the structures of the Institute, but in the profession at large. SAICA needs to ensure that the governance structures consider diversity from a race, gender and disability perspective.

Secondly, the existing regional membership structures, which were historically formed when SAICA was created in 1980 from the existing regional bodies needs to be considered into the future. The creation of SAICA was through a long and difficult negotiated process over many years. It was critical to recognise the hard won unity of the profession and the role of the regional bodies.

5.3 Consideration of governance models of other accounting institutes

As part of the process, the governance models of other accounting institutes were reviewed, discussed and analysed. These included the models of the Institute of Chartered Accountants in England and Wales (ICAEW), Ireland, New Zealand and Australia. All these models had various pros and cons, however, none of them were a perfect fit for SAICA. While elements of each were adopted, the model proposed in this report has been adapted to fit the unique needs of a South African professional institute. It was also important to understand how SAICA had come about and the complex history that had led to the formation of the current governance model, and its current strengths and weaknesses.

5.4 Consideration of models of other membership based institutes

The Law Society of South Africa (LSSA) has recently undergone a similar process, in which the governance structure was reviewed and a new Board constituted. The amended constitution of the LSSA was considered and provided a number of useful clauses for inclusion in the updated Purpose and Objects of the updated SAICA Constitution. These included clauses related specifically to upholding public interest as a key role of the Institute.

5.5 King IV™ recommendations

Finally, the King IV™ recommendations for good governance formed a vital benchmark in ensuring that the new governance framework was built on the strong foundations of those recommendations. Clearly not all King IV™ recommendations can be implemented in a not-for-profit (NPO) organisation, however, the vast majority can, and have been taken into consideration when drafting the new clauses of the Constitution, By-Laws and charters.

5.6 Drafting of the proposed new model

The development of the key documents, the Constitution, including the By-Laws, the Board Charter and the Council Charter, took place through an iterative process of drafting, discussion and debate, redrafting and review.

5.7 Consultation with Members

5.7.1 Questionnaire

The GRTT was determined to ensure that the process was transparent and that Members of the Institute were given an opportunity to have their say in the new governance structures. A communication was drafted including the key elements of the proposed new governance structure and the key principles on which the new structure was based. Attached to the communication was an on-line anonymous questionnaire that would allow the GRTT to quantify the support by Members for the proposed governance structure, as well as free form answers that would give a qualitative view of Members' opinions. The outcomes of the results of that exercise are included in the Schedule 4. The views expressed in the qualitative analysis were considered and taken into account when finalising the proposed governance structure and drafting the final versions of the four key documents.

5.7.2 Meetings with Members

Prior to closing of the voting on the questionnaire, the GRTT conducted two presentations to provide Members of the Institute an opportunity to engage with GRTT, to give input and suggestions, to highlight concerns, and to ensure that the Members' views were heard.

5.7.3 Other Input

Additionally, responses from ABASA and IRBA were received in the form of letters. These addressed the communication that was sent out with the questionnaire. Their overall responses were positive and largely supportive of the proposed new governance structure.

5.7.4 Additional Engagements.

The GRTT engaged with members of the Advisory Council and the new CEO on an informal basis as well as various groups of interested Members. It is the recommendation of the GRTT, that, should the Board approve the amended Constitution and By-laws including the Board and Council Charters, that the Constitution be put forward to Members at the AGM for approval. And the By-laws be provided to the Members for information, that prior to the AGM, the Chairman, the CEO and GRTT conduct further engagement activities to ensure that Members vote based on a clear understanding of the new governance structure and the reasons for the changes.

The views expressed by Members in the various engagements were considered and taken into account when finalizing the proposed governance structure and drafting the final versions of the four key documents.

5.8 Consultation with Legal Advisors

Once the results of the questionnaire indicated strong support for the proposed governance structure and once the documents had been drafted to a point where the GRTT was comfortable that the key principles were captured, the documents were shared with Webber Wentzel to ensure that the necessary legal language was used and to ensure that the changes were all within the ambit of the law and were compliant with the various legislative requirements.

The penultimate draft of the documents was reviewed by ENSafrica.

5.9 Drafting of Transitional Arrangements

Transitional arrangements to deal with the implementation of the proposed new governance framework have been included in the Constitution and are detailed under section 9 of this document.

6 Guiding Principles

In its deliberations towards developing a governance structure for SAICA, the GRTT used a set of guiding principles. These guiding principles are intended to provide a framework against which the balance of the structure can be tested. All of the guiding principles are important and need to be embedded in the final structure. The GRTT has also leaned heavily on the principles of King IV™ in its work, including the independence of the Board and its members.

The guiding principles used are:

1. Member representation;
2. Inclusivity;
3. Professional leadership and direction;
4. Public interest and trust;
5. Continuity;
6. Effective execution; and
7. Accountability and control.

6.1 Member Representation

SAICA is a Member organisation and therefore Members must have a say in the governance of their Institute. In 1980 when SAICA was established, its chief governance vehicle was a Council comprising Councillors appointed by each of the provincial societies (geographic representation). A small executive committee was chosen from Council members to direct the Institute.

In the 1990s, due to changing circumstances, the Council felt that it should function as a Board of directors, combining the roles of the Council and the executive committee. As time passed, there were growing concerns that geographic representation did not result in a Board that represented all key constituencies of the membership in a balanced manner. This led to further changes to incorporate representation from various Member constituencies, such as Small and Medium Practices, Members in Business, Members outside of South Africa and ABASA. At a later stage an Advisory Council was also established.

The GRTT believes Member representation in the governance structure remains important for the reason that Members need a mechanism to participate in the governance processes and to initiate action if governance processes break down. The composition of the current Board has evolved through many years of debate and discussion; however, the GRTT believes that a Board based on regional and constituency Member representation is too large and possibly lacks the independence and skills balance (as discussed below) to effectively direct the Institute in the future.

The GRTT recommends that Member representation in the governance structures should continue and that it should be achieved through:

1. A Member elected professional Board that strives to reflect the diversity of South Africa and comprises a balance of executive and non-executive members, with a majority of non-executive members and up to three (3) and no less than two (2) of the non-executive Board members being non-Chartered Accountants and be independent. This is expanded upon further on in this document; and
2. A Council elected by regional and constituency bodies to represent the full spectrum of SAICA members (Regional, firms, Members in Business, Associates, interest groups etc.) taking cognisance of race, gender and disability which shall serve as an advisory forum to the Board and would:
 - consider, apply their minds and advise the SAICA Board on matters relating to the strategy of SAICA;
 - represent SAICA's Members' interests facilitated through input from the Regional Councils and other relevant sources;
 - consider Board nominations. Annually, a Nominations and Governance Committee will table with the Board, a list of names of Board Members that remain on the Board and a list of proposed replacements to fill any vacancies. After acceptance by the Board, the list will be tabled with Council for input and discussion. Thereafter the Board will determine the final list of names to be put to the AGM for approval; and
 - recommend changes to the Professional Code of Ethics for approval by the Board.

6.2 Inclusivity

SAICA has achieved much in its medium-term objective for its Member demographics to mirror the population demographics of the country, from a race, disability and gender perspective. These initiatives need to be continued and enhanced. The GRTT believes that the various governance and executive structures need to reflect the appropriate diversity. Because the Member demographics do not currently reflect the demographics of the country, it will be necessary to set transformational objectives to achieve diversity within the governance and executive structures.

Research shows that organisations that embed diversity into their structures are more resilient than organisations that don't. For this reason, the GRTT believes that the proposed Board structure should allow for the appointment of up to three independent non-chartered accountants. The GRTT considers that by involving independent non-chartered accountants, the Board would be better balanced and better prepared to assess issues from a public interest perspective.

The task force recommends that:

- criteria should be put in place to ensure that governance and executive structures meet agreed diversity requirements; and
- the structure for the proposed new Board should provide for up to three independent non-chartered accountants.

6.3 Professional Leadership and Direction

As the business environment becomes more complex and challenging, organisations need professional leadership in the form of a Board of directors that has vision and foresight, and that can anticipate trends and prepare the organisation to meet its challenges. On a global basis, many institutes have established a professional Board to direct their affairs.

SAICA is a complex organisation that has many duties and responsibilities in addition to meeting the wide range of service requirements of Members and Associates. It has a high public profile and it is expected to provide leadership in the community in combatting corruption. In order to meet all of these expectations and to play an effective role in the community, the Board needs to be focused and it needs an appropriate mix of skills.

The GRTT believes the current Board is too large (in excess of 20) to operate with the intensity and agility required of a modern Board. In addition, the Board members are appointed by regional and constituency bodies and therefore the mix of skills will not necessarily be optimal for the tasks at hand. The GRTT proposes that SAICA needs a smaller (8-12 members), more professional Board that is agile and can, on the one hand develop a visionary and competitive strategy, and on the other hand, ensure that it is effectively implemented. It also needs to ensure that operations are implemented without getting involved in the day to day running of the Institute.

The GRTT believes that if the Board is to be effective, it should be given the freedom to operate as an independent Board so that it can make decisions in the best interests of the total membership. Whilst the representative body (Council) will provide advice and input on behalf of the Members, it should not interfere with the activities of the Board unless, in the opinion of the Council, the Board moves outside of the provisions of the SAICA Constitution, in which case, the Council will bring such matters to the attention of the membership at a general meeting of Members.

In order to achieve the desired level of professionalism described above, the GRTT considers that Board members should be appointed by the Members and remunerated for their services. Up until now, SAICA Board members have operated on a voluntary basis. The GRTT believes that given the changing needs and the increasing time commitments involved, it is unlikely that SAICA would be able to attract suitable candidates to sit on its Board without reasonable remuneration.

6.4 Public Interest and Trust.

As mentioned earlier, Members and Associates of SAICA are granted designations which enjoy public trust. These designations provide Members and Associates with a certain degree of competitive protection and therefore they have a strong duty and responsibility to act in the public interest at all times. SAICA is the body designated to oversee that its Members and Associates meet these ethical requirements.

SAICA has a disciplinary process to ensure that Members uphold the highest professional and ethical standards. Whilst the GRTT believes that the governance structures should not be able to influence the outcome of disciplinary investigations, the disciplinary processes should be accountable to the governance structures.

6.5 Continuity

One of the problems with the existing SAICA governance structure is that several Members of the current Board are appointed by the regional structures. It is common that the chairman of the Regional Council is appointed by the Regional Council to the SAICA Board. As Chairmen of regions generally serve for one or two years, this often results in Members of the SAICA Board changing after their term in their regional structure has come to an end, causing problems of continuity. If the governance structures are to operate effectively, it is important that appointees serve terms long enough to ensure that there is sufficient continuity in all the structures. Accordingly, the GRTT believes that Members of the governance structures should serve a 3 year term with an option of re-appointment for a further 3 year term. In addition, to ensure continuity, one third of the Board should retire each year (but would be available for re-election, provided that they have not served six years), to allow changes to take place on a staggered basis.

6.6 Effective Execution

Research shows that most corporate failures happen, not because of poor strategy, but because of poor execution. It is therefore critical that SAICA builds a highly competent executive, headed by a CEO that implements strategy effectively and runs operations efficiently.

The executive needs to assist the Board in developing strategy, however its main function is to implement strategy and run efficient operations. SAICA is a complex organisation as it is required to function in a wide variety of areas. These areas include standard setting in a number of disciplines, education and training and provision of services and support to its Members and Associates working in many industries. SAICA also operates programmes to develop black accountants to redress the historic imbalance in Member demographics as well as running numerous projects to improve efficiency in the public sector and assisting emergent business leaders to acquire financial and business skills. The executive is also responsible for stakeholder engagement and advocacy. Other important areas include marketing and communications, monitoring of Member compliance and running disciplinary processes. To fulfil these expectations, the executive needs people with a wide variety of skills and knowledge, however, this all needs to be accomplished within severe financial constraints.

Currently, the executive includes many talented people and it is critical that their knowledge and skills are recognised and retained as a base to build for the future.

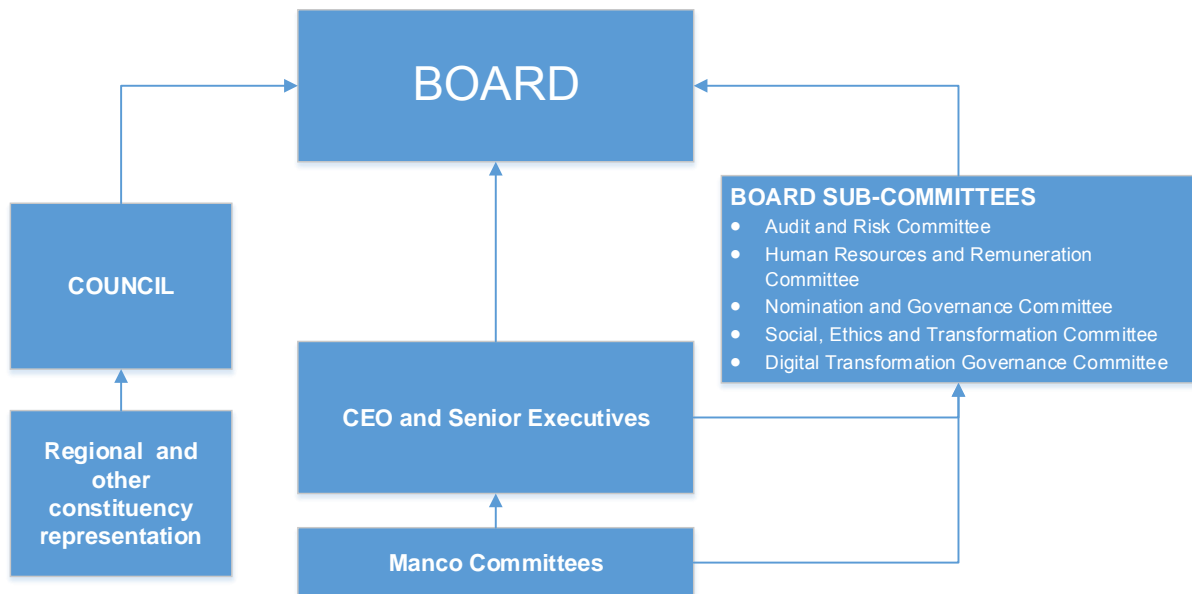
6.7 Accountability and Control

Accountability is critical to the effectiveness of any organisation and for it to achieve its objectives. Being a Member organisation, first and foremost the governance structures need to be accountable to the membership, but the organisation also needs to be accountable to the public because its Members are granted the use of public trust designations. Accountability needs to run throughout the structures. The structures need to ensure that objectives and targets are set and that there are performance reviews at all levels. The CEO and management should be held accountable for the implementation of strategy and the efficient running of operations. To this end key performance indicators should be agreed with the Board.

An important aspect of accountability will be the reporting processes to the various elements of the structure, to Members and Associates and to broader stakeholders. Reporting needs to be timely and transparent. SAICA has produced some innovative integrated reports over the past few years and these reporting principles need to be continued and enhanced.

The other side of accountability is control. Each element of the structure needs to closely monitor the issues over which it has responsibility.

7 Proposed Model



7.1 Proposed Committees

7.1.1 Board Committees

The following Board Committees are proposed.

1. Audit and Risk
2. Human Resources and Remuneration
3. Nomination and Governance
4. Social, Ethics and Transformation
5. Digital Transformation Governance

While the terms of reference requested GRTT to consider both the size of the Board and the committees, it is the view of the GRTT that the size, structure and terms of reference of the committees must be determined by the new Board from time to time.

7.1.2 Functional Committees

From the consultation process it was clear that Members felt that SAICA had lost its position of being a leader in key core skills, including auditing, accounting, reporting and taxation. The GRTT felt that it was important to rebuild these competencies, not only by employing highly competent people in the secretariat, but also in encouraging the many talented Members to participate in committees.

The GRTT proposes that the Board should ensure that there are committees appointed within SAICA to cover the following core areas:

1. Education - Initial Professional Development
2. Assurance
3. Financial Reporting/ Accounting Practices
4. Ethics
5. Taxation

While most of these exist in the current structure, GRTT have included them in the By-laws to ensure that they are given the appropriate status.

7.2 Role of the Board

The GRTT proposes that the Board, meet at least quarterly. The GRTT considers the role of the proposed new Board to be as follows:

- Ensure that strategic objectives are set and achieved in line with the Purpose and Objects of the Institute.
- Establish a policy framework and funding model within which the organisation must operate and strengthen the performance of Chartered Accountants (SA).
- Act as the custodian of corporate governance in the Institute.
- Ensure the Board Committees discharge their functions appropriately in relation to meeting strategic plans and budgets.
- Monitor the activities of Trusts, NPOs and social responsibility projects as established by the Institute as determined in the SAICA Delegation of Authority.
- Appoint and evaluate the performance of the Chief Executive Officer.
- Ensure that the Institute maintains a robust process for identifying, prioritising, managing, monitoring and reporting critical risks through the Audit & Risk Committee.
- Ensure that the Institute and its Members adhere to the highest standards of ethics and corporate behaviour, and that the designation CA(SA) is protected and that the profession is trusted.
- Oversee the disciplinary process with regards to Members, Associates and Trainees of the Institute by:
 - Ensuring that the Institute has adequate resources for investigation and disciplinary processes;
 - Ensuring that the impact of the approved disciplinary process, including the by-laws, meets and continues to meet, the expectations of the profession;
 - Appointing an independent disciplinary committee;
 - Satisfying itself that the approved disciplinary process is followed by the disciplinary committee; and
 - Accounting to Members on the outcomes of disciplinary proceedings.
- Promote and monitor transformation in the profession.
- Review and approve appropriate By-laws.
- Engage with stakeholders and Members.

This is more fully addressed in the Board Charter (Appendix 1 of Schedule 2)

7.3 Role of Council

The GRTT proposes that the Council meets at least twice a year and will be made up of representatives from regional structures together with representatives from other constituencies. The Council will:

- Elect a President who will chair the Council;
- Serve as a consultative forum and consider, apply their minds and, at the request of the Board, provide advice to the SAICA Board on matters relating to the strategy of SAICA and the CA (SA) profession and Associated designations, and where appropriate, management;
- Represent SAICA Members' interests facilitated through input from the Regional Councils and other relevant sources to the Board and management;
- Provide input to the Board for the appointment of members to the Board;
- Consider and award life long and honorary life membership to Members; and
- Recommend changes to the Professional Code of Ethics for approval by the Board.

This is more fully addressed in the Council Charter (Appendix 1 of Schedule 2)

8 Remuneration of Board members

The GRTT proposes that Board members be remunerated and that the Remuneration Policy and the implementation thereof be subject to non-binding votes requiring a 75% approval by Members at the AGM. Failure to achieve this percentage will require consultation with the Members.

The GRTT estimates cost of the new governance structure will be between R5 million and R7 million which translates to approximately R110 to R160 per Member per year.

The GRTT proposes that the Board conduct an exercise to determine the Board member and Board Committee fees, to be put forward at the SGM at which the new Board is elected and approved by members until the following AGM.

9 Transitional Arrangements

The GRTT proposes the following transitional arrangements as captured in the Clause 21 of the Constitution.

- 21.1 Upon the adoption of the Constitution by Members:
- 21.1.1 the existing Board will continue in office until the election of the new Board has been completed and the new Board has been constituted;
- 21.1.2 the Board will conduct an exercise to determine the Board member and Board committee fees up to the following AGM, to be put forward for approval by members at the SGM; and
- 21.1.3 the Board shall cause to be created a Transitional Nominations Committee which shall be charged with the drafting of the criteria for members of the new Board, publication of the necessary advertisement to seek nominations and the short listing of candidates to be discussed by the Board with input from the Council (if constituted at this time).
- 21.2 A special general meeting (SGM) of Members shall thereafter be called by the Board to elect the members of the new Board and approve the Board and Board committee fees until the following AGM, upon which the existing Board will retire.

A copy of the proposed advert calling for applications of new Board members, and specifying the duties of the Transitional Nominations Committee is attached as Schedule 3.

10 Restoring Trust in the Profession

The GRTT was mandated to provide guidance and direction to the Board on urgent items that need to be addressed to restore trust in the profession. The Board specifically asked that the GRTT not to look at the disciplinary structures and process as this would be part of the focus of Phase 2 of the governance review process and would be conducted by the incoming Board. For reasons explained in 10.3 below, we have provided some commentary in the area of discipline. It is in this area that we highlight the importance of an effective communication and public relations strategy which should be viewed beyond the area of discipline.

Globally, the accounting profession has been losing trust for some time. The most important reason being that the profession has not been able to protect stakeholders from major corporate failures, fraud and corrupt practices. Indeed, in some cases accountants have connived with perpetrators of fraud and in others been the perpetrators themselves.

Restoration of public trust will be a long journey involving many different actions and it will need to be conducted globally. The GRTT does not profess to make recommendations in this regard other than to suggest that SAICA needs to play a role in the global discussion and implementation and clearly communicate the role it is playing to Members and other stakeholders. The GRTT has however identified some issues that it believes should be addressed urgently by the new Board. These are set out below:

10.1 Areas of leadership

Historically SAICA and its Members have been recognised as leaders in many fields, including accounting, auditing, taxation, ethics and governance and more recently integrated reporting. Whilst SAICA cannot be a leader in all fields, it needs to be seen as a significant and/or lead contributor in these areas and providing leadership where possible. SAICA has a large resource base of capable thought leaders amongst its Members who would be very willing to be involved. Evidence of this is the number of Members who work on a voluntary basis with other professional organisations and universities. The GRTT sees this as not purely involvement, but involvement that champions public trust and accountability.

10.2 Repositioning SAICA's stance on key public issues

SAICA has been reluctant to take positions on public issues in the past. This was a prudent approach and may have been successful historically. However, the world has changed significantly and organisations that are perceived to have no views become irrelevant. This does not mean that SAICA should comment on every issue. It needs to choose its issues and project strong ethical viewpoints. In this way it can begin to rebuild its reputation and create an image that SAICA can be trusted and that it is not only looking after its own. Without proactive steps in a fast-moving world, SAICA will always be seen to be on the defensive.

10.3 Stakeholder engagement

Effective stakeholder engagement is critical to any organisation. Today one of the key forms of capital used by organisations is social and relationship capital. We have seen where organisations lose public trust share prices plummet. Rebuilding that trust needs to be a key strategic focus. Key relationships need to be measured regularly and specific strategies need to be put in place to address the shortcomings and enhance future relations. Clearly SAICA has lost ground with some of its key stakeholders, including Members. The Board has instituted initiatives to address these, but it needs to measure the effectiveness of its initiatives and make adjustments where necessary. Relationships with the public have also been severely affected in that many people have lost money through the actions of SAICA's Members. By not acting swiftly SAICA's image has been further tarnished and it can have wider implications such as affecting the flow of potential accountants in the future. It is therefore critical that these areas be identified, and specific strategies be put in place to rebuild relationships. To this end solving the disciplinary problem will be critical.

10.4 Member engagement

Some Members have expressed an opinion that SAICA is not efficient in responding to Members issues such as Members making themselves available for service to the organisation and then not being contacted, the lengthy time it takes in certain cases for Members to be reimbursed for their expenses without being informed of the process are two such examples. The frustration leads to an unsatisfactory Member experience with SAICA.

Membership experience in its totality needs to be measured regularly and efforts should be made to ensure that Members receive an appropriately efficient experience in their interaction with the secretariat. Initiatives such as those recommended under 10.3 above need to be applied to the Member engagement activities. The Members are SAICA's most important ambassadors and they will promote the institute based on the good experiences they receive from SAICA. The opposite can also be true. SAICA must make every effort to ensure the appropriate level of service is delivered to its Members.

10.5 The disciplinary structure and process

10.5.1 Introduction

As mentioned above, the terms of reference of the GRTT excluded any reference to a review of the disciplinary structures and processes of SAICA. Firstly, the GRTT would like to highlight steps that have been taken to date by the Board and SAICA:

10.5.2 Actions taken by SAICA

10.5.2.1 The GRTT notes and welcomes actions taken by SAICA thus far to enhance the disciplinary process and to communicate with Members and the public about its actions. It is clear that the number of complaints against Members has increased substantially in recent years. The increase in staff and the increase in budget for the Legal and Governance Division will undoubtedly assist in improving the turnaround of cases.

10.5.2.2 The Board has also indicated that Phase 2 of the Governance Review will focus on the disciplinary structure and process.

- 10.5.2.3 The Ntsebeza Inquiry was specifically set up to try and negate the limitations posed by the lack of subpoena powers. The purpose was to gather evidence in respect of a number of cases against Members with a view to speeding up the disciplinary process.
- 10.5.2.4 SAICA has updated and enhanced its Code of Professional Conduct in line with international developments. It has also added the international NOCLAR standard.
- 10.5.2.5 SAICA has increased the number of communications to Members and the media regarding actions being taken to address Member discipline issues.
- 10.5.2.6 A new governance website has been established providing Members and others with information about the disciplinary process and how it works. It also provides useful statistics.
- 10.5.2.7 The newly appointed CEO has taken a more proactive approach to making statements.

10.5.3 Feedback received

Comments received from Members on the GRTT questionnaire sent out in November 2018 as well as from engagement with Members and other stakeholders revealed that the disciplinary structures and processes were seen to be extremely important in responding to the urgent issues facing SAICA and the profession. Similar views were received from certain government sources. The GRTT therefore felt an obligation to report this and to provide some commentary to the incoming Board. In doing so, the GRTT has noted steps already taken by SAICA to enhance the disciplinary process as mentioned above. Whilst the GRTT has made no changes to the Constitution and By-laws to effect any of the recommendations in this area, the GRTT believes that considering the comments received would serve as valuable background in the deliberations for Phase 2 of this project.

Generally, Members seem to have a limited understanding of the disciplinary process and of the difficulties faced by SAICA in bringing about effective actions. This obviously influences the perception of many Members. Whilst the GRTT is aware that SAICA has made efforts to inform Members of the details, these initiatives do not seem to have been successful. Similarly, the public and media do not seem to have an appreciation of the processes and difficulties.

The GRTT identified a number of common views and/or perceptions from Members through Members responses to the survey and other Member engagements which it has grouped into themes. It should be noted that these are the views of the Members and the GRTT has not tested these views or perceptions with the Board or management. Rather, it is the view of the GRTT that phase 2 needs to consider the themes below in developing their holistic response wherein the disciplinary process may be an element of those interventions/responses.

The GRTT has identified the following themes:

- 10.5.3.1 Respondents raised the issue relating to the perceived slowness of SAICA to discipline Members in high profile cases, especially where there are numerous media reports of wrongdoing and unethical behaviour.

- 10.5.3.2 There is a perception amongst some Members that SAICA applies inconsistent treatment to cases in that certain cases are dealt with more expeditiously than others.
- 10.5.3.3 Concern was expressed that SAICA does not make a strong enough consistently repeated statement that it does not tolerate unethical behaviour.
- 10.5.3.4 There is also a perception amongst some Members that SAICA is not being entirely transparent in its handling of issues.
- 10.5.3.5 Respondents were concerned with the perceived lack of visible action by SAICA and this could be tainting the image and standing of the profession and of individual Members at large.

Although many of the views reference the disciplinary process, it appears to the GRTT that a general underlying theme is that of communication and public relations. An improved communications and public relations strategy to keep Members and stakeholders informed in a responsible, appropriate and transparent manner would most certainly be a positive step forward.

Much of the problem seems to relate to the effectiveness of communication by SAICA both with Members and other stakeholders. Whilst SAICA can point to numerous communications with Members and press releases, the intended messages are not getting through to Members or the public. This is clear from the feedback received from Members. A simple example is the SAICA Governance website which contains much useful information, but few people seem to know of its existence and there does not even appear to be a link from the main website to it.

Whilst the GRTT acknowledges that SAICA has released statements dealing with the above, it would appear that they have not been consistent or effective in reaching the consciousness of Members or the public, thereby elevating SAICA to the appropriate level of trust as viewed by its Members and stakeholders. Such a strategy, effectively executed by the appropriate members of management would go a long way to enhancing the value of the organisation, the designation and its Members.

10.5.4 Relationship with the Independent Regulatory Board for Auditors (IRBA)

Members and the public seem to have little understanding of the disciplinary agreement between SAICA and the IRBA. There is a perception that SAICA is passive when there are allegations levelled against Members in public practice. The GRTT believes that SAICA needs to communicate more effectively about this agreement. In addition, in the interests of the greater profession, the GRTT believes that it would be helpful if SAICA and IRBA were seen to be cooperating more closely in dealing with these cases, even if it is only in terms of joint statements.

10.5.5 Further recommendations

10.5.5.1 There are two aspects to finding a solution to the disciplinary issues. First, there is a need to address the concerns of Members and the public about the slowness and efficacy of the processes. In doing so, regard has to be given to the rights of individuals as well as the requirements of administrative justice. Achieving this objective is difficult because of the constraints imposed on SAICA such as the lack of subpoena powers and the financial implications. In addition, SAICA does have to follow its own due process. Some recommendations are set out below on how this may be achieved, but the outcomes may still not meet the expectations of Members and the public. The second part relates to improving the effectiveness of communication both with Members and other stakeholders as mentioned above. Inevitably, there will be challenges in getting the message across and the message will not always satisfy the recipient. However, it is clear from feedback received by the GRTT, the numerous communications sent out by SAICA have not achieved their objective.

10.5.5.2 The GRTT has not conducted an in-depth review of the disciplinary structure and processes, neither does it have legal expertise to do so. Therefore, it cannot make authoritative recommendations on adjusting the current process. It has however, debated the topic and it makes some suggestions that could be considered by the committee that deals with Phase 2 of the Governance Review. Some of these considerations were put forward by Members in their feedback. These considerations are:

- Introducing suspension of Members where there are significant reports of wrongdoing and where the individual either refuses to or cannot convince a disciplinary panel that the reports are incorrect.
- Flagging Members who are under investigation for serious misconduct.
- Redefining what constitutes 'bringing the profession into disrepute' and what a Member in 'good standing' is.
- Being seen to work more closely with the IRBA in connection with cases brought against Members in public practice, so that SAICA is not seen as a passive partner.
- Engaging with other institutes around the world to see how they are addressing disciplinary issues.
- Engaging with government to find a way of sharpening the tools at the disposal of professional organisations. The problems faced by SAICA are not unique. When it comes to protecting the individual, rather than the broader public there seems to be an imbalance. SAICA should consider working with other bodies to find a more effective approach.

10.5.5.3 SAICA has not had a public face for several years. Some CEOs have tended to keep out of the limelight leaving SAICA with no recognisable and strong leader to present its case in a credible way. It is important that Members have strong leadership to identify with. It is pleasing to see the newly appointed CEO making timely statements on important issues. More of this is required to build a profile that Members can identify with. The GRTT makes the following recommendations to enhance communications:

- The incoming Board should review urgently SAICA's existing communications processes with Members and other stakeholders with a view to enhancing their effectiveness.
- Messages need to be reinforced and part of a coordinated whole.
- The SAICA website needs urgent attention to modernise it and make it more user friendly so that information can be accessed easily.
- Consideration should be given to changing the current SAICA tagline 'develop ... influence ...lead'. The GRTT believes it needs to reflect a more ethical message that engenders integrity and trust.
- The CEO needs to continue his public appearances and enhance his profile so that Members and others can look up to him.

11 Additional Recommendations

Based on the deliberations of the GRTT and inputs from Members, the following additional recommendations are submitted:

1. As part of the mandate, GRTT was requested to address the status of AT(SA) within SAICA. This is a complex legal issue requiring specialist advice and in light of the accounting technicians not being catered for in the current constitution and the recent dissolution of the AT(SA) entity, the GRTT recommends that the new Board should address the status of Accounting Technicians.
2. There is a need for SAICA to consistently demonstrate to Members the value of membership of the Institute. This should be communicated through various channels on an on-going basis.
3. The perception of Members, that SAICA is an inefficient and unresponsive organization must be addressed.
4. The Board recently instituted a Board Digest which was issued to Members. The GRTT recommends that the new Board continue with this practice in order to facilitate transparency and keeping Members informed.
5. In the Constitution, the GRTT has proposed that the Remuneration Policy and the implementation thereof be subject to a non-binding vote by Members. The Board should consider making, at the appropriate time, the vote on the Remuneration Policy and implementation thereof, a binding vote in line with future corporate governance best practice.
6. In light of the developments in digitization and artificial intelligence, and the impact it will have on the profession in the future, the GRTT recommends that SAICA consider the professional requirements for its Members to remain relevant in future.
7. The Constitutions and By-laws of the regional associations must be aligned with those of the Institute, including eligibility criteria

12 Actions required going forward

Upon approval by the Board of the proposed new governance framework for adoption by Members at the AGM in June 2019, the GRTT recommends further engagement with Members and other stakeholders including the Minister of Finance, the Auditor General, and relevant government entities in order to secure support. The GRTT believes the Chairman of the Board and the SAICA CEO should be involved in this process and is willing to support the Board, as required, with these engagements.

13 Resolutions

13.1 Approval of the report.

Should the Board find the recommendations of the GRTT satisfactory, then the GRTT puts forward the following resolution for the Board to approve the proposed changes to the governance framework to be put to Members at the AGM to be held on 26 June 2019.

Board Resolution

1. It is resolved that the revised SAICA Constitution as contained in this report, and recommended by the Governance Review Task Team is approved to be put to the Members for **APPROVAL** at the 26 June 2019 AGM.
2. It is further resolved that the revised By-laws (including the Board and Council Charters as appendices), as contained in this report and recommended by the Governance Review Task Team, is approved to be included, for the sake of transparency, in the documents uploaded 21 days prior to the AGM to be held on 26 June 2019 AGM.

13.2 Draft Resolution to be put to Members at the AGM

RESOLUTION: Amendment to the Constitution of SAICA

In terms of clause 19 of the current Constitution, the amended Constitution attached to this resolution is adopted by The South African Institute of Chartered Accountants in substitution of the Constitution existing at the time of the approval of this Resolution.

13.3 Draft Resolution required for consideration and approval by Board

On adoption of the new Constitution by Members, the Board would need to adopt the following resolution:

RESOLUTION: APPOINTMENT OF NEW BOARD

It is resolved that:

1. The preferred attributes, knowledge, skills and requirements of Board members are set out in Annexure A to the Board Charter.
2. The Transitional Nominations Committee, constituted by the Board, shall call for nominations from SAICA Members for Board members.
3. Nominations for Board members shall be duly considered by the Transitional Nominations Committee.
4. After considering the nominations, the Transitional Nominations Committee shall compile a shortlist of nominees who best comply with the requirements for Board members as contained in Annexure A to the Board Charter and will result in a balanced Board.
5. The shortlist shall be communicated to all SAICA Members, who will then vote for their preferred nominee.
6. The newly appointed Board shall, in accordance with the requirements of the Constitution, consist of those members who receive the most votes from SAICA's Members.

14 Conclusion

The view of the GRTT is that, if the recommendations in this report are implemented, the governance framework and the reputation of SAICA will be materially enhanced to the benefit of the profession.

Schedule 1

**Proposed Constitution for Approval by Members at the AGM to be held
on 26 June 2019**

CONSTITUTION

1 Name

This is the Constitution of the voluntary membership not for profit association existing under the common law to be known as THE SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS ("SAICA")

2 Definitions

- 2.1 "Associate" means a person who has satisfied the requirements for associateship pursuant to the By-laws and who has been granted associateship of the Institute;
- 2.2 "Board" means the board of the Institute;
- 2.3 "Board Member" means a member of the Board;
- 2.4 "By-laws" means the By-laws, inclusive of the appendices thereto, of the Institute in force from time to time under this Constitution;
- 2.5 "Chairperson" means the person who holds the office of the chairperson of the Board from time to time, by whatever title he or she may be known;
- 2.6 "Chartered Accountant" means a member in good standing of the Institute (and who is entitled to use the "Chartered Accountant (SA)" and related designation) in terms of the provisions of the Designation Act;
- 2.7 "Chief Executive Officer" or "CEO" means the chief executive officer of the Institute by whatever title he or she may be known;
- 2.8 "Constituency" means the Members resident in a region or forming part of an interest group, as the case may be;
- 2.9 "Council" means the council of the Institute;
- 2.10 "Designation Act" means the Chartered Accountants Designation (Private) Act, 67 of 1993;
- 2.11 "District Association" means an association of Members resident in a sub-region of a region as determined by the applicable Regional Council from time to time;
- 2.12 "Entrenched rights" means the right of the Members residing within a region to appoint Members resident in that region to the Regional Council which encompasses that region;
- 2.13 "General Meeting" means an annual general meeting of Members ("AGM") or a special general meeting of Members ("SGM");
- 2.14 "Good Standing" means, in relation to a Member:
 - 2.14.1 that the name of the Member is on the register of Members ("the Register") and that he or she has not been suspended from membership;
 - 2.14.2 that the Member has complied with the CPD requirements;

- 2.14.3 that there are no proceedings to remove the name of the Member from the Register or to suspend him or her from membership; and
- 2.14.4 that the Member is up to date with all amounts owed by him or her to the Institute;
- 2.15 "Independent Board Member" means that, when judged from the perspective of a reasonable and informed third party, the Member has no interest, position, association or relationship which is likely to unduly influence or cause bias in decision-making in the best interests of the Institute, provided that membership of the Institute will not automatically result in a presumption of a lack of independence;
- 2.16 "Interest group" means an interest group identified and recognised as such by the Board from time to time; the interest groups identified and recognised by the Board at the date of adoption of this Constitution are more fully defined in Appendix 3 to the By-laws;
- 2.17 "Institute" means The South African Institute of Chartered Accountants;
- 2.18 "Member" means a person who has satisfied the requirements for membership pursuant to the By-laws and who has been admitted to membership of the Institute in a category defined in paragraph 5 of this Constitution and in the definition of "members" in the By-Laws;
- 2.19 "Ordinary resolution" means a resolution of Members at a meeting at which a quorum is present in person or by proxy, and which requires more than 50% (fifty percent) of the votes cast to be in favour of the resolution;
- 2.20 "President" means the person who holds the office of chairperson of the Council from time to time, by whatever title he or she may be known;
- 2.21 "Profession" means persons who are registered as Chartered Accountants, Associate General Accountants, Accounting Technicians and persons who are training to achieve those designations;
- 2.22 "Provincial Association" means an association of Members resident in a region that is substantially aligned with the boundaries of a province of the Republic as defined in section 103(1) of the Constitution of the Republic of South Africa, 1996;
- 2.23 "Region" means a region as determined by the Board from time to time; the regions determined as such by the Board are more fully defined in Appendix 3 to the By-laws;
- 2.24 "Regional Council" means a regional council appointed in the manner, and having the powers, set out in the By-laws;
- 2.25 "Registered Address" means a Member's address as defined in the By-laws;
- 2.26 "Republic" means the Republic of South Africa;
- 2.27 "Special Resolution" means a resolution of Members at a meeting at which a quorum is present in person or by proxy, and which requires more than 75% (seventy five percent) of the votes cast to be in favour of the resolution;
- 2.28 "Trainee Accountant" means a person or learner who is in the permanent employ of a training office, as accredited by the Institute, and who is serving under a training contract; and

2.29 “Year” means a year commencing on 1 January.

3 Legal Persona

The Institute is a body corporate with perpetual succession capable of suing and being sued in its own name and of performing such acts as are necessary for or incidental to the achievement of its objects, the exercise of its powers and the performance of its functions and duties under this Constitution or under any statute of the Republic.

4 Purpose and Objects

4.1 The principal purpose and object of the Institute is to enhance the relevance, values, competence and influence of Members and Associates in South Africa and abroad, and to contribute to economic and social development in South Africa. To achieve its purpose, the Institute has the following fundamental, enduring and long-term ancillary objects for itself and for its Members and Associates:

4.1.1 **To act in the public interest and to safeguard the values of the Profession**

In order to serve the public interest and safeguard the values of the Profession, the Institute must, *inter alia* -

- 4.1.1.1 conduct activities in such a manner as to avoid conflicts with the public interest;
- 4.1.1.2 uphold, promote and enforce the highest ethical standards;
- 4.1.1.3 employ the necessary competencies to carry out its objectives and undertakings; and
- 4.1.1.4 deal speedily and fairly with complaints of unprofessional and incompetent behaviour, and pursuant thereto prescribe a code of professional conduct applicable to Members, Associates and Trainee Accountants.

4.1.2 **To promote the common interests of Members and Associates nationally and internationally**

The Institute must understand the needs of Members in order to promote their common interests. As a consequence, the Institute should implement interventions that, *inter alia* -

- 4.1.2.1 identify stakeholders that affect and influence the Profession’s interests;
- 4.1.2.2 engage with its key stakeholders in order to understand their needs;
- 4.1.2.3 provide operating structures to encourage and facilitate Member and Associate involvement on a regional and constituency basis;
- 4.1.2.4 promote the common interests of Members and Associates;
- 4.1.2.5 promote, market and protect the Institute's brands and all designations relating to Members and Associates;
- 4.1.2.6 forge strong relationships with relevant international accountancy and business-related bodies as well as accountancy bodies in other countries to ensure that the voice of the Profession in South Africa is recognised internationally; and
- 4.1.2.7 negotiate appropriate reciprocal membership agreements with other aligned professional organisations.

4.1.3 **To support and encourage the advancement of skills and knowledge and ensure Members have the appropriate competencies**

The Institute must support lifelong learning in order that the Profession remains relevant in all services that its Members provide. For that purpose, it should, *inter alia* -

- 4.1.3.1 advance the theory and practice of accountancy, and professional and business skills and knowledge;
- 4.1.3.2 monitor developments and changes in the professional and business environments both locally and internationally;
- 4.1.3.3 set standards for the Profession;
- 4.1.3.4 assist Members and Associates to adapt to changes in the professional and business environments and to exploit competitive advantages;
- 4.1.3.5 provide professional and business information to enable Members and Associates to remain competent and competitive; and
- 4.1.3.6 encourage Members and Associates to continuously enhance their professional and business knowledge and skills and provide training where appropriate.

4.1.4 **To contribute to economic and social advancement of the Republic**

The Institute's Members and Associates act in the public interest and in so doing, contribute to the economic and social advancement of the Republic. The Institute should facilitate such activities and may, *inter alia* -

- 4.1.4.1 design and implement programmes to assist in enhancing accounting and business skills in the public sector and for emerging business;
- 4.1.4.2 provide input and advice (to the extent that it does not compete with its Members and Associates) to governmental and private sector bodies on accountancy and business-related issues;
- 4.1.4.3 secure funding for the implementation of development programmes; and
- 4.1.4.4 uphold, safeguard and advance the rule of law, administration of justice, the Constitution and the laws of the Republic.

4.1.5 **To grow and transform the Profession**

In order to meet the needs of its Members and Associates both locally and internationally, the Institute must, *inter alia* -

- 4.1.5.1 strive to recruit highly ethical and competent trainees into the Profession;
- 4.1.5.2 develop and implement competitive education and training programmes for new recruits which are in line with international standards and national needs;
- 4.1.5.3 identify the requirements for the advancement and transformation of the Profession in the Republic and internationally; and
- 4.1.5.4 develop and implement transformation programmes to ensure meaningful and lasting transformation of the Institute and the Profession.

5 **Membership, associateship and designations**

- 5.1 Only a Member who is a Member in good standing is entitled to use the designations reserved for Members of the Institute in terms of the Designation Act.

- 5.2 Associates of the College of General Accountants are entitled to use the designation “Associate General Accountant (South Africa)” or “AGA(SA)”.
- 5.3 Nothing in this Constitution or in the By-laws shall be construed as conferring upon an Associate or Trainee Accountant any rights to use any of the designations reserved for Chartered Accountants in terms of the Designation Act.

6 Board

- 6.1 The affairs of the Institute shall be governed by the Board.

6.2 Composition of the Board

- 6.2.1 The Board may determine the number of Board Members at any time, subject to the proviso that:
- (i) the minimum number of Board Members shall be 8 (eight);
 - (ii) the maximum number of Board Members shall be 12 (twelve); and
 - (iii) the composition of the Board must be diverse and must have an appropriate mix of race, gender and diversity.
- 6.2.2 The Board shall comprise a balance of executive and non-executive Board Members, with a majority of the Board Members being independent. Subject to the requirement that:
- (i) the majority of Board Members shall be Chartered Accountants CA(SA); and
 - (ii) a maximum of 3 (three) and not less than 2 (two) of the non-executive Board Members must be non-Chartered Accountants and shall be independent.
- 6.2.3 The President or his or her nominee shall be an *ex officio* non-independent Board Member.
- 6.2.4 The Board must appoint the CEO and approve his or her nominated senior executive to the Board. The CEO and such nominated senior executive shall be *ex officio* Board Members.
- 6.2.5 Only individuals with sound ethical reputations and business or professional expertise, and who have sufficient time to effectively fulfil their role as Board Members, will be considered for appointment to the Board.
- 6.2.6 The Board must include sufficient members who understand the core skills of the Profession as well as the future training needs of the Profession.
- 6.2.7 The Board may fill casual vacancies up until the next AGM.
- 6.2.8 Board members shall be elected by the members of the Institute. Board Members appointed by the Board to fill a casual vacancy, retire at the first subsequent AGM unless they are elected at such Members’ meeting.
- 6.2.9 One-third of Board members, excluding the *ex officio* members, must retire at each AGM provided that the Board Member has served at least 1 (one) year. The Board Members who retire shall be those Board Members who have held office for the longest period of time since their last election. Should there be more Board Members than necessary who have been on the Board for an equal length of time, those to retire shall be chosen by lots.

- 6.2.10 Retiring Board members may be re-elected provided they are eligible. If at the date of the AGM, any Board member has held office for a period in excess of three years or longer since his or her last election or appointment, he or she shall retire at such AGM, either as one of the Board members who are subject to rotation or in addition thereto.
- 6.2.11 No Board Member shall serve for a period longer than 6 (six) years. Should a Board Member be appointed to fill a casual vacancy or be appointed at a SGM then the 6 (six) years shall be determined from the date of the first AGM subsequent to their appointment.
- 6.2.12 A Board Member who has completed a 6 (six) year term, shall be eligible for re-election to the Board after a period of 3 (three) years subsequent to their last service for a term as defined in 6.2.11.
- 6.2.13 The roles and responsibilities of the Board shall be described in the Board Charter contained in Appendix 1 of the By-laws.
- 6.2.14 New Board members will be inducted prior to their first meeting. This shall be facilitated by the Secretary.

6.3 The Key Objectives of the Board

- 6.3.1 The objectives of the Board will be described in the Board Charter and will require the Board, *inter alia*, to:
 - 6.3.1.1 ensure that strategic objectives are set and achieved in line with the Purpose and Objects of the Institute;
 - 6.3.1.2 establish a policy framework and funding model within which the organisation must operate;
 - 6.3.1.3 act as the custodian of corporate governance in the Institute;
 - 6.3.1.4 ensure the Board committees discharge their functions appropriately in relation to meeting strategic plans and budgets;
 - 6.3.1.5 monitor the activities of trusts, non-profit organisations and social responsibility projects established by the Institute, as determined in the Institute's Delegation of Authority;
 - 6.3.1.6 appoint, set performance criteria and evaluate the performance of the CEO;
 - 6.3.1.7 ensure that the Institute maintains a robust process for identifying, prioritising, managing, mitigating, monitoring and reporting critical risks through the Audit and Risk Committee;
 - 6.3.1.8 ensure that the Institute and its Members, Associates and Trainee Accountants adhere to the highest standards of ethics and competence, that the relevant designations are protected and that the Profession is trusted;
 - 6.3.1.9 oversee the disciplinary process with regard to Members, Associates and Trainee Accountants by:
 - 6.3.1.9.1 ensuring that the Institute has adequate resources for investigative and disciplinary processes;
 - 6.3.1.9.2 ensuring that the impact of the approved disciplinary process, including the By-laws, meets, and continues to meet, the expectations of the Profession and stakeholders;
 - 6.3.1.9.3 appointing an independent disciplinary panel;

6.3.1.9.4 satisfying itself that the approved disciplinary process is followed by the Professional Conduct Committee and the Disciplinary Committee; and

6.3.1.9.5 accounting to members on the outcomes of disciplinary proceedings.

6.3.1.10 promote and monitor transformation in the Profession;

6.3.1.11 review and approve appropriate By-laws; and

6.3.1.12 engage with stakeholders and Members.

6.4 The Chairperson

6.4.1 is elected by the Board after each AGM;

6.4.2 is an independent non-executive member of the Board with no executive or management responsibilities;

6.4.3 is not a member of the Council;

6.4.4 provides leadership at Board level, represents the Board to the Members and is responsible for ensuring the integrity and effectiveness of the Board and its committees; and

6.4.5 is the Chairperson of the General Meetings of Members.

6.4.6 The duties of the Chairperson shall be prescribed in the Board Charter but will include:

6.4.6.1 leadership of the Board;

6.4.6.2 overseeing the Board in the effective discharge of its supervisory role;

6.4.6.3 facilitating the effective contribution of all Board Members;

6.4.6.4 promoting constructive and respectful relations between Board Members and between the Board, the Council and management;

6.4.6.5 committing the time necessary to discharge effectively his or her role as Chairperson;

6.4.6.6 approving the agenda for Board meetings;

6.4.6.7 scheduling regular and effective evaluations of the Board's performance through the Nomination and Governance Committee;

6.4.6.8 ensuring effective communications and reporting between the Board and Council;

6.4.6.9 speaking on behalf of the Institute and/or the Board as required; and

6.4.6.10 conducting an annual evaluation of the CEO through the Human Resources and Remuneration Committee.

6.4.7 The Chairperson:

6.4.7.1 may not be a member of the Audit and Risk Committee;

6.4.7.2 may be a member but not Chairperson of the Human Resources and Remuneration Committee;

6.4.7.3 must be a member and Chairperson of the Nomination and Governance Committee;

6.4.7.4 may be a member but not the Chairperson of the Social, Ethics and Transformation Committee;

6.4.7.5 may be a member but not the Chairperson of the Digital Transformation Governance Committee; and

6.4.7.6 may not be a member of Council.

6.5 **Lead Independent Board Member**

The Board must appoint a Lead Independent Board Member to assist the Chairperson in the execution of his or her/her duties and such other functions as the Board may wish to delegate to the Lead Independent Board Member in the Board Charter. The Lead Independent Board Member's appointment shall be reviewed and confirmed annually after the AGM.

6.6 **Secretary**

The Board should be assisted by a competent, suitably qualified and experienced Secretary. The decision to appoint or remove the Secretary is a Board decision.

6.7 **Delegation & Board Committees**

6.7.1 The Board has the power to make any decision in respect of the Institute which has not been specified or reserved for decision by the Members.

6.7.2 Without detracting in any way from the general powers of the Board, the Board may from time to time determine, in terms of the governance framework and delegated authorities, which matters:

6.7.2.1 are reserved for final decision-making by the Board or Board committees; or

6.7.2.2 require the Board's or Board committees' consent before a final decision is made.

6.7.3 In terms of the Constitution, the Board is empowered to constitute Board and other committees and to delegate powers to such committees. The Board may appoint such of its members and such persons who are not members of the Board or the Institute as it may deem fit, to be members of any such a committee.

6.8 **Nomination and Governance Committee**

6.8.1 The Nomination and Governance Committee shall, on an annual basis, table with the Board a list of names of Board Members that remain on the Board and a list of proposed replacements to fill any vacancies. After acceptance by the Board, the list will be tabled with the Council for input and discussion. Thereafter the Board will determine the final list of names to be put to the AGM for election.

6.8.2 The Nomination and Governance Committee may canvas Members for nominations and will take into account the requirements of this Constitution.

6.9 **Quorum and Voting**

A majority of Board Members must be present at a meeting, either in person or electronically to form a quorum. Decisions must be approved by majority of the Board Members present. The Chairperson shall not have a casting vote.

6.10 **Written Resolutions**

Decisions taken by written resolution are valid decisions of the Board if signed by the majority of Board Members, provided all Board Members have given notice of the proposed resolution and have an opportunity of expressing their views on the resolution.

6.11 Removal of Members of the Board

The Board shall by majority vote, have the right to suspend or remove any Board Member, or require a Board Member to recuse himself or herself from the consideration of any matter, when it deems it appropriate to do so.

6.12 Council

The Board shall be advised by a Council appointed in the manner set out in paragraph 8 below.

7 Powers of the Board

- 7.1 In directing and governing the affairs of the Institute, the Board may exercise any or all powers of the Institute except such powers as are expressly reserved by the provisions of this Constitution to the Members in a General Meeting.
- 7.2 Without in any way limiting the scope of its powers as generally described in paragraph 7.1 and in addition to powers given to it elsewhere in this Constitution or the By-laws, the Board shall have power in the name of and on behalf of the Institute:
- 7.2.1 to receive and accept donations, grants and other moneys;
 - 7.2.2 to purchase or otherwise acquire, take on lease or hire, exchange, improve, sell, mortgage, pledge, let, dispose of or otherwise deal in property of any description whatsoever;
 - 7.2.3 to raise or borrow or secure any sum of money or to secure the performance of any obligation in such manner and upon such terms and conditions as it deems fit and, in particular, by the execution of mortgage or notarial bonds or the issue of debentures or debenture stock charged upon all or any of the property of the Institute;
 - 7.2.4 to invest the funds of the Institute or any portion thereof in such securities or investments and in such manner as the Board may from time to time determine, and to vary or transpose such investments in its discretion;
 - 7.2.5 to open and operate banking accounts and savings accounts with registered banking institutions;
 - 7.2.6 to apply and use the funds and income of the Institute to promote the purpose and objects of the Institute;
 - 7.2.7 to pay reasonable travelling, subsistence and other expenses incurred in connection with the affairs of the Institute by any members of the Board or its committees.
 - 7.2.8 to institute and defend legal proceedings;
 - 7.2.9 to appoint any person as the CEO and to determine his or her duties, remuneration and other terms of employment;

- 7.2.10 to enter into contracts and to authorise the settling of the terms of and the signature of any contract or any other document;
 - 7.2.11 to interpret any clause of the Constitution or By-laws if any dispute arises as to its meaning, such interpretation being binding on the Members, Associates or Trainee Accountants if accepted by the Board ;
 - 7.2.12 to prescribe the form of the instrument appointing a proxy; and
 - 7.2.13 generally to do whatever the Board deems necessary to enable it to carry out the purpose and objects of the Institute and to exercise the powers and to perform the functions and discharge the duties given to or imposed upon it in terms of this Constitution.
- 7.3 The Board may develop a system of delegation of its powers in order to improve administrative and operational efficiency and to provide for adequate checks and balances. Pursuant thereto the Board may in writing delegate appropriate powers (excluding the power to prescribe By-laws) to a committee of the Board, to the CEO, to an employee of the Institute or to any individual Board Member.
- 7.4 Any delegation of its powers by the Board in terms of paragraph 7.3 above:
- 7.4.1 will be subject to such limitations and conditions as the Board may impose;
 - 7.4.2 may authorise sub-delegation; and
 - 7.4.3 does not divest the Board of the delegated power and responsibility.
- 7.5 The Board may confirm, vary or revoke any decision taken by a committee, the CEO, a Board Member or an employee as a consequence of a delegation in terms of its powers of delegation.

8 Council

- 8.1 The Board will be advised, at the request of the Board, by the Council, the composition of which shall be representative of constituencies, as detailed in the By-Laws. The composition will be amended from time to time to ensure representation of constituencies subject to the entrenched rights.
- 8.2 A maximum of 5 (five) Members may be co-opted to the Council by the Council and in addition, the Council may, at any time, co-opt any person as a non-voting observer whenever it deems such co-option necessary.
- 8.3 The CEO shall be an *ex officio* member of the Council;
- 8.4 1 (one) other member of management appointed by the Board on the recommendation of the CEO shall be an *ex officio* member of the Council.
- 8.5 Members of the Council shall hold office for a period of 3 (three) years, which may be renewed for a further 3 (three) year period.
- 8.6 The Council shall elect from among its members a President who shall not be an *ex officio* member of Council.
- 8.7 The Council shall have the right to recuse, suspend or remove any member of the Council, or require a member of the Council to recuse himself or herself from the consideration of any matter, whenever it deems it appropriate to do so.

- 8.8 The Council shall not interfere with the activities of the Board, unless the Board fails to comply with its mandate in terms of the Constitution in which case the matter must be brought to the attention of the Members by the Council at a General Meeting in terms of the paragraph 13 or 14.
- 8.9 The Role of the Council shall be described in a Council Charter contained in Appendix 2 of the By-laws approved by the Board.
- 8.10 The President of the Council or his/her nominee shall be an *ex officio* member of the Board.
- 8.11 Objects of the Council
- The Council shall:
- 8.11.1 serve as a consultative forum and shall consider and advise the Board on matters relating to the strategy of the Board and the Profession;
 - 8.11.2 represent Members' interests through input from the Regional Councils and other relevant sources and communicated by the Council to the Board;
 - 8.11.3 identify and recommend to the Board new interest groups to be included for recognition in the By-laws;
 - 8.11.4 provide input to the Board for the election or appointment of Board Members;
 - 8.11.5 make recommendations to the Board for the award of long service and honorary life membership to Members;
 - 8.11.6 recommend changes to the Code of Professional Conduct for approval by the Board; and
 - 8.11.7 temporarily assume the powers and functions of the Board if the majority of the Board Members resign or are removed and are not replaced in accordance with the provisions of the Constitution and the By-laws until such time as a new Board can be appointed.

9 Disciplinary Panel, Professional Conduct Committee and Disciplinary Committee

- 9.1 The Board shall appoint a panel from which the Professional Conduct Committee and a Disciplinary Committee shall be appointed and which shall have the powers to carry out the duties and exercise the functions granted to those committees under the By-laws.
- 9.2 The powers and duties of the Professional Conduct Committee and the Disciplinary Committee referred to in the By-laws are deemed to have been delegated to those committees by the Board.

10 Funds of the Institute

- 10.1 The Institute shall, subject to the provisions of this Constitution, apply its funds and income exclusively in promoting the objects of the Institute or for investment purposes.
- 10.2 The Institute shall not distribute any surpluses or gains by way of dividend or otherwise to its Members, Associates or Trainee Accountants or to any other person.

- 10.3 The Institute may not pay to any employee, office bearer, Member or other persons any remuneration, as defined in the fourth schedule of the Income Tax Act, 58 of 1962, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.
- 10.4 Should the Institute be wound up, a person who has ceased to be a Member, Associate or Trainee Accountant or the executors, administrators, heirs or assigns of such person, shall in no circumstances have any claim to or against the Institute by reason only of such previous membership, associateship or registration.
- 10.5 Should the Institute be wound up, its funds shall be dealt with in accordance with the provisions of this Constitution and the By-laws.

11 Shares and interests in members' business

- 11.1 The Institute may not have a share or other interest in any business, profession or occupation which is carried on by its Members.
- 11.2 No Member may directly or indirectly have any personal or private interest in the Institute other than his or her interest as a Member.

12 Reporting requirements

- 12.1 The Institute shall comply with such reporting requirements as may be determined by the Commissioner for the South African Revenue Service ("SARS") from time to time, provided that such reporting requirements are reasonable and in line with the tax laws of the Republic as administered by SARS.
- 12.2 The Institute is not knowingly and shall not knowingly become, a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible tax avoidance arrangement contemplated in part IIA of chapter III, or a transaction, operation or scheme contemplated in section 103(5), of the Income Tax Act, 58 of 1962.

13 Annual General Meeting

- 13.1 The AGM shall be held at the head office of the Institute, or such other place as determined by the Board, for the purposes of transacting the following business:
- 13.1.1 the consideration of the annual financial statements and integrated report;
 - 13.1.2 the consideration of reports by the Chairperson and the CEO;
 - 13.1.3 the consideration of a report by the external auditors;
 - 13.1.4 the appointment of the external auditors by ordinary resolution;
 - 13.1.5 the election of Board Members by ordinary resolution;
 - 13.1.6 approval of the increase/decrease and/or any change in the basis of determining the Board and Board committee member fees for the ensuing year.
 - 13.1.7 the approval of the Remuneration Policy by a special non-binding vote; and
 - 13.1.8 the approval of the report on implementation of the Remuneration Policy by special non-binding vote.

- 13.2 If the resolution in terms of 13.1.6 is not approved, then the existing Board and Committee member fees would remain in place for a period of not more than 9 (nine) months or until approval by the Members is achieved.
- 13.3 If the votes in terms of Item 13.1.7 and 13.1.8 are less than 75% (seventy five percent) in favour, the Board is required to consult with Members in order to understand their concerns.
- 13.4 The AGM shall be held on a date and at a time determined by the Board, but no later than 31 May in each year.
- 13.5 21 (twenty one) days' notice of an AGM, specifying the place, date and time of the meeting and the business to be dealt with, shall be sent to each Member at his or her Registered Address. The accidental omission to give notice to any Member shall not invalidate the proceedings at any such meeting.
- 13.6 The quorum at an AGM shall be 50 (fifty) Members personally present, or via the designated electronic platform who are entitled to vote. Unless 50 (fifty) Members are present either in person or electronically within 30 (thirty) minutes of the time appointed for the meeting, the meeting shall stand adjourned for the same time, at the same place and on the same day of the next week, and if such day be a public holiday, to the next business day thereafter.
- 13.7 At an adjourned meeting the Members present in person or electronically shall form a quorum and shall have full power to transact the business of the meeting which could have been transacted had the meeting been held on the date for which it was called.
- 13.8 Every Member who is in good standing and is not in arrears in the payment of his or her annual subscription or any contribution or charge payable by him or her to the Institute shall be entitled to be present in person or by proxy at an AGM.
- 13.9 Each such Member shall have 1 (one) vote, but on a poll shall in addition have 1 (one) vote for every Member for whom he or she holds a proxy. Each such Member shall have 1 (one) vote, but all voting shall be by poll by those Members present in person or by proxy.
- 13.10 Proxies in the form laid down by the Board shall be lodged at the head office of the Institute not less than 48 (forty eight) hours before the time of the meeting.
- 13.11 Every motion proposed and seconded at an AGM of the Institute shall be decided by way of a poll.
- 13.12 A poll demanded on any issue other than the meeting of the business as reflected in the agenda shall be taken at such time as the Chairperson of the meeting determines. A poll shall be taken in such manner as the Chairperson directs and the result of the poll shall be deemed to be the resolution of the meeting.
- 13.13 Scrutineers, not being proposers or seconders of the resolution, shall be elected to declare the result of the poll and their declaration, which shall be announced by the Chairperson of the meeting, shall be deemed to be the resolution of the meeting at which the poll was demanded, and an entry to that effect in the minutes of the proceedings shall be conclusive evidence of the result.

14 Special general meetings

- 14.1 The Board may, whenever it thinks fit, and shall, on the receipt of a written requisition expressing the objects of the proposed meeting and signed by not less than 1000 (one thousand) of the Members in Good Standing specifying the business required to be dealt with at that meeting (which business shall be expressed in the form of a resolution which shall be voted on at that meeting without amendment), call a special general meeting.
- 14.2 The notice calling such special general meeting shall be issued by the Board within 15 (fifteen) days of the receipt of the request, and the provisions of paragraphs 13 relating to the AGM shall apply *mutatis mutandis* to such a special general meeting.

15 By-laws

- 15.1 The By-laws of the Institute shall be those annexed hereto.
- 15.2 The Board may from time to time amend the By-laws or make new By-laws.
- 15.3 The Board, in amending the By-laws or making new By-laws, may incorporate any matter which the Board considers necessary or expedient to prescribe for the better execution of this Constitution and the furtherance of the objects of the Institute.

16 Indemnities

- 16.1 Every member of the Board, the Council or of any committee appointed by it, and every officer and employee of the Institute, shall be indemnified by the Institute against claims made against him or her and any losses and expenses incurred by him or her in or about the execution of his or her duties, except claims, losses or expenses arising from his or her own dishonesty or wilful default.
- 16.2 No Member, Associate or Trainee Accountant shall have any claim against the Institute, or against a member of the Board, the Council or of any committee appointed by it, or against any officer or employee of the Institute, in respect of anything done *bona fide* by it or them or any of them in the execution of their duties.

17 Limitations of liability

- 17.1 A Member, Associate or Trainee Accountant shall not have any liability for any commitments undertaken by the Institute. All persons shall be deemed to contract or deal with the Institute on this basis.
- 17.2 The liability of a Member, Associate or Trainee Accountant is limited to the payment to the Institute of any outstanding fees, subscriptions and contributions and settlement of any other debts to the Institute which he or she may have incurred.

18 Amendment of Constitution

The Constitution may from time to time be amended, provided that such amendments are:

- 18.1 approved by a special resolution of the Members who are present in person, electronically or by proxy at a General Meeting of which the requisite notice has been given, with full particulars of the proposed amendments; and

- 18.2 submitted to the Commissioner for SARS provided that should the entrenched rights be affected by any proposed amendment, before the proposed amendment is placed before the general body of Members, such amendment shall be approved by not less than three-fourths of the Members residing within the relevant province who are present in person or by proxy at a General Meeting of such Members. Such General Meeting shall be held in accordance with the provisions of paragraph 13 above, *mutatis mutandis*.

19 Amalgamation

With the approval of not less than 75% (seventy five percent) of Members who are present in person or by proxy at a General Meeting duly convened and constituted for that purpose, the Institute may amalgamate or incorporate or join with other bodies of accountants in the Republic or elsewhere, whether or not incorporated by statute, provided these other bodies have objects similar to those of the Institute. For this purpose, the Institute may take over and assume the assets and liabilities of the aforesaid bodies of accountants, including books, records, documents and coats of arms, or may make over part or all of the assets and liabilities of the Institute.

20 Winding up

- 20.1 The Institute may be wound up in terms of the provisions of the By-laws by a resolution of not less than 75% (seventy five) of the Members who are present in person or by proxy at a General Meeting duly convened and constituted for that purpose.
- 20.2 Members, Associates or Trainee Accountants shall not have any claim in respect of any surplus there may be on winding up of the Institute, which shall be dealt with in terms of the By-laws.
- 20.3 Upon its being wound up any funds or assets of the Institute remaining after the payment of the debts and expenses of the Institute and the costs of winding up shall be distributed to or amongst such kindred or related associations, bodies or institutions, with objects similar to those of the Institute, including educational institutions (but excluding individual Members, Associates or Trainee Accountants or firms or companies controlled by Members, Associates or Trainee Accountants) as the Board shall decide; provided that such associations, bodies or institutions are themselves exempt from liability to pay income tax as a result of being so approved by the Commissioner for SARS.

21 Transitional Arrangements

- 21.1 Upon the adoption of the Constitution by Members:
- 21.1.1 the existing Board will continue in office until the election of the new Board has been completed and the new Board has been constituted;
- 21.1.2 the Board will conduct an exercise to determine the Board Member and Board committee fees up to the following AGM, to be put forward for approval by Members at the SGM; and
- 21.1.3 the Board shall cause to be created a Transitional Nomination Committee which shall be charged with the drafting of the criteria for members of the new Board, publication of the necessary advertisement to seek nominations and the short listing of candidates to be discussed by the Board with input from the Council if constituted at this time.

- 21.2 A SGM of Members shall thereafter be called by the Board to elect the members of the new Board and approve the Board and Board committee fees until the following AGM, upon which the existing Board will retire.

Schedule 2
Proposed By-laws
(including Board and Council Charters)

BY-LAWS AND APPENDICES

PART A – GENERAL PROVISIONS

1 Definitions

In these By-laws, unless inconsistent with the context, words and phrases defined in paragraph 2 of the Constitution will have the same meaning as in that paragraph, and the following words and phrases will have the meanings reflected below:

- 1.1 “Associate” means a person who has satisfied the requirements for associateship pursuant to the By-laws and who has been granted associateship of the Institute;
- 1.2 “Chief Executive Officer” or “CEO” means the chief executive officer of the Institute by whatever title he or she may be known;
- 1.3 “Constitution” means the constitution of the Institute as amended from time to time;
- 1.4 “Institute” means The South African Institute of Chartered Accountants (SAICA);
- 1.5 “International Member” means a Member who is ordinarily resident outside the Republic for a full year;
- 1.6 “IRBA” means the Independent Regulatory Board for Auditors established in terms of the Auditing Profession Act, 26 of 2005;
- 1.7 “Management Committees” means the committees appointed by the CEO which assists the CEO in the day-to-day management of the affairs of the Institute.
- 1.8 “Meetings” means meetings of the Board, Members and Associates or Council, as the context requires;
- 1.9 “Members” shall, unless the contrary intention appears, mean Chartered Accountant members of the Institute in one or more of the following categories:
 - 1.9.1 “Long Service Member” means a Member who has been elected as such by the Board;
 - 1.9.2 “Honorary Life Member” means a Member who has been elected as such by the Board;
 - 1.9.3 “Member in public practice” means a Member resident in South Africa who holds himself or herself out to the public as being in public practice to provide professional services for reward;
 - 1.9.4 “Member not in public practice” means any Member who is not a Member in public practice as defined;
 - 1.9.5 “Reciprocal member” means a Member in good standing of a body of accountants recognised by the Board for such purposes and who has been admitted in terms of By-law 30.2;
- 1.10 “Month” means a month commencing on the first day of the month;
- 1.11 “Region” means a region as determined by the Board from time to time and are more fully defined in Appendix 3 to these By-laws;
- 1.12 “Registered address” in respect of any Member or Associate means the address of such Member or Associate last recorded or deemed to have been recorded in terms of By-law 17;

1.13 “Registered with IRBA” means any person whose name is entered in the registers established and maintained by IRBA;

1.14 “Secretariat” means the officers and employees appointed by the Board;

2 Documents issued under the authority of the Institute

In every document issued under the authority of the Institute, unless inconsistent with the context, words and expressions in the masculine gender include the feminine and words signifying the singular number include the plural and vice versa.

3 Board

The affairs of the Institute shall be governed by the Board comprising the individuals appointed and elected in terms of paragraph 6 of the Constitution. The composition, roles, responsibilities and powers of the Board, are set out in the Board Charter which is attached to these By-laws as Appendix 1.

4 Council

The Board will be advised, at its request, by a Council consisting of the Members appointed in terms paragraph 8 of the Constitution. The composition, function and mandate of the Council are set out in the Council Charter which is attached to these By-laws as Appendix 2.

5 Eligibility of Board and Council Members

5.1 A person shall not be eligible for appointment if:

- 5.1.1 he or she is declared insane or incapable of managing his or her affairs;
- 5.1.2 he or she is an un-rehabilitated insolvent, or if he or she surrenders his or her estate for the benefit of his or her creditors or makes an offer of compromise to his or her creditors;
- 5.1.3 he or she is convicted in the Republic or elsewhere of any criminal offence of which dishonesty is an element or which, in the opinion of the Board, is of a disgraceful or dishonourable nature, and a period of 10 (ten) years since such conviction has not elapsed;
- 5.1.4 he or she being a Member, is found by the IRBA or by a Disciplinary Committee of the Institute to have conducted himself or herself in an unprofessional manner, and sentenced to a fine exceeding an amount to be determined by the Board from time to time, or is suspended from membership of the Institute, and a period of 10 (ten) years since such finding by the IRBA or Disciplinary Committee of the Institute, as the case may be, has not elapsed; or
- 5.1.5 he or she not being a Member, is found to have conducted himself or herself in an unprofessional manner by his or her relevant professional body or is suspended from membership of that body, and a period of 10 (ten) years since such finding of that body has not elapsed.

5.2 The appointment of a member of the Board or Council shall terminate ipso facto, and he or she shall vacate his or her office, on the happening of any of the following events:

- 5.2.1 he or she being a Member, ceases to be a Member;
- 5.2.2 he or she resigns his or her office by notice in writing to the Board or Council;
- 5.2.3 he or she is absent for more than two consecutive meetings without the leave of the Chairperson;
- 5.2.4 he or she is declared insane or incapable of managing his or her affairs;

- 5.2.5 he or she is sequestered, provisionally or finally, or surrenders his or her estate for the benefit of his or her creditors or makes an offer of compromise to his or her creditors;
- 5.2.6 he or she is convicted in the Republic or elsewhere of any criminal offence of which dishonesty is an element or which, in the opinion of the Board, is of a disgraceful or dishonourable nature;
- 5.2.7 he or she being a Member, is found by the IRBA or by a Disciplinary Committee of the Institute to have conducted himself or herself in an unprofessional manner, and sentenced to a fine exceeding an amount to be determined by the Board from time to time, or is suspended from membership of the Institute;
- 5.2.8 he or she not being a Member, is found to have conducted himself or herself in an unprofessional manner by his or her, relevant professional body or is suspended from membership of the that body or has been removed from an office of trust on account of misconduct.
- 5.2.9 if the Member's performance is found to be unsatisfactory by the Board or Council.
- 5.2.10 he or she is removed by a majority vote of the Board or Council respectively, as provided for in the Constitution.

6 Regional Councils

- 6.1 The primary role of the Regional Council is to facilitate the active participation of Members in regional, functional and technical committees, and to work in conjunction with the regional office of the Institute to implement national strategy through facilitating appropriate activities at a regional and district level, including networking, knowledge sharing and social and community based activities.
- 6.2 The Regional Council shall consist of Members who are resident in that Region, appointed in accordance with the terms of a constitution established by that Regional Council and approved by the Board, and being consistent with the Constitution with due recognition of the entrenched rights of the Members within that Region whose province falls within the area of jurisdiction of that Regional Council.

7 Powers of the Regional Council

The Regional Council shall represent the interests of the Members who are resident within the region and, without prejudice to the extent of such general powers, shall:

- 7.1 appoint representatives to the Council in accordance with the provisions of By-laws 4 and 5;
- 7.2 assist the Council in communication between Members in the Region and the Board;
- 7.3 advise the Council on the development of Institute strategy;
- 7.4 monitor the implementation of Institute strategy in the Region;
- 7.5 ensure as far as possible that adequate services are being offered to Members in the Region;
- 7.6 work with the Institute in the Region;
- 7.7 have the power to impose user-based fees on Members and Associates for the purposes of enabling the Region to achieve its objectives;
- 7.8 prepare and submit plans and budgets for regional expenses for approval by the Board and shall report on its financial statements to the Institute; and

- 7.9 establish provincial associations and district association, where appropriate groupings of Members exist, and discharge the responsibilities of district associations where district associations do not exist.

8 Regional secretariat

The CEO, in consultation with the Regional Council, may appoint such officers and employees of the regional secretariat on such terms and conditions as it shall deem fit, and may remove them or any of them and appoint another or others in their place.

9 Other Interest Groups

- 9.1 The Board may appoint committees, task groups or interest groups, other than those referred to in the Constitution or in these By-laws, to assist in the performance of its functions and duties in accordance with paragraph 6.3 of the Constitution.
- 9.2 The following provisions apply to all committees and task groups of the Institute:
- 9.2.1 one of the members of a committee, interest group or task group may be designated by the Board as Chairperson of the committee. Should the Board not so designate a member as chairperson or should the member so designated not be present or be unable to act at any particular meeting, the committee or task group shall elect a chairperson;
 - 9.2.2 the Board may determine a quorum for meetings of a committee, interest group or task group, and if not so determined, the quorum shall be fixed by the committee or task group;
 - 9.2.3 any committee, interest group or task group so formed shall comply with any instructions given by the Board and shall keep minutes of its meetings which shall be kept in a bound minute book;
 - 9.2.4 the Board may assign to a committee, interest group or task group so established such of its powers which it may deem fit, but it shall not be divested of any power which it may have assigned to a committee, interest group or task group and (save in the case the Professional Conduct Committee and the Disciplinary Committee) it may amend or revoke any decision of such committee, interest group or task group;
 - 9.2.5 any committee, interest group or task group to whom the foregoing powers have been assigned shall continue to act and retain the powers so assigned until its appointment is revoked by the Board; and
 - 9.2.6 the Board shall require each committee, interest group or task group to draft a charter or terms of reference as appropriate and submit them to the Board for approval and are subject to review on an annual basis.
- 9.3 The Board shall form a Nominations and Governance Committee to advise it on the composition of Board committees and the boards of any other entities controlled by the Institute.
- 9.4 The Board shall form an Audit and Risk Committee which shall include at least **2 (two)** members who are not members of the Board or employed by the Institute.
- 9.5 The Board should ensure that, at a minimum, there are committees appointed within SAICA to cover the following core areas:
- 9.5.1 Education - Initial Professional Development;
 - 9.5.2 Assurance;
 - 9.5.3 Financial Reporting/ Accounting Practices;
 - 9.5.4 Ethics; and

9.5.5 Taxation.

10 Chairperson of meetings

The Chairperson of the Institute, or in his or her absence, a Lead Independent Board Member, shall preside at all meetings of the Board.

11 Head office

The head office of the Institute shall be situated at such place as the Board may from time to time determine.

12 Secretariat

The Board may appoint such officers and employees of the Institute on such terms and conditions as it shall deem fit, and may remove them or any of them and appoint another or others in their place. This authority may be delegated to the CEO.

13 Annual financial statements (AFS), Annual Integrated Report (IR) and audit

13.1 The Board shall cause:

13.1.1 records to be properly kept of all transactions undertaken in the name of the Institute; and

13.1.2 annual financial statements and an annual integrated report to be prepared. Such financial statements shall be audited by a Member or firm appointed by the Members at the annual general meeting. The remuneration of the auditor shall be approved by the Board on recommendation by the Audit and Risk Committee after it has consulted with the CEO, and shall be disclosed in the annual financial statements.

13.2 The Institute's financial year will end on 31 December each year.

14 Registers of Members, Associates and Trainee Accountants

14.1 The Board shall maintain registers in which shall be recorded the name of each person admitted to membership or associateship of the Institute, or who is registered as a Trainee Accountant. In the event of any person ceasing to be a Member, Associate or Trainee Accountant for any reason whatsoever, his or her name shall be deleted from the register.

14.2 The Institute may publish from time to time a searchable list of Members and Associates.

15 Certificates of Membership and Associateship

All certificates of membership and associateship of the Institute shall be made in the form from time to time prescribed by the Board and shall be and remain the property of the Institute. Every Member and Associate shall be entitled to receive from the Institute a certificate of membership or associateship, as the case may be, but in the event of suspension, or removal, or cessation of membership or associateship for any reason, such certificate shall be delivered to the Board.

16 Death of Member, Associate or Trainee Accountant

Upon the Board being satisfied of the death of any Member, Associate or Trainee Accountant, his or her name shall be removed from the register.

17 Registered address and notices

- 17.1 Every Member, Associate and Trainee Accountant shall provide the Institute with his or her email address and physical address and shall notify it of any change thereof. The addresses in the records of the Institute of persons who are Members, Associates and Trainee Accountants at the commencement of these By-laws shall be deemed to be the email addresses and physical addresses of such Members, Associates or Trainee Accountants.
- 17.2 Any notice, including notice of disciplinary proceedings, required by these By-laws to be given to a Member, Associate or Trainee Accountant, may be given by sending it to such Member, Associate or Trainee Accountant, at his or her email address or physical address.
- 17.3 The Institute may elect whether to notify the Member, Associate or Trainee Accountant by email or by delivery of notice to their physical address, and both such methods of notification shall constitute valid service. Notice shall be deemed to have been served at the time when it was dispatched by email or physically delivered.

18 Disciplinary Panel and Professional Conduct and Disciplinary Committees

- 18.1 There shall be appointed by the Board:
- 18.1.1 a Disciplinary Panel, which shall consist of Members, from which Members will be drawn to participate in the hearing of disciplinary matters in terms of these By-laws;
- 18.1.2 the following committees, which shall carry out the duties and exercise the functions and powers granted to them under these By-laws:
- 18.1.2.1 one or more Professional Conduct Committees, which shall consist of not less than 3 (three) members, of whom the Chairperson shall be either an advocate or an attorney of not less than 5 (five) years' experience, or a retired magistrate, appointed by the Board, the other members of the committee being selected from the Disciplinary Panel by the Board or any committee or person to whom that function is delegated by the Board. The quorum for a meeting of the Professional Conduct Committee shall be 2 (two), of whom 1 (one) shall be the Chairperson. Professional Conduct Committee shall have the right at any time to co-opt additional members, whether members of the Institute or otherwise, and who need therefore not be members of the Disciplinary Panel, to the Professional Conduct Committee whenever it deems such additional appointments necessary; and
- 18.1.2.2 1 (one) or more Disciplinary Committees, which shall consist of not less than 3 (three) members, of whom the Chairperson shall be either an advocate or an attorney of not less than 10 (ten) years' experience, or a retired magistrate, appointed by the Board, the other members of the committee being selected from the Disciplinary Panel by the Board or any committee or person to whom that function is delegated by the Board. The quorum for a meeting of the Disciplinary Committee. shall be 2 (two), of whom 1 (one) shall be the Chairperson. If for any reason a member of the Disciplinary Committee, other than the Chairperson, becomes unavailable after the commencement of a hearing by the Disciplinary Committee., the hearing shall continue with the remaining members, provided a quorum of members is present. A Disciplinary Committee shall have the right at any time to co-opt additional members, whether members of the Institute or otherwise, and who need therefore not be members of the disciplinary panel, to the Disciplinary Committee. whenever it deems such additional appointments necessary.

- 18.2 The Disciplinary Panel and the committees appointed in terms of this By-law shall remain in office and shall function until the appointment of their successors: provided that if at that date either of the said committees has still before it a partly heard matter, those members who comprise such committees shall continue to act as such for the purpose of completing such matter only. When a matter has been referred to IRBA in terms of By-law 19.2 it shall for the purposes of this By-law 18 not be deemed to be a partly heard matter and thereafter it shall be dealt with as a new matter. Any vacancies occurring at any time in the Disciplinary Panel may be filled by the Board.

19 Powers and duties of Professional Conduct Committee

- 19.1 A Professional Conduct Committee shall consider any complaint which is brought to its attention by the individual delegated by the CEO to perform the discipline function (designated officer) and which prima facie appears to indicate that a Member, former Member, Associate, former Associate, Trainee Accountant or former Trainee Accountant (hereinafter, for the purposes of By-laws 19, 20 and 21, referred to as the “accused”) may have committed an offence under these By-laws. All complaints addressed to any other officer of the Institute shall be referred by him or her forthwith to a designated officer.
- 19.2 In cases where the accused concerned is or was registered with IRBA at the time of the alleged misconduct the designated officer shall refer the matter to IRBA. In all other cases the Professional Conduct Committee shall consider matters referred to it in terms of By-law 19.1.
- 19.3 Where a complaint is not referred to IRBA: The following provisions shall apply if the alleged misconduct does not require to be referred to IRBA as in By-law 19.2 or if for any reason IRBA advises that it is not competent or declines to institute disciplinary proceedings:
- 19.3.1 in any case where the designated officer has prima facie evidence that there has been a contravention of these By-laws, he or she may, in his or her discretion, before bringing the matter to the attention of the Professional Conduct Committee, advise the accused in writing of the nature of the complaint and call upon him or her to furnish his or her written explanation in answer to the complaint within 21 (twenty one) days after the date of such notice, and at the same time warn him or her that such explanation may be used in evidence against him or her.
- 19.3.2 The Professional Conduct Committee may, of its own motion, exercise its powers under these By-laws notwithstanding the absence of a complaint, in which event the provisions of By-law 19.3.7 shall apply.
- 19.3.3 Save where the Professional Conduct Committee otherwise decides, a complaint shall be in the form of an affidavit, detailing in precise terms the specific acts or failure complained of, and shall be lodged with the designated officer.
- 19.3.4 The Professional Conduct Committee may require a complainant to provide on affidavit further particulars on any aspect of the complaint.
- 19.3.5 The Professional Conduct Committee shall not be obliged to disclose the source of a complaint.
- 19.3.6 Upon receipt of a complaint the Professional Conduct Committee may, where it is of the opinion that the complaint does not disclose a prima facie case of improper conduct, or where a complainant has neglected or refused to comply with the requirements of these By-laws, dismiss the complaint and inform the complainant accordingly.
- 19.3.7 Upon receipt of a complaint the Professional Conduct Committee may, where it is of the opinion that a prima facie case has been made for improper conduct on the part of the accused:

19.3.7.1 except where this has already been done by the designated officer, advise the accused in writing of the particulars of the complaint and call upon him or her to furnish his or her written explanation in answer to the complaint within 21 (twenty one) days of such notice, and at the same time warn him or her that such explanation may be used in evidence against him or her;

19.3.7.2 at any time, and whether or not it has proceeded or also thereafter proceeds under paragraph 19.3.7.1 above, call upon the accused to appear at such time and place as the designated officer may determine, to explain, or elucidate, or discuss the matter without prejudice to his or her rights. The designated officer or the secretary of the Board may in their sole discretion postpone a meeting after it has been arranged by giving notice to the accused and to the members of the Professional Conduct Committee. Only the Professional Conduct Committee and not the accused will be entitled to call for such a meeting and the accused will not be entitled to be represented at the meeting.

19.3.8 When, upon consideration of the complaint and the accused's explanation in answer thereto, or elucidation of the matter, either written or oral, the Professional Conduct Committee is satisfied that:

19.3.8.1 the accused has given a reasonable explanation with regard to the conduct imputed to him or her; or

19.3.8.2 the conduct imputed to the accused does not constitute improper conduct; or

19.3.8.3 there is no reasonable prospect of proving that the accused has been guilty of the conduct imputed to him or her,

it may decide not to proceed further in the matter and shall advise the complainant and the accused accordingly.

19.3.9 If on receipt of the accused's explanation, the Professional Conduct Committee is not satisfied therewith or if no explanation is forthcoming, the Professional Conduct Committee shall have full power to:

19.3.9.1 caution; or

19.3.9.2 reprimand the accused; or

19.3.9.3 impose a fine on the accused of not more than half the maximum amount that the Disciplinary Committee may impose in terms of the provisions of By-law 20.8.3; or

19.3.9.4 suspend the accused from membership, associateship, or registration as a Trainee Accountant for a period not exceeding 12 (twelve) months; or

19.3.9.5 refer a formal complaint against the accused to the Disciplinary Committee,

provided that where the Professional Conduct Committee imposes a fine in terms of this By-law, it may suspend the payment of the fine or any part thereof on such conditions as it may determine.

- 19.3.10 If the Professional Conduct Committee has cautioned, reprimanded or fined such accused, the accused shall have the right to demand, within a period of 21 (twenty one) days after being notified in writing of the imposition of such caution, reprimand or fine, that the matter be referred to the Disciplinary Committee. In such an event the Disciplinary Committee shall deal with the matter anew as a formal complaint and shall, if it finds the accused guilty of the conduct complained of, be entitled to impose a sentence more severe than that imposed by the Professional Conduct Committee.
- 19.3.11 If the Professional Conduct Committee considers the offence to be so serious that it might warrant the imposition of a fine greater than half the maximum amount that the Disciplinary Committee may impose (as determined by the Board from time to time), or suspension or exclusion from membership or associateship, the matter shall be referred to the Disciplinary Committee to be dealt with in terms of By-law 20.
- 19.4 Where the accused is registered with IRBA, the following provisions shall apply in all cases where the accused concerned is, or was, registered with the IRBA at the time of the alleged misconduct:
- 19.4.1 The Professional Conduct Committee may not pursue any matter referred to IRBA in terms of By-law 19.2 or any other matter affecting an accused which may be dealt with by the IRBA unless IRBA or any committee thereof has for any reason stated that it is not competent or declines to institute proceedings.
- 19.4.2 Where the conduct of an accused has been investigated or dealt with by IRBA, whether as a result of a reference in terms of By-law 19.2 or otherwise, and IRBA or any committee of IRBA:
- 19.4.2.1 has found the accused not guilty of any alleged misconduct, the Professional Conduct Committee shall be obliged to accept that finding for all purposes of these By-laws and to dispose of the matter without taking any further steps against the accused in relation to the conduct complained of;
- 19.4.2.2 has found the accused guilty of one or more of the charges of misconduct and has sentenced him or her in respect thereof to a caution or a reprimand or to a fine in an amount not exceeding the amount which the Professional Conduct Committee is entitled to impose under By-law 19.3.9, whether or not payment of part or the whole thereof has been suspended:
- a) the Professional Conduct Committee shall be obliged to accept that finding and sentence for all purposes of these By-laws and to take no further steps against the accused in relation to the conduct complained of;
 - b) the accused will be deemed to have been found guilty by the Professional Conduct Committee of an offence as contemplated in By-law 35.1 and a note to that effect, which shall also refer to the punishment imposed by IRBA, shall be entered on the record of the accused as to the finding of IRBA and the sentence imposed in respect thereof;
 - c) the note of the finding of IRBA and the sentence imposed in respect thereof shall for all purposes of these By-laws be regarded as a record of a previous conviction by the Professional Conduct Committee of an offence under these By-laws and of the sentence imposed in respect thereof.

19.4.2.3 has found the accused guilty of one or more of the charges of misconduct and has sentenced him or her in respect thereof to a fine in excess of the amount which the Professional Conduct Committee is permitted to impose in terms of By-law 19.3.9.3, or to suspension from practice, or to the removal of his or her name from the register of registered auditors, or to qualified, temporary or permanent disqualification from registration as a registered auditor, whether or not payment of part or the whole thereof has been suspended, the Professional Conduct Committee shall refer the matter to the Disciplinary Committee to be dealt with in terms of By-law 20.

19.4.3 Notwithstanding anything to the contrary contained in these By-laws:

19.4.3.1 if IRBA or any committee of IRBA has investigated or dealt with the alleged misconduct of an accused and has found him or her not guilty thereof on the grounds that IRBA or any committee did not have capacity or jurisdiction or was not competent to investigate that conduct, then the Professional Conduct Committee shall nevertheless have the right itself to investigate the allegations in terms of these By-laws and to take whatever steps it deems appropriate in accordance with these By-laws;

19.4.3.2 a conviction or finding by IRBA or any committee of IRBA shall for purposes of these By-laws be accepted as conclusive evidence of a conviction or finding, and it shall not be necessary for any such purposes to adduce any evidence other than evidence of the conviction or finding.

19.5 The designated officer may appoint a Member, Associate or employee of the Institute, or may instruct an attorney or instruct an attorney to brief counsel, to act as the pro-forma prosecutor to present to the Disciplinary Committee any matter which has been referred to it by the Professional Conduct Committee.

20 Powers and Duties of Disciplinary Committee

20.1 On receipt of a formal complaint to the Disciplinary Committee in pursuance of By-law 19 or otherwise, the designated officer shall give the accused notice of the intention of the Disciplinary Committee to consider the complaint, specifying the time and place of the enquiry. The officer or the secretariat may in their sole discretion postpone the enquiry after it has designated been arranged by giving notice to the accused and to the members of the Disciplinary Committee.

20.2 Notwithstanding the provisions of By-law 20.1, where the conduct of the accused has been investigated or dealt with by IRBA or any committee of IRBA, whether as a result of a reference in terms of By-law 19.2 or otherwise, and IRBA or any committee of IRBA has found the accused guilty of one or more of the charges of misconduct and has imposed a sentence on him or her in respect thereof, and the matter has been referred to the Disciplinary Committee in terms of By-law 19.4.2.3:

20.2.1 the Disciplinary Committee shall be obliged to accept that finding and sentence for all purposes of these By-laws;

20.2.2 the accused will be deemed to have been found guilty by the Disciplinary Committee of an offence as contemplated in By-law 35.1 and a note to that effect, which shall also refer to the punishment imposed by IRBA, shall be entered on the record of the accused as to the finding of IRBA and the sentence imposed in respect thereof;

- 20.2.3 the note of the finding of the IRBA and the sentence imposed in respect thereof shall for all purposes of these By-laws be regarded as a record of a previous conviction by the Disciplinary Committee of an offence under these By-laws and of the sentence imposed in respect thereof, provided that notwithstanding anything contained in these By-laws, where the sentence imposed on the accused by the IRBA is suspension from practice, or the removal of his or her name from the register of registered auditors, or qualified, temporary or permanent disqualification from registration as a registered auditor, whether or not part or the whole thereof has been suspended, the Disciplinary Committee shall be obliged to accept the finding of the IRBA or any committee of the IRBA, but shall impose its own punishment on the accused, and for this purpose shall afford the accused an opportunity of making representations on the issue orally or in writing to the Disciplinary Committee;
- 20.2.4 notwithstanding anything to the contrary contained in these By-laws the right of the accused to be heard in terms of the provisions of this paragraph shall be limited solely to the question of the penalty to be imposed on him or her, including whether or not there should be publication of his or her name.
- 20.3 Should the accused against whom any complaint is preferred neglect or fail to attend before the Disciplinary Committee at the time and place indicated in the notice issued in terms of By-law 20.1, the Disciplinary Committee shall be entitled to proceed with its consideration of the complaint in his or her absence.
- 20.4 All evidence given at the hearing of a complaint by the Disciplinary Committee shall be viva voce unless the Disciplinary Committee resolves that the documents received in connection with the matter shall be admitted as evidence in the proceedings. If such documents are admitted in evidence this will nevertheless not prevent any further evidence from being admitted in the proceedings. The Disciplinary Committee shall also be entitled to obtain affidavits from any persons if it considers them necessary for the better investigation of the complaint. It shall be sufficient, for the purpose of proving the proper execution, or the terms or the content, or the authenticity, of a document for a copy of the document purporting to be a copy of the original to be used in evidence, subject to the right of any person to adduce evidence that such copy is not authentic.
- 20.5 The Disciplinary Committee shall also have the power to order the production for inspection of any books, documents and papers, inclusive of electronic records, in the possession of or under the control of the accused against whom the complaint has been made, or from any other Member or Associate, if it considers such books, documents and papers necessary for the better investigation of the complaint.
- 20.6 Where a hearing is being conducted and any person whose evidence may be material has not been called as a witness, the Disciplinary Committee may call such person as a witness.
- 20.7 The chairperson of the Disciplinary Committee shall be permitted to engage the services of an attorney or counsel at any stage of a hearing of the Disciplinary Committee to advise him or her on points of law and procedure.
- 20.8 If the Disciplinary Committee is of the opinion that the accused is guilty of a punishable offence, it shall make a finding to that effect and thereupon it shall have full power to order that the accused concerned be sentenced to one or more of the following punishments:
- 20.8.1 a caution;
- 20.8.2 a reprimand;
- 20.8.3 a fine of up to a maximum amount to be determined by the Board from time to time;

- 20.8.4 suspension from membership, associateship or registration as a Trainee Accountant for a period not exceeding 5 (five) years;
- 20.8.5 exclusion from membership or associateship or from registration as a Trainee Accountant; and
- 20.8.6 disqualification from applying for membership or associateship or registration as a Trainee Accountant permanently or for such period as the Disciplinary Committee may determine, or subject to such conditions as the Disciplinary Committee may determine;

provided that where the Disciplinary Committee imposes a fine in terms of By-law 20.8.3 it may suspend the payment of the fine or any part thereof on such conditions as it may determine; and where the Disciplinary Committee imposes a punishment in terms of By-law 20.8.4, 20.8.5 or 20.8.6, it may suspend the coming into effect of the punishment on such conditions as it may determine.

- 20.9 Any such fine may be recovered from the accused in civil proceedings in any court.
- 20.10 The Disciplinary Committee shall have the power to order any accused upon whom any punishment is imposed under these By-laws to pay such reasonable costs as the Institute may have incurred in connection with the investigation or hearing by the Disciplinary Committee, or such part of those costs as the Disciplinary Committee may consider just. Such costs may be recovered from the accused in civil proceedings in any court.
- 20.11 Any finding by the Disciplinary Committee resulting in suspension or exclusion from membership, associateship or registration as a Trainee Accountant shall ipso facto result in suspension or exclusion from membership, associateship or registration of all regional and district associations, as the case may be.
- 20.12 Notice of the finding and the decision of the Disciplinary Committee shall be given forthwith to the accused concerned.
- 20.13 Any person who has been excluded from membership, associateship or registration in terms of By-law 20.8.5 shall not be entitled to apply for re-admission as a Member, Associate or Trainee Accountant until the expiry of a period of 10 (ten) years reckoned from the date of such exclusion; provided, however, that the Board may reduce this period by up to 5 (five) years in any case at their discretion.
- 20.14 Hearings shall be conducted at a venue determined by the designated officer and shall be open to the public, unless exceptional circumstances exist which warrant such hearings being held in camera.

21 Record and publication of findings and decisions

- 21.1 All findings and decisions of the Professional Conduct Committee and the Disciplinary Committee shall take effect when made and shall be reported to the Board, which shall cause the same to be duly recorded, provided that where the matter has been referred to the Disciplinary Committee at the request of the accused in terms of By-law 19.3.10, any penalty which may have been imposed by the Professional Conduct Committee shall not take effect until the Disciplinary Committee has dealt with the matter.
- 21.2 Where the Professional Conduct Committee or the Disciplinary Committee has imposed a penalty on an accused, the relevant committee shall be entitled to direct that there be publication of the name of the accused, and if the committee so directs, also the name of his or her firm, a brief description of the offence and the penalty imposed, in such manner and to such persons as the committee shall decide, provided that the committee shall not be entitled to direct that publication be made without first advising the accused thereof and giving him or her an opportunity of being heard on the question before the committee.

- 21.3 Where the Professional Conduct Committee or the Disciplinary Committee has found an accused not guilty of the complaint, no publication of that fact may take place unless the accused has requested the relevant committee to direct that publication should take place. If the accused does so request that publication should take place, then the relevant committee shall direct (unless it is of the view that there are exceptional circumstances which would justify its not so directing) that there be publication, in such manner and to such persons as that committee shall decide, of the name of the accused, a brief description of the alleged offence and the finding of the relevant committee. The committee may also, in its discretion, direct that the name of the firm of the accused be published.

22 Publicity of Disciplinary Complaints, Investigations, Actions and Proceedings

- 22.1 Notwithstanding anything contained in these By-Laws, the CEO may, at any time, make such public statements as he or she thinks fit concerning any matter relating to or connected with the Institute's performance of its disciplinary obligations; and may, at any time before an enquiry of the Professional Conduct Committee or Disciplinary Committee convenes, make a public statement concerning any complaint or investigation or action instituted against a Member, once a charge sheet or a draft charge sheet has been issued to an accused Member.
- 22.2 The authority to make statements in terms of By-Law 21.21 shall be subject to the following requirements which may be amended from time to time:
- 22.2.1 no public statement will name or otherwise identify a Member where such Member has not been issued with a charge sheet (final or in draft form) unless it is necessary or desirable in order to maintain public confidence in the Institute or its Members;
- 22.2.2 a Member who is the subject of a complaint or investigation or action will be named:
- 22.2.2.1 where the failure to name such Member would defeat the purpose for which the public statement is made; and
- 22.2.2.2 where the name of the Member is already a matter of public knowledge.
- 22.2.3 Prior to the issuing of the public statement by the CEO, the CEO shall provide not less than 48 (forty-eight) hours' notice of his or her intention to issue a public statement to the Member, which notice shall only be issued simultaneously with, or after the Member has been issued with the charge sheet or draft charge sheet.
- 22.2.4 For the avoidance of any doubt, the notice to issue a public statement referred to in By-Law 22.1 shall not be issued to the Member prior to the issuance of the charge sheet or draft charge sheet except only in instances where urgent action is required to be taken by the CEO to maintain public confidence in the profession, the Institute or the Members.
- 22.2.5 Subject to the provisions of By-Law 20.14, the CEO, with the assistance of the designated officer, shall cause to be published on the Institute's web-site, the details of future Disciplinary Committee hearings. Such details of future Disciplinary Committee hearings shall contain the following information:
- 22.2.5.1 the name of the Member and the membership number;
- 22.2.5.2 the case number;
- 22.2.5.3 a summary of the charges preferred against the Member (the complaint);
- 22.2.5.4 the date of the disciplinary hearing;

22.2.5.5 the time of the disciplinary hearing; and

22.2.5.6 the place where the disciplinary hearing will take place.

23 Power to make rules

The Board shall have power to make such rules (not inconsistent with the Constitution and By-laws) as it may consider necessary for the performance of the respective functions of the Professional Conduct Committee and the Disciplinary Committee.

24 Powers and duties of the Chief Executive Officer (CEO)

The powers and duties of the CEO in terms of the Constitution and By-laws may be delegated by him or her to an appropriate person in the secretariat.

25 Rules or Code of Professional Conduct

The Board shall have the power to prescribe, from time to time, rules or a code of professional conduct, applicable to Members, Associates and Trainee Accountants.

26 Amendment of By-laws

The Board may, from time to time, amend these By-laws as provided in the Constitution.

27 Winding up of the Institute

Upon a resolution to wind up the Institute having been passed in terms of the Constitution, the Board shall, by simple majority vote, appoint a liquidator or liquidators and may give such directions as to the method of winding up as they think fit, provided that any funds and/or assets remaining after the payment of the debts and expenses of the Institute and the costs of winding up shall be distributed to or amongst such kindred or related associations, bodies or institutions with objects similar to those of the Institute, including educational institutions (but excluding individual Members, Associates or Trainee Accountants or firms or companies controlled by Members, Associates or Trainee Accountants) as the Board shall decide, provided that such associations, bodies or institutions are themselves exempt from liability to pay income tax as a result of being so approved by the Commissioner for the South African Revenue Service.

28 Interpretation of By-laws

The headings and sub-headings shall not affect the interpretation of these By-laws.

PART B - APPLICABLE ONLY TO CHARTERED ACCOUNTANTS

29 Application for membership

29.1 Application for membership of the Institute shall be made to the Board in a form prescribed by the Board. Each applicant shall:

- 29.1.1 pay the entrance fee, if any, and the subscription for the current year as determined from time to time;
- 29.1.2 certify in the prescribed form that the information given by him or her therein is true and correct in every detail;
- 29.1.3 in the event of his or her admission, undertake to observe the provisions of the Constitution and the By-laws and rules framed thereunder from time to time in force; and
- 29.1.4 satisfy the Board in such manner as it may require that at the date of his or her application, he or she is qualified for admission under By-law 30, that he or she is a fit and proper person to be admitted to membership and is not less than 21 (twenty one) years of age.

29.2 If, prior to his or her application for membership, the applicant:

- 29.2.1 has been removed from an office of trust on account of misconduct; or
- 29.2.2 has been convicted anywhere in the world of theft, fraud, forgery or uttering a forged document or perjury, or of any offence of which dishonesty is an element, or any offence which in the opinion of the Board reflects adversely on the applicant's fitness to be a Member, and has been sentenced in respect thereof to imprisonment without the option of a fine, or to a fine of an amount to be determined by the Board from time to time,

that applicant will *prima facie* be deemed not to be a fit and proper person for admission to membership.

29.3 The Board may require an applicant for membership to provide the secretariat with the means to verify any information provided by the applicant in support of his or her application for membership, including his or her fingerprints or permission to have access to records relating to the applicant which are maintained by any state agency.

30 Qualification for admission to membership

Subject to the provisions of By-law 29, qualification for admission to the Institute shall be proof to the satisfaction of the Board of one of the following:

- 30.1 that the applicant has passed the examinations, and has the practical experience, prescribed by the Board; or
- 30.2 if the application is for admission as a Reciprocal Member, that the applicant is a member in good standing of a body of accountants recognised by the Board for this purpose and has passed the examinations prescribed by the Board for this purpose, if so required by the Board.

31 Cancellation of membership

31.1 The Board shall cancel the membership of any Member who subsequent to his or her admission to membership:

- 31.1.1 is removed from an office of trust on account of misconduct; or

- 31.1.2 is convicted anywhere in the world of theft, fraud, forgery or uttering a forged document or perjury, or an offence of which dishonesty is an element, or an offence which in the opinion of the Board reflects adversely on the fitness of the Member to remain a Member, and sentenced in respect thereof to imprisonment without the option of a fine, or to a fine of an amount to be determined by the Board from time to time.
- 31.2 The Disciplinary Committee may in its discretion order the cancellation of the membership of any Member whose estate is or has been provisionally or finally sequestered or who has entered into an arrangement with his or her creditors subsequent to his or her admission to membership: provided, however, that before doing so, the Disciplinary Committee shall afford such Member an opportunity, within 21 (twenty one) days after being called upon by the Disciplinary Committee to do so, to satisfy the committee that there were exceptional circumstances relating to the sequestration or arrangement which would justify the committee's not exercising its discretion to order the cancellation of his or her membership.
- 31.3 For purposes of this By-Law the following shall not be considered to be exceptional circumstances:
- 31.3.1 the fact that a Member has been provisionally sequestered and an application for the Member's final sequestration is pending at the time the matter is considered by the Disciplinary Committee; and
- 31.3.2 the fact that a Member has appealed against an order for his or her final sequestration, and the appeal is pending at the time the matter is considered by the Disciplinary Committee.
- 31.4 When the membership of a person is cancelled in terms of By-law 31.1 or 31.2 the Board shall remove his or her name from the register immediately, advising the Regional Councils of the action taken.
- 31.5 A person whose membership has been cancelled in terms of By-law 31.1 or 31.2 may apply for his or her re-admission as a Member after the expiry of a period of 10 (ten) years reckoned from the date of such cancellation, but the Board may, on the recommendation of the Disciplinary Committee, reduce this period in any particular case where it considers that it would be just and equitable to do so.
- 31.6 The Board shall report any cancellation of membership in terms of By-law 31.1 or 31.2 to Members and may report such cancellation to whomsoever else it considers appropriate, in whatever manner it considers appropriate: provided that in the case of the cancellation of membership in terms of By-law 31.2 it shall comply with any recommendation of the Disciplinary Committee.
- 31.7 The Board shall send a notice by electronic or physical mail to any Member who has not complied with the Institute's Continuing Professional Development Policy within a period of 4 (four) months from the date on which reporting that Member's compliance with the policy became due, reminding him or her that he or she is not in compliance.
- 31.8 Should the Member fail to comply with the policy within 6 (six) months from the date of the notice, he or she shall be referred to the Disciplinary Committee which may order the cancellation of the membership of the Member following the procedure set out in By-Law 31.9.
- 31.9 The Disciplinary Committee shall afford such Member an opportunity, within 21 (twenty one) days after being called upon by the Disciplinary Committee to do so, to make submissions to the Disciplinary Committee relating to his or her failure to comply with the requirements of the continuing Professional Development Policy.

- 31.10 Any Member whose membership has been cancelled in terms of By-Law 31.8 may apply for readmission as a Member after the expiry of the period at least equal to the period during which the Member failed to comply with the requirements of the Continuing Professional Development Policy.
- 31.11 Regional Councils shall be informed by the Board of any cessation of membership in terms of By-law 31.6.
- 31.12 The Board shall report any cancellation of membership in terms of By-law 31.6 to Members and may report such cancellation to whomsoever else it considers appropriate, in whatever manner it considers appropriate.

32 Fees and subscriptions

- 32.1 Each Member, other than Honorary Life Members or Long Service Members, shall pay an annual subscription at such time and of such amount and on such conditions as may from time to time be determined by the Board. The amount of the annual subscription in respect of any category of membership will be the amount applicable to that category on 1 January of the year in question, irrespective of any change in the category of membership during the year. Unless and until otherwise determined, the annual subscription shall be due on the first day of January in each year and shall be payable during that month.
- 32.2 Any Member admitted after 30 June in any year shall pay only one-half of the annual subscription for the year then current.
- 32.3 A person who at the time of his or her application for membership qualifies for international membership shall be placed on the international list.
- 32.4 On admission to the Institute an entrance fee shall be payable of such amount as may from time to time be determined by the Board.
- 32.5 The Board may in its discretion remit in whole or in part the subscription and/or entrance fee of a Member under special circumstances which in its opinion warrant such remission.
- 32.6 The Board may from time to time call upon Members, other than Honorary Life Members or Long Service Members, for payment of a contribution or contributions for the purpose of meeting expenses which it may incur in the interests or furtherance of the objects of the Institute, provided that in respect of each category of Member such contribution shall not exceed one-quarter of the subscription payable in any one financial year in respect of that financial year.
- 32.7 Any Member who is in arrears with his or her annual subscription may be required to pay such penalty as may be determined by the Board from time to time. The Board shall from time to time publish the penalties payable under this By-law.
- 32.8 Any Member who is in arrears with his or her annual subscription or any contribution or charge for a period of four months from the date when the same became due under these By-laws, shall be sent a registered letter (with a copy also being sent to that Member's e-mail address, if one has been provided) reminding him or her that he or she is in arrears. Should the Member fail to effect payment before the expiration of five months from the date when the amount became due under these By-laws, he or she shall, *ipso facto*, cease to be a Member, provided that –
- 32.8.1 he or she shall nevertheless be liable to pay the amount of such year's subscription and any other arrear subscriptions or other contributions or charges due by him or her to the Institute, and shall be liable otherwise as a Member; and

- 32.8.2 the Board shall have power in its discretion to suspend the operation of this By-law, either generally or in relation to a specific case, and to stipulate the conditions on which it will be suspended.
- 32.9 The Board may in its discretion reinstate any Member whose membership has ceased in terms of By-law 31.9 and may in such case dispense with a new application for membership or payment of an entrance fee but may impose a reinstatement fee of an amount to be determined by the Board from time to time.
- 32.10 Regional councils shall be informed by the Board of any cessation of membership or reinstatement in terms of By-laws 31.9 and 31.10.
- 32.11 The Board shall report any cancellation of membership in terms of By-law 31.9 to Members and may report shall cancellation to whomsoever else it considers appropriate, in whatever manner it considers appropriate.

33 Resignation and readmission

- 33.1 Any Member who has paid all his or her dues and subscriptions and is otherwise in good standing may resign his or her membership by sending to the Board written notice to that effect and such notice shall become effective immediately on acceptance thereof by the Board, provided always that:
- 33.1.1 if any complaint has been received or an enquiry is pending against such Member in respect of his or her professional conduct, or in respect of the sequestration of his or her estate, whether provisionally or finally, or his or her having entered into an agreement with his or her creditors, such resignation need not be accepted, but his or her membership may be suspended until such complaint or enquiry has been finally dealt with by the Board;
- 33.1.2 if no such complaint has been received and no enquiry is pending the resignation shall be accepted by the Board;
- 33.1.3 a Member whose membership has been suspended in terms of By-law 33.1 shall not enjoy the benefits of membership;
- 33.1.4 when the resignation is accepted, such acceptance may be qualified or endorsed through the CEO so as to record the finding of the Board in respect of such complaint or enquiry.
- 33.2 No resignation once tendered by any Member may be withdrawn without the consent of the Board first having been obtained. Any person who has resigned his or her membership shall be entitled to re-admission on proof to the Board that he or she complies with the provisions of By-law 29 at the date of his or her application for re-admission.
- 33.3 The Board shall report any resignation of membership in terms of this By-law to Members and may report such resignation to whomsoever else it considers appropriate, in whatever manner it considers appropriate.

34 Honorary Life Membership and Long Service Membership

- 34.1 The Board may, in special circumstances, recognise the meritorious service of a Member towards the Institute or the accountancy profession by electing such Member as an Honorary Life Member.
- 34.2 The Board may elect a Member as a Long Service Members when such Member has:
- 34.2.1 been a Chartered Accountant (SA) for an unbroken period of 40 (forty) years; or
- 34.2.2 attained the age of 65 (sixty five) years and has been a Chartered Accountant (SA) for an unbroken period of 25 (twenty five) years.

- 34.3 Honorary Life Members and Long Service Members shall remain as such at the pleasure of the Board and shall not be liable for any subscriptions to the Institute.

35 Punishable offences

- 35.1 The following acts and practices, whether of commission or of omission, upon the part of any person who is or was a Member at the time of the alleged acts or practices shall be offences and such Member or former Member found guilty thereof as provided in these By-laws shall be liable to the penalties prescribed in these By-laws: provided that the acts and practices so specified are not intended to be a complete list of acts and practices which may constitute improper conduct:
- 35.1.1 contravening any of the provisions of sections 44, 52, 53 or 54 of the Auditing Profession Act, 26 of 2005, or any amendment or replacement thereof, or contravening any rules or regulations created by IRBA from time to time under the power granted to it in terms of section 10 of the said Act, or any amendment or replacement thereof, or, in the case of a Member or former Member who is not registered with IRBA, conducting himself or herself in a manner which would amount to a contravention of the foregoing if he or she were so registered, or obtaining registration under section 37 of the said Act by fraudulent or irregular means;
 - 35.1.2 conducting himself or herself with gross negligence in connection with any work performed by him or her in his or her profession or employment, including (without limitation) work or employment in connection with secretaryships, trusteeships, liquidations, judicial managements, executorships, administratorships or curatorship's, or any office of trust which he or she has undertaken or accepted;
 - 35.1.3 certifying or reporting on any accounts, statements, reports or other documents, without taking reasonable steps to ensure the correctness of such certificate or report;
 - 35.1.4 contravening any of the provisions of the Designation Act;
 - 35.1.5 directly or indirectly paying a person, other than a Member in public practice or any person practising as an accountant or auditor outside the Republic, a commission, or giving such person monetary or other consideration, as remuneration for bringing the Member work, or for inducing other persons to give work to the Member;
 - 35.1.6 accepting directly or indirectly any commission, brokerage or other remuneration in respect of professional or commercial business referred to others as an incident to his or her service to any client, except with the knowledge and consent of that client;
 - 35.1.7 improperly obtaining or attempting to obtain work;
 - 35.1.8 soliciting or advertising or canvassing in the Republic (or in any territory outside the Republic designated by the Board from time to time) in any manner not permitted by the Rules or Code of Professional Conduct prescribed by the Board from time to time;
 - 35.1.9 wilfully refusing or failing to perform or conform with any of the provisions of these By-laws which it is his or her duty to perform or with which it is his or her duty to conform;
 - 35.1.10 committing a breach of any rule or Code of Professional Conduct prescribed by the Board from time to time in terms of By-law 25 or, after having been previously warned by the Board or any committee appointed by it, continuing to commit a breach of such rules or Code of Professional Conduct;
 - 35.1.11 unlawfully failing to account for, or unreasonably delaying an accounting for, any money or property received for or on behalf of a client or any other person when called upon to do so;

- 35.1.12 conducting himself or herself in a manner which, in the opinion of the Professional Conduct Committee or the Disciplinary Committee, is discreditable, dishonourable, dishonest, irregular or unworthy, or which is derogatory to the Institute, or tends to bring the profession of accountancy into disrepute;
 - 35.1.13 failing to comply with any regulation, By-law or Code of Conduct;
 - 35.1.14 seeking, either before or during the period of training of a Trainee Accountant, to impose any restraint whatever on the Trainee Accountant concerned, which will apply after the date of the termination of the training period, or threatening, or attempting to enforce, any such restraints after such date;
 - 35.1.15 directly or indirectly stipulating for or receiving from a Trainee Accountant who is or has been serving under a training contract, or from any other person, any payment, reward, compensation or consideration for agreeing to the cancellation of such training contract: provided that it shall not be deemed a breach of this By-law if a Member, or former Member requires to be or is reimbursed in respect of disbursements actually made by him or her to the Institute in connection with a training contract which is subsequently cancelled and of which disbursements he or she is able to produce proof to the satisfaction of the Institute;
 - 35.1.16 without reasonable cause failing to resign from a professional appointment when requested by the client to do so;
 - 35.1.17 failing to answer or deal with appropriately within a reasonable time any correspondence or other communication from the Institute or any other person which requires a reply or other response;
 - 35.1.18 failing to comply within a reasonable time with an order, requirement or request from the Institute;
 - 35.1.19 failing after demand to pay any subscription or any fee, levy or other charge payable to the Institute.
- 35.2 Improper conduct on the part of a Trainee Accountant shall include any conduct which would be improper had it been perpetrated by a Member or Associate.

BY-LAWS

PART C - APPLICABLE ONLY TO THE COLLEGE OF GENERAL ACCOUNTANTS

36 Application for associateship

Application for associateship of the Institute shall be made to the Board in a form prescribed by the Board. Each applicant shall:

- 36.1 pay the application fee, if any, and the subscription for the current year as determined from time to time;
- 36.2 certify in the prescribed form that the information given by him or her therein is true and correct in every detail;
- 36.3 in the event of his or her admission, undertake to observe the provisions of the Constitution and the By-laws and rules framed thereunder from time to time in force; and
- 36.4 satisfy the Board in such manner as it may require that at the date of his or her application, he or she is qualified for admission under By-law 37, that he or she is a fit and proper person to be admitted to associateship and is not less than 21 (twenty one) years of age
- 36.5 The provisions of By-Laws 29.21.2, 29.31.3 and 29.1.4 apply, with the necessary changes required by the context, to applications for associateship.

37 Qualification for admission to associateship

- 37.1 Subject to the provisions of By-law 36, qualification for admission to associateship of the Institute shall be proof to the satisfaction of the Board that the applicant has passed the examinations, and has the practical experience, prescribed by the Board.

38 Cancellation of associateship

- 38.1 The Board shall cancel the associateship of any Associate who subsequent to his or her admission to associateship:
 - 38.1.1 is removed from an office of trust on account of misconduct; or
 - 38.1.2 is convicted anywhere in the world of theft, fraud, forgery, or uttering a forged document or perjury or an offence of which dishonesty is an element, or an offence which in the opinion of the Board reflects adversely on the fitness of the Member to remain a Member, and sentenced in respect thereof to imprisonment without the option of a fine, or to a fine of an amount to be determined by the Board from time to time.
- 38.2 The Disciplinary Committee may in its discretion order the cancellation of the associateship of any Associate whose estate is provisionally or finally sequestrated, or who enters into an arrangement with his or her creditors subsequent to his or her admission to associateship, provided, however, that before doing so, the Disciplinary Committee shall afford such Associate an opportunity, within 21 (twenty one) days after being called upon by the Disciplinary Committee to do so, to satisfy the committee that there were exceptional circumstances relating to the sequestration or arrangement which would justify the committee's not exercising its discretion to order the cancellation of his or her associateship.
- 38.3 When the associateship of a person is cancelled in terms of By-law 38.1 or 38.2 the Board shall remove his or her name from the register immediately.

- 38.4 A person whose associateship has been cancelled in terms of By-law 38.1 or 38.2 may apply for his or her re-admission as an Associate after the expiry of a period of 10 (ten) years reckoned from the date of such cancellation, provided however that the Board may on the recommendation of the Disciplinary Committee, reduce this period in any particular case where it considers that it would be just and equitable to do so.
- 38.5 The Board shall report any cancellation of associateship in terms of By-law 38.1 or 38.2 to Members and Associates and may report such cancellation to whomsoever else it considers appropriate, in whatever manner it considers appropriate: provided that in the case of the cancellation of associateship in terms of By-law 38.2 it shall comply with any recommendation of the Disciplinary Committee.
- 38.6 The provisions of By-Law 31.7, 31.8, 31.9 and 31.10, apply, with the necessary changes required by the context, to an Associate who has not complied with the Institute's Continuing Professional Development Policy.
- 38.7 Regional Councils shall be informed by the Board of any cessation of associateship in terms of By-law 38.65.
- 38.8 The Board shall report any cancellation of associateship in terms of By-law 38.65 to Associates and may report such cancellation to whomsoever else it considers appropriate, in whatever manner it considers appropriate.

39 Fees and subscriptions

- 39.1 Each Associate of the Institute shall pay an annual subscription at such time and of such amount and on such conditions as may from time to time be determined by the Board. The amount of the annual subscription in respect of any category of associateship will be the amount applicable to that category on 1 January of the year in question, irrespective of any change in the category of associateship during the year. Unless and until otherwise determined, the annual subscription shall be due on the first day of January in each year and shall be payable during that month.
- 39.2 Any Associate admitted after 30 June in any year shall pay only one-half of the annual subscription for the year then current.
- 39.3 On admission to the Institute as an Associate an entrance fee shall be payable of such amount as may from time to time be determined by the Board.
- 39.4 The Board may in its discretion remit in whole or in part the subscription and/or application fee of an Associate under special circumstances which in its opinion warrant such remission.
- 39.5 The Board may from time to time call upon Associates for payment of a contribution or contributions for the purpose of meeting expenses which it may incur in the interests or furtherance of the objects of the Institute, provided that such contribution shall not in any one financial year exceed one-quarter of the subscription payable in respect of that financial year.
- 39.6 Any Associate who is in arrears with his or her annual subscription may be required to pay such penalty as may be determined by the Board from time to time. The Board shall from time to time publish the penalties payable under this By-law.

- 39.7 Any Associate who is in arrears with his or her annual subscription or any contribution or charge for a period of 4 (four) months from the date when the same became due under these By-laws shall be sent a registered letter (with a copy also being sent to the Associate's e-mail address, if one has been provided) reminding him or her that he or she is in arrears. Should the Associate fail to effect payment before the expiration of 5 (five) months from the date when the amount became due under these By-laws, he or she shall, *ipso facto*, cease to be an Associate, provided that -
- 39.7.1 he or she shall nevertheless be liable to pay the amount of such year's subscription and any other arrear subscriptions or other contributions or charges due by him or her to the Institute and shall be liable otherwise as an Associate;
- 39.7.2 the Board shall have power in its discretion to suspend the operation of this By-law, either generally or in relation to a specific case, and to stipulate the conditions on which it will be suspended.
- 39.8 The Board may in its discretion reinstate any Associate whose associateship has ceased in terms of By-law 39.7 and may in such case dispense with a new application for associateship or payment of an entrance fee, but may impose a reinstatement fee of an amount to be determined by the Board from time to time.
- 39.9 The Board shall report any cancellation of associateship in terms of By-law 39.7 to Associates and may report such cancellation to whomsoever else it considers appropriate, in whatever manner it considers appropriate.

40 Resignation and re-admission

- 40.1 Any Associate who has paid all his or her dues and subscriptions and is otherwise in good standing may resign his or her associateship by sending to the Board written notice to that effect and such notice shall become effective immediately on acceptance thereof by the Board: provided always that:
- 40.1.1 if any complaint has been received or an enquiry is pending against such Associate in respect of his or her professional conduct, or in respect of the sequestration of his or her estate, whether provisionally or finally, or his or her having entered into an agreement with his or her creditors, such resignation need not be accepted but his or her associateship may be suspended until such complaint or enquiry has been finally dealt with by the Board;
- 40.1.2 if no such complaint has been received and no enquiry is pending the resignation shall be accepted by the Board;
- 40.1.3 an Associate whose associateship has been suspended in terms of By-law 40.1 shall not enjoy the benefits of associateship;
- 40.1.4 when the resignation is accepted, such acceptance may be qualified or endorsed through the CEO so as to record the finding of the Board in respect of such complaint or enquiry.
- 40.2 No resignation once tendered by any Associate may be withdrawn without the consent of the Board first having been obtained. Any person who has resigned his or her associateship shall be entitled to re-admission on proof to the Board that he or she complies with the provisions of By-law 37 at the date of his or her application for re-admission.
- 40.3 The Board shall report any resignation of associateship in terms of this By-law to Associates and may report such resignation to whomsoever else it considers appropriate, in whatever manner it considers appropriate.

41 Honorary Life Associateship and Long Service Associateship

- 41.1 The Board may, in special circumstances, recognise the meritorious service of an Associate towards the Institute, or the accountancy profession, by electing such Associate as an Honorary Life Associate.
- 41.2 The Board may elect an Associate as a Long Service Associate when such Associate has:
- 41.2.1 been an Associate for an unbroken period of 40 (forty) years; or
 - 41.2.2 attained the age of 65 (sixty five) years, provided that he or she has been an Associate for an unbroken period of 25 (twenty five) years.
- 41.3 Honorary Life Associates and Long Service Associates shall remain as such at the pleasure of the Board and shall not be liable for any subscriptions to the Institute.

42 Punishable offences

The following acts and practices, whether of commission or of omission, upon the part of any person who is or was an Associate of the Institute at the time of the alleged acts or practices shall be offences and such Associate or former Associate found guilty thereof as provided in these By-laws shall be liable to the penalties prescribed in these By-laws, provided that the acts and practices so specified are not intended to be a complete list of acts and practices which may constitute improper conduct:

- 42.1 conducting himself or herself with gross negligence in connection with any work performed by him or her in his or her profession or employment, including, without limitation, work or employment in connection with secretaryships, trusteeships, liquidations, judicial managements, executorships, administratorships or curatorships, or any office of trust which he or she has undertaken or accepted;
- 42.2 contravening any of the provisions of the Designation Act;
- 42.3 directly or indirectly paying a person, other than a Member or Associate in public practice, or any person practicing as an accountant or auditor outside the Republic, a commission, or giving such person monetary or other consideration, as remuneration for bringing the Member or Associate work, or for inducing other persons to give work to the Member or Associate;
- 42.4 accepting directly or indirectly any commission, brokerage or other remuneration in respect of professional or commercial business referred to others as an incident to his or her service to any client, except with the knowledge and consent of that client;
- 42.5 improperly obtaining or attempting to obtain work;
- 42.6 soliciting or advertising or canvassing in the Republic (or in any territory outside the Republic designated by the Board from time to time) in any manner not permitted by the Rules or Code of Professional Conduct prescribed by the Board from time to time;
- 42.7 wilfully refusing or failing to perform or conform with any of the provisions of these By-laws which it is his or her duty to perform or with which it is his or her duty to conform;
- 42.8 committing a breach of any rule or Code of Professional Conduct prescribed by the Board from time to time in terms of By-law 25 or, after having been previously warned by the Board or any committee appointed by it, continuing to commit a breach of such rules or Code of Professional Conduct;
- 42.9 unlawfully failing to account for, or unreasonably delaying an accounting for, any money or property received for or on behalf of a client or any other person when called upon to do so;

- 42.10 conducting himself or herself in a manner which, in the opinion of the professional conduct committee or the Disciplinary Committee., is discreditable, dishonourable, dishonest, irregular or unworthy, or which is derogatory to the Institute, or tends to bring the profession of accountancy into disrepute.
- 42.11 seeking, either before or during the period of training of a Trainee Accountant, to impose any restraint whatever on the Trainee Accountant concerned which will apply after the date of the termination of the training period, or threatening or attempting to enforce any such restraints after such date;
- 42.12 directly or indirectly stipulating or receiving from a Trainee Accountant who is or has been serving under a training contract, or from any other person, any payment, reward, compensation, or consideration for agreeing to the cancellation of such training contract, provided that it shall not be deemed a breach of this By-law if an Associate or former Associate requires to be, or is reimbursed in respect of disbursements actually made by him or her to the Institute in connection with a training contract which is subsequently cancelled and of which disbursements he or she is able to produce proof to the satisfaction of the Institute;
- 42.13 without reasonable cause failing to resign from a professional appointment when requested by the client to do so;
- 42.14 failing to answer or deal with appropriately within a reasonable time, any correspondence or other communication from the Institute or any other person which requires a reply or other response;
- 42.15 failing to comply within a reasonable time with an order, requirement, or request from the Institute;
- 42.16 failing after demand to pay any subscription or any fee, levy or other charge payable to the Institute;
- 42.17 Improper conduct on the part of a Trainee Accountant shall include any conduct which would be improper had it been perpetrated by a Member or Associate.

APPENDIX 1 TO THE BY-LAWS: BOARD CHARTER

1 INTRODUCTION

- 1.1 The Board (“the Board”) of The South African Institute of Chartered Accountants (“the Institute”) has prepared this Charter (“the Board Charter”) in accordance with the principles contained in the King IV Report on Corporate Governance™ for South Africa, (“King IV™”). The Board Charter is subject to the provisions of the Constitution of the Institute (“the Constitution”) and the By-laws of the Institute (“the By-laws”).
- 1.2 The Board Charter does not replace or amend the Constitution or any part of the By-laws in any way whatsoever. In the event of a conflict between the Constitution and the By-laws, the Constitution shall prevail.
- 1.3 Words and phrases defined in the Constitution and the By-laws will have the same meanings for purposes of the Board Charter, unless the context indicates otherwise.

2 PURPOSE

The purpose of this Board Charter is to set out:

- 2.1 the roles, responsibilities and powers of: (i) the Board; (ii) the individual members of the Board (“Board Members”); and (iii) the officials and executives of the Institute;
- 2.2 the powers delegated to various Board committees of the Institute; and
- 2.3 the policies and practices of the Board in respect of matters such as corporate governance, declarations and conflicts of interest, meeting procedures, composition of the Board, and the nomination, appointment, induction, training and evaluation of Board Members and members of Board committees.

3 COMPOSITION OF THE BOARD, GENDER AND RACE DIVERSITY POLICY, APPOINTMENT, ROTATION AND INDEPENDENCE

- 3.1 The Board must at all times be suitably constituted and shall do everything necessary to appropriately fulfil its role and responsibilities.
- 3.2 The Board may determine the number of Board Members at any time, subject to the proviso that:
 - (i) the minimum number of Board Members is 8 (eight);
 - (ii) the maximum number of Board Members is 12 (twelve); and
 - (iii) the composition of the Board must be diverse and must have an appropriate mix of race, gender and diversity.
- 3.3 Guidelines for the preferred attributes, knowledge and skills of Board Members are set out in Annexure A which together with diversity requirements, shall form the basis of Board Member selection criteria.
- 3.4 The Board shall comprise a balance of executive and non-executive Board Members, with a majority of the Board Members being independent. Subject to the requirement that:
 - (i) the majority of Board Members shall be Chartered Accountants CA(SA); and
 - (ii) a maximum of 3 (three) and not less than 2 (two) of the non-executive Board Members must be non-Chartered Accountants and shall be independent.
- 3.5 The President of the Council or his/her nominee shall be an *ex officio* Board Member.

- 3.6 In reviewing independence of a Board Member, the definitions of King IV™ must be considered. In particular, a Board Member may be determined to be independent if, when judged from the perspective of a reasonable and informed third party, that Board Member has no interest, position, association or relationship which is likely to unduly influence or cause bias in decision-making in the best interests of the Institute; provided that membership of the Institute will not automatically result in a presumption of a lack of independence.
- 3.7 After each annual general meeting (“AGM”) the Board must elect a chairperson of the Board (“Chairperson”) and a lead independent non-executive Board Member (“Lead Independent Board Member”).
- 3.8 The Board must appoint a CEO
- 3.9 The CEO and his/her nominated senior executive will serve as *ex officio* members of the Board.
- 3.10 The Board is empowered to fill casual vacancies on the Board up until the next AGM.
- 3.11 Only individuals with sound ethical reputations and business or professional expertise and who have sufficient time to effectively fulfil their role as a Board Member, will be considered for appointment to the Board.
- 3.12 Individuals with material enduring conflicts of interest with the Institute or any of its directly or indirectly associated entities that cannot be reasonably managed by the normal methods of declaration of interests and temporary recusal from meetings will not be considered for appointment.
- 3.13 Board Members must be nominated for election or appointment through a formal process and the Nomination and Governance Committee must assist with the process of identifying suitable candidates to be discussed with the Council and proposed to the Board and the members of the Institute (the “Members”). The Nomination and Governance Committee must also assist with the review of the effectiveness of the Board, including but not necessarily limited to, its composition.
- 3.14 Race, gender, disability and diversity, as well as relevant skills and expertise and knowledge of the core skills of the profession, enhance the composition of a truly diverse Board and assist in achieving a sustainable competitive advantage for the profession. It is the policy of the Board that all facets of diversity will be considered in determining the optimal composition of the Board which, where possible, will be balanced appropriately. All appointments to the Board are made on merit, having due regard for the benefits of diversity, including gender, race and disability, which the Board as a whole requires to be effective.
- 3.15 The Nomination and Governance Committee may determine measurable objectives for achieving diversity on the Board that are appropriate for the Institute, and may recommend them to the Board for adoption.
- 3.16 The achievement of the objectives referred to in paragraph 3.15 above will be disclosed in the integrated report of the Institute.
- 3.17 Board Members shall be elected by the members of the Institute at an AGM. Board Members appointed by the Board to fill a casual vacancy, must retire at the first subsequent AGM unless their appointment is confirmed at such Members’ meeting. One-third of Board Members (excluding the *ex officio* members) must retire by rotation at each AGM provided that each such Board Member has served as a Board Member for at least 1 (one year). The Board Members who retire will be those Board Members who have held office for the longest period of time since their last election. Should there be more Board Members than necessary who have been on the Board for an equal length of time, those to retire shall be chosen by lots.
- 3.18 Retiring Board Members may be re-elected provided that they are eligible. If at the date of the AGM, any Board Member has held office for a period in excess of 3 (three) years since his/her last election, he/she shall retire at such AGM, either as one of the Board Members subject to rotation or in addition thereto.

- 3.19 No Board Member shall serve for a period exceeding 6 (six) years. Should he/she be appointed to fill a vacancy or appointed at a meeting other than an AGM, then the 6 (six) years shall be determined from the date of the first AGM subsequent to their appointment.
- 3.20 A Board Member who has completed a 6 (six) year term, shall be eligible for re-election to the Board after a period of 3 (three) years subsequent to their last service for a term as defined in 3.19.
- 3.21 Executive Board Members are required to retire from the Board when they cease to hold executive office for any reason. Executive Board Members must retire as members of management at the age of 65 (sixty five) unless the Board agrees to a later retirement age in any particular case in the interests of the Institute. Such extensions will:
- (i) only be agreed to in very exceptional circumstances; and
 - (ii) not be for long periods of time.
- 3.22 This Board Charter is considered an integral part of the conditions of appointment of all Board Members and should be referred to in letters of appointment.

4 DEVELOPMENT AND INDUCTION OF BOARD MEMBERS

- 4.1 A formal induction program is established for new Board Members, which includes the opportunity for new Board Members to understand key strategies and operations before their first meeting.
- 4.2 Training will be provided to individual Board Members on request and Board Members may be developed through mentorship and professional development programmes.
- 4.3 Continuing professional development programmes are implemented which ensure that Board Members are continually apprised of new developments and changes in the profession's environment.

5 ROLES AND RESPONSIBILITIES

5.1 Member meetings

- 5.1.1 The matters reserved for decision-making by the Members are set out in the Constitution. A matter reserved for decision-making by the Members must be considered by the Board before it is recommended to the Members for decision-making. The Board must, where appropriate, provide the Members with its recommendation and relevant material information in respect of resolutions proposed for Member approval.
- 5.1.2 Information must be accurately disclosed to Members and potential members in such a way that they are apprised of all material aspects of the business of the Institute.
- 5.1.3 Board Members and executive management are expected to attend Member meetings. The Chairperson of each Board committee is expected to be available at the AGM to respond to relevant questions or queries.

5.2 The Board: General Powers

- 5.2.1 The role, functions and powers of the Board, the Board Members and Board committees are determined by the relevant laws of the Republic of South Africa ("Applicable Laws"), the Constitution, best practice and decisions and policies of the Board.
- 5.2.2 The Board is responsible for leading the Institute, setting its strategic direction and ensuring that policies, plans and a funding model are in place to achieve the purpose, objects and strategy of the Institute. In governing or directing the affairs of the Institute, the Board has the authority to exercise all powers and perform any functions except to the extent that the Constitution provides otherwise.

- 5.2.3 The Board accordingly has the power to make any decision in respect of the Institute which has not been specifically reserved for decision-making by the Members.
- 5.2.4 The Board has the power to delegate specific powers and functions to Board and other committees and the CEO as detailed in approved committee terms of reference and the Delegation of Authority Document.
- 5.2.5 The Board must exercise its powers responsibly:
- 5.2.6 in the best interests of the Institute with due regard to the interest of the Members; and
- 5.2.7 in compliance with the requirements of the law and principles of sound corporate governance.

5.3 The Roles and Responsibilities of the Board

- 5.3.1 The Board must:
 - 5.3.1.1 retain full and effective control over the Institute and its tangible and intangible assets, bringing independent, informed and effective judgment to bear on material decisions;
 - 5.3.1.2 provide effective and ethical leadership in the best interests of the Institute;
 - 5.3.1.3 act as the focal point for, and custodian of, corporate governance by managing its relationship with management, the members and other stakeholders of the Institute along sound corporate governance principles;
 - 5.3.1.4 promote and monitor transformation of the profession;
 - 5.3.1.5 ensure that relevant stakeholders, including Members, are updated on the implementation of the strategy and other significant issues;
 - 5.3.1.6 appreciate that strategy, risk, performance and sustainability are inseparable and to give effect to this by:
 - 5.3.1.6.1 contributing to and approving the strategy of the Institute, including its short, medium and long-term strategic direction;
 - 5.3.1.6.2 satisfying itself that the strategy and business plans of the Institute do not give rise to risks that have not been thoroughly assessed by management;
 - 5.3.1.6.3 identifying key performance and risk areas, and ensure that management has adequate risk mitigation strategies in place;
 - 5.3.1.6.4 ensuring that the strategy will result in sustainable outcomes and value creation and achieve the purpose and objects of the Institute; and
 - 5.3.1.6.5 considering sustainability as a business opportunity that guides strategy formulation;
 - 5.3.1.7 oversee the disciplinary process with regard to Members, associates and trainees of the Institute by:
 - 5.3.1.7.1 ensuring that the Institute has adequate resources for investigative and disciplinary processes;
 - 5.3.1.7.2 appointing an independent disciplinary panel from which the Professional Conduct Committee and Disciplinary Committee are constituted;
 - 5.3.1.7.3 satisfying itself that the approved disciplinary process is followed by the disciplinary committees;

- 5.3.1.7.4 ensuring that the impact of the approved disciplinary process meets, and continues to meet, the expectations of the profession and its stakeholders; and
- 5.3.1.7.5 accounting to Members and society on the outcomes of disciplinary proceedings.
- 5.3.1.8 Ensure that the Institute is and is seen to be a responsible corporate citizen by having regard to not only the financial aspects of the business of the Institute but also the impact that business operations have on the environment and the society within which it operates;
- 5.3.1.9 Determine the Institute's values and ensure that the Institute's ethics are managed effectively;
- 5.3.1.10 Ensure the governance of risk with the support of the Audit and Risk Committee;
- 5.3.1.11 Exercise ongoing oversight of information and technology governance, delegated to the Digitisation Transformation Governance Committee (DTGC) (which shall include the Chief Information Officer) which shall report relevant risks and other material matters to the Board and its committees;
- 5.3.1.12 Monitor the Institute's compliance with applicable laws and non-binding rules and standards with reference not only to the obligations they create but to the rights and protections they afford and ensure that the Institute is governed effectively in accordance with corporate governance best practices;
- 5.3.1.13 Ensure that there is an effective risk-based internal audit function;
- 5.3.1.14 Ensure that members are equitably treated, and ensure that disputes are resolved as effectively, efficiently and expeditiously as possible;
- 5.3.1.15 Ensure that the Institute has appropriately constituted and effective Board committees as required by the Constitution and such best corporate governance practices as the Institute chooses to adopt and ensure that these committees discharge their duties appropriately;
- 5.3.1.16 monitor the activities of trusts, non-profit organisations and social responsibility projects established by the Institute, as determined in the Delegation of Authority;
- 5.3.1.17 govern the disclosure control processes of the Institute including ensuring the integrity of the integrated report and reporting on the effectiveness of the system of internal controls;
- 5.3.1.18 Table the following at each AGM:
 - 5.3.1.18.1 the annual financial statements and integrated report;
 - 5.3.1.18.2 the reports by the Chairperson and the CEO;
 - 5.3.1.18.3 the report by the external auditors;
 - 5.3.1.18.4 the recommendation for the appointment of the external auditors;
 - 5.3.1.18.5 recommendations for the election and re-election of Board Members;
 - 5.3.1.18.6 the fees for Board Members and Board committee members for the ensuing year;
 - 5.3.1.18.7 the Remuneration Policy for approval (non-binding vote): and

5.3.1.18.8 the report on implementation of the Remuneration Policy for approval (non-binding vote).

5.3.1.19 review and approve appropriate amendments to the By-laws.

5.4 The Chairperson

5.4.1 The Chairperson is elected by the Board after each AGM and is an independent non-executive member of the Board with no executive or management responsibilities. The Chairperson provides leadership at Board level, represents the Board to the Members and is responsible for ensuring the integrity and effectiveness of the Board and its committees. The Chairperson is also the Chairperson of the meetings of members.

5.4.2 In particular, the Chairperson must:

- 5.4.2.1 ensure effective operation of the Board and its committees in conformity with the highest standards of corporate governance by setting an ethical tone for the Board and the Institute and providing overall leadership to the Board while being cognizant of the individual duties of the Board Members;
- 5.4.2.2 ensure effective communication with Council, Members, regulators, governments and other relevant constituencies and that the views of these groups are understood by the Board;
- 5.4.2.3 oversee the formal succession plan for the Board, the CEO and the Chief Financial Officer (“CFO”) or the person responsible for that function;
- 5.4.2.4 be accessible to the CEO to support the CEO in the development of strategy and to provide counsel and advice in respect of all material matters affecting the Institute and to consult with the other Board Members promptly when appropriate;
- 5.4.2.5 be involved, as Chairperson of the Nomination and Governance Committee, in the identification and selection of Board Members;
- 5.4.2.6 play an active part in the formulation (in consultation with the CEO and the secretary of the Board (“the Secretary”)) of an annual work plan for the Board and the setting of the agenda for Board meetings, ensuring that material matters in respect of the business and governance of the Institute are tabled at Board meetings;
- 5.4.2.7 preside over Board meetings, setting the style and tone of Board discussions to promote constructive debate and effective decision-making;
- 5.4.2.8 manage conflicts of interest and act as a link between the Board and management, particularly the Board and the CEO;
- 5.4.2.9 ensure that Board Members play a full and constructive role in the affairs of the Institute and take a leading role in the process for removing non-performing or unsuitable or over-committed members from the Board;
- 5.4.2.10 oversee the evaluation of the Board’s effectiveness and performance, ensuring that formal performance evaluations of the Board, Board committees and individual Board Members are conducted at least every 2 (two) years and that every alternate year, opportunity is provided for reflection and discussion by the Board regarding its performance as a whole, and the performance of: (i) its committees, (ii) the Chairperson; and (iii) the individual Board Members;
- 5.4.2.11 ensure that all Board committees are properly established, composed and operated;
- 5.4.2.12 in consultation with the Board, determine the performance objectives of the CEO;

- 5.4.2.13 establish a harmonious and open relationship with the CEO;
- 5.4.2.14 ensure that good relations are maintained with the Members and strategic stakeholders; and
- 5.4.2.15 attend to administrative acts in respect of the CEO as required,
- 5.4.3 The Chairperson:
 - 5.4.3.1 may not be a member of the Audit and Risk Committee;
 - 5.4.3.2 may be a member but not chairperson of the Human Resources and Remuneration Committee;
 - 5.4.3.3 must be a member and chairperson of the Nomination and Governance Committee;
 - 5.4.3.4 may be a member but not the chairperson of the Social, Ethics and Transformation Committee;
 - 5.4.3.5 may be a member but not the chairperson of the Digital Transformation Governance Committee; and
 - 5.4.3.6 may not be a member of Council.
- 5.4.4 The evaluation of the Chairperson's performance will be led by the Lead Independent Board Member or any other independent non-executive Board Member appointed by the Board at least every 2 (two) years.
- 5.4.5 The evaluation should take into account the Chairperson's performance against formal criteria and other non-Institute responsibilities to determine whether the Chairperson has the capacity to discharge his/her duties.

5.5 **Lead Independent Board Member**

- 5.5.1 The Board must appoint a Lead Independent Board Member who is a non-executive member of the Board with no executive or management responsibilities and is not a member of Council to assist the Chairperson in the execution of his/her duties and such other functions as the Board may wish to delegate to the Lead Independent Board Member. The Lead Independent Board Member's appointment shall be reviewed and confirmed annually after the AGM.
- 5.5.2 Where the Chairperson is absent or unable to perform his/her duties or where the independence of the Chairperson is questionable or impaired, the Lead Independent Board Member must serve in this capacity for as long as the circumstances that caused the Chairperson's absence, inability of conflict exist.
- 5.5.3 The Lead Independent Board Member must:
 - 5.5.3.1 preside at all meetings of the Board at which the Chairperson is not present or where the Chairperson is conflicted, including any sessions of the independent Board Members;
 - 5.5.3.2 assist the Board in dealing with the management of any actual or perceived conflicts of interest that may arise on the part of the Chairperson;
 - 5.5.3.3 call additional meetings of the non-executive Board Members, if required;
 - 5.5.3.4 facilitate open discussions during Board meetings, any executive sessions and outside of Board meetings;
 - 5.5.3.5 perform all such functions that cannot be performed by the Chairperson due to his/her absence or the existence of a conflict of interest;
 - 5.5.3.6 perform any duties as delegated by the Board from time to time;

- 5.5.3.7 Serve as the principal liaison between the non-executive Board Members and the Chairperson without inhibiting direct communication between them;
- 5.5.3.8 communicate to the Chairperson and management, where necessary: (i) any decisions reached; or (ii) suggestions, views or concerns expressed, by the non-executive Board Members in executive sessions or outside of Board meetings; and
- 5.5.3.9 if appropriate, and in coordination with the Chairperson and management, be available for consultation and direct communication with Members.

5.6 Chief Executive Officer (CEO)

- 5.6.1 The CEO is delegated with authority from, and accountable to the Board for the development and successful implementation of the Group strategy and the overall management and performance of the Institute to achieve its purpose and goals.
- 5.6.2 The CEO is supported by his/her senior management committees as agreed with the Board.
- 5.6.3 The CEO:
 - 5.6.3.1 must provide executive leadership;
 - 5.6.3.2 must inform the Board of any material matter which may have a significant impact on the financial results or substantially impact the reputation of the Institute;
 - 5.6.3.3 may sub-delegate any of the powers delegated to him/her; and
 - 5.6.3.4 may exercise power and authority on, or sub-delegate, any matter necessary for the effective management and performance of the Institute that is not specifically reserved for the Board or the Members.
- 5.6.4 The CEO's role is formalised and his/her performance is evaluated by the Chairperson with the support of the Nominations and Governance Committee against specific performance criteria.
- 5.6.5 The CEO may not be a member of:
 - (i) the Human Resources and Remuneration Committee;
 - (ii) the Audit and Risk Committee;
 - (iii) the Nomination and Governance Committee; or
 - (iv) the Digital Transformation Governance Committee,
 but may attend meetings of such committees by invitation only and must recuse himself/herself when conflicts arise, particularly when his/her performance and remuneration are discussed.
- 5.6.6 The Board should ensure that a succession plan is in place for the CEO.

5.7 The rights and duties of the Board and its members

- 5.7.1 The Board must exercise its functions collectively and no single Board Member has any authority to perform any act on behalf of the Institute unless specifically authorised or requested by the Board. Board Members are jointly accountable for the decisions of the Board.
- 5.7.2 Board Members have a fiduciary obligation to:
 - 5.7.2.1 act in the best interests of the Institute;
 - 5.7.2.2 act with due care, diligence and skill in discharging their duties as Board Members;

- 5.7.2.3 declare and avoid conflicts of interest; and
 - 5.7.2.4 account to the Institute for any advantages gained in discharging their duties on behalf of the Institute.
- 5.7.3 Board Members may, at any time, request a meeting with the Chairperson and must individually meet with the Chairperson on an annual basis to discuss the Board and committee matters. The Chairperson must invite non-executive Board Members from time to time to indicate whether they have a need to meet as a group without him/her and/or the executive management.

5.8 **Secretary**

- 5.8.1 The Board should be assisted by a competent, suitably qualified and experienced Secretary. The decision to appoint or remove the Secretary is a Board decision.
- 5.8.2 The Secretary must provide dedicated support to the Board and is a central source of guidance and support to the Board and within the Institute on matters of good governance and changes in legislation. The Secretary must consult regularly with Board Members to ensure that they receive all necessary information.
- 5.8.3 As gatekeeper of good governance, the Secretary must maintain an arm's length relationship with the Board and its members as far as is reasonably possible.
- 5.8.4 The Secretary is not a member of the Board and has a direct channel of communication to the Chairperson and the Lead Independent Board Member.
- 5.8.5 The Board must consider and satisfy itself, on an annual basis, of the competence, qualifications and experience of the Secretary and report thereon in the integrated report.
- 5.8.6 The Secretary is accountable to the Board and must:
 - 5.8.6.1 ensure that Board procedures are followed and reviewed regularly;
 - 5.8.6.2 ensure that the applicable rules and regulations for the conduct of the affairs of the Board as directed by the provisions of the Constitution and the Board Charter are complied with;
 - 5.8.6.3 maintain statutory records in accordance with the Applicable Laws;
 - 5.8.6.4 provide the Board as a whole, as well as individual Board Members, with guidance as to how their responsibilities should be properly discharged in the best interest of the Institute and good governance. The Secretary is authorised to obtain external expert advice, at the Institute's expense, should he/she deem it necessary in order to effectively fulfil this responsibility;
 - 5.8.6.5 keep abreast of, and inform the Board of current corporate governance thinking and practice;
 - 5.8.6.6 assist with the appointment of Board Members;
 - 5.8.6.7 advise the Board on all legal and regulatory matters, including legal frameworks and processes;
 - 5.8.6.8 provide advice with respect to all regulatory filing and public disclosure relating to the Institutes governance processes;
 - 5.8.6.9 assist with Board Member induction and training programmes;
 - 5.8.6.10 ensure that the Board Charter and the charters of Board committees are reviewed annually or more regularly if required and are kept up to date;
 - 5.8.6.11 prepare and circulate Board and Board committee papers and ensure the preparation and circulation of minutes of Board and committee meetings;

- 5.8.6.12 elicit responses, input, feedback for Board and Board committee meetings;
- 5.8.6.13 assist with drafting annual Board and Board committee work plans;
- 5.8.6.14 assist with the evaluation of the Board, its committees and individual Board Members; and
- 5.8.6.15 ensure compliance with the Constitution, the By-laws and Applicable Laws.

6 DELEGATION AND BOARD COMMITTEES

- 6.1 Without detracting in any way from the general powers of the Board, the Board may from time to time determine, in terms of the governance framework and delegated authorities, which matters:
 - 6.1.1 are reserved for final decision-making by the Board or Board committees; or
 - 6.1.2 require the Board's or Board committees' consent before a final decision is made.
- 6.2 In terms of the Constitution, the Board is empowered to constitute Board and other committees and to delegate powers to such committees.
- 6.3 The Board delegates certain functions without abdicating its own responsibilities.
- 6.4 The Board delegates authority, not expressly reserved for the Board and its committees, to the CEO, who shall be accountable to the Board, subject to the obligation to report all material matters to the Board.
- 6.5 The CEO is entitled to delegate his/her duties, powers and authority to such members of management as is appropriate. Delegating authority to management does not discharge the CEO of his/her duties and responsibilities.
- 6.6 There shall be transparency and full disclosure by the Board committees to the Board, except where the Board has mandated the committee otherwise.
- 6.7 Delegation is formal and requires:
 - 6.7.1 that formal written charters are established and approved by the Board for each committee of the Board which outline the terms of reference of such committee;
 - 6.7.2 that the committees' charters are reviewed once a year;
 - 6.7.3 that the committees are appropriately constituted with due regard to the skills required by each committee;
 - 6.7.4 a formal documented Delegation of Authority which details the powers and functions delegated by the Board to the CEO and the powers and functions delegated to management by the CEO; and
 - 6.7.5 that the Delegation of Authority is reviewed annually or whenever there is a change to the organisational structure of the Institute.
- 6.8 The Board has the following committees:
 - 6.8.1 Audit and Risk Committee;
 - 6.8.2 Human Resources and Remuneration Committee;
 - 6.8.3 Nomination and Governance Committee;
 - 6.8.4 Social, Ethics and Transformation Committee; and
 - 6.8.5 Digital Transformation Governance Committee
- 6.9 The Board shall be advised by a Council appointed by appropriate constituents, as described in the Constitution.

7 BOARD GOVERNANCE

- 7.1 The Institute complies with all applicable corporate legislation. It also applies the principles and the majority of the recommended practices of King IV™ to the extent that they advance effective business leadership and governance in the Institute's environment. Where the Institute does not apply the principles, an explanation will be provided in the integrated report. The corporate governance practices are reviewed frequently and changed where appropriate in order to accommodate developments within the corporate governance environment.
- 7.2 Board Members are entitled to have access to all relevant Institute information and documents and to executive and senior management to assist them in the discharge of their duties and responsibilities to enable them to take informed decisions. The Secretary shall facilitate contact with senior management and ensure access to information.
- 7.3 Board Members are required to maintain and protect the confidentiality of information relating to the Institute and its business.
- 7.4 Board Members may seek independent professional advice, subject to prior consultation with the Chairperson or in other appropriate circumstances, the Secretary.
- 7.5 All Board Members are entitled to attend any committee meetings but shall not be entitled to a fee in respect of meetings for committees of which they are not members.

8 MEETING PROCEDURES

8.1 Attendance and Participation

- 8.1.1 Board Members must use their best endeavours to attend all Board meetings. Board Members are expected to be fully prepared for Board meetings in order to be able to participate fully, frankly and constructively in Board discussions and other activities and to bring the benefit of their particular knowledge, skills and abilities to bear in discharging their duties as Board Members.
- 8.1.2 Board Members who are unable to attend Board meetings must convey a prior apology with reasons to the Chairperson or Secretary.
- 8.1.3 The Secretary may in his/her discretion, authorise the use of audio or video conferencing facilities to make participation in a Board meeting possible should attendance in person not be possible.
- 8.1.4 If both the Chairperson and the Lead Independent Board Member are absent from a Board meeting, the Board Members present must elect one of their number to act as chairperson.
- 8.1.5 Executive and senior management who are not Board Members, assurance providers and professional advisors may be in attendance at meetings, but by invitation only and they may not vote.

8.2 Frequency of Meetings

- 8.2.1 The Board must hold sufficient scheduled meetings to discharge all of its duties as set out in this Board Charter but subject to a minimum of 4 (four) meetings per calendar year at intervals of not more than 3 (three) calendar months.
- 8.2.2 Meetings in addition to those scheduled may be held at the instance of: (i) any Board Member; or (ii) the Secretary.

8.3 Quorum

- 8.3.1 A majority of Board Members must be present in person or electronically at a meeting to form a quorum.
- 8.3.2 Individuals in attendance at Board meetings by invitation may participate in discussions but do not form part of the quorum for Board meetings.

8.4 Agenda and minutes

- 8.4.1 The Board shall cause proper minutes to be kept in separate bound minute books of:
- 8.4.1.1 all meetings of the Board;
 - 8.4.1.2 all general meetings of members of the Institute; and
 - 8.4.1.3 all meetings of Board committees.
- 8.4.2 The Board must establish an annual work plan to ensure that all relevant matters are covered by the agendas of the meetings planned for the year.
- 8.4.3 A detailed agenda, together with supporting documentation, must be circulated, at least 7 (seven) business days prior to each meeting to the Board Members and other invitees.
- 8.4.4 The minutes must be completed as soon as possible after the conclusion of each meeting and circulated to the Chairperson and the CEO for review thereof. The minutes must be formally approved by the Board at its next scheduled meeting and kept in a bound minute book.

8.5 Retention of meeting papers

- 8.5.1 All meeting papers and submissions made at the Board meeting are strictly confidential and neither the Board Members nor any other person may circulate them to any other parties. Exceptions to this prohibition must be authorised by the Chairperson or the Secretary, as is appropriate.
- 8.5.2 Board Members are expected to manage their security passwords providing electronic access to their meeting packs with due care and vigilance. A record of Board submissions and of material presented to the Board, shall be maintained and kept by the Secretary together with the minutes of meetings in line with the retention policy. Board Members may arrange with the Secretary to obtain access to records of Board documentation and minutes if required by them in the course of discharging their duties.

8.6 Decisions and Round Robin Resolutions

- 8.6.1 Resolutions taken at a meeting of the Board shall be decided by a majority of votes of members attending the meeting either in person or electronically. The Chairperson shall not have a casting vote in addition to his or her deliberative vote.
- 8.6.2 A decisions taken by a round robin resolution in writing signed by a majority of the Board Members shall be as valid and effective as if it had been passed at a meeting of the Board duly convened and constituted, provided where possible, all Board Members have been given notice of the proposed resolution and have had an opportunity to express their views on the resolution.
- 8.6.3 It is Board policy to limit the use of round robin resolutions to instances where the resolution is a mere formality or where the matter requiring decision is of such an urgent nature that it cannot be deferred until the next Board meeting.
- 8.6.4 The Chairperson, with the assistance of the Secretary, should consider whether an urgent special Board meeting would be a more appropriate decision-making procedure than a round robin resolution.
- 8.6.5 Notice of the matter to be decided by round robin resolution must be delivered to each Board Member where possible.

9 DISCLOSURE OF CONFLICT OF INTEREST

- 9.1 If a Board Member has any interest (including, but not limited to, a financial interest or an interest in respect of a disciplinary matter) which is to be considered at a Board meeting, or knows that a related person has such an interest, that Board Member:

- 9.1.1 must disclose the general nature of the interest before the matter is considered;
 - 9.1.2 must disclose all material information known to that Board Member to the persons present at the Board meeting;
 - 9.1.3 may disclose observations and insights relating to the matter if requested by the other Board Members to do so;
 - 9.1.4 may not be present when the matter is discussed, and may not participate in the consideration of the matter; and
 - 9.1.5 while absent from the meeting, is to be regarded as being present at the meeting for the purpose of determining whether sufficient Board Members are present to constitute a quorum for the meeting.
- 9.2 A Board Member may disclose any interest as described in paragraph 9.1 in advance by delivering to the Secretary a notice setting out the nature and extent of the interest. The Secretary must submit all disclosures of interest to the Board at the first subsequent meeting.
 - 9.3 A Board Member who acquires a direct personal financial interest after an agreement or other matter has been approved by the Institute, must promptly disclose the nature and extent of that interest to the Board.
 - 9.4 Failure to disclose an interest will render decisions, transactions or agreements invalid, unless subsequently ratified by the Board Members or a court.
 - 9.5 Enduring material conflicts of interest are regarded by the Board as incompatible with the fiduciary duties of Board Members. Board Members are appointed on the express understanding and agreement that they may be removed by the Board if and when they develop an actual or prospective material, enduring conflict of interest.

10 PERFORMANCE EVALUATION

- 10.1 A formal evaluation of the Board, its committees and individual Board Members, including the Chairperson, must be performed, either externally facilitated or not, at least every 2 (two) years. Every alternate year, opportunity is provided for reflection and discussion by the Board of its performance and that of its committees, its Chairperson and its members as a whole.
- 10.2 The Lead Independent Board Member shall ensure that the performance of the Chairperson is evaluated and shall chair those portions of meetings at which the Chairperson's performance appraisal is discussed.

11 REMOVAL OF A BOARD MEMBER

Removal of a Board Member is dealt with in the Constitution under paragraph 6.11 and further detailed in the By-laws under paragraph 5.

12 REVIEW OF CHARTER

This Board Charter shall be reviewed by the Board annually and must be placed on the Institute's website.

ANNEXURE A TO THE BOARD CHARTER

South African Institute of Chartered Accountants: Preferred Attributes, Knowledge and Skills of Board Members

Every Board Member must:

1. subscribe to the highest levels of ethics and integrity;
2. support transformation and nation building and be willing to implement suitable strategies;
3. have a sound understanding of governance and business principles;
4. be a strategic thinker and aware of developments in the country and globally that impact the profession or will impact the profession in the future;
5. be willing to address key issues and solve them. It requires strong leadership, with Board Members not afraid to challenge the status quo and who are prepared to address issues such as the disciplining of errant members;
6. be prepared to take time to understand the business so that they can play a positive and effective role;
7. have an understanding of governance principles, ethics, risk management and internal controls;
8. be able to engage with management and have robust discussions on strategy and performance, and be prepared to have difficult conversations where necessary. (Business experience at a high level);
9. have sufficient knowledge of strategies and operations to provide support to management where needed;
10. understand the importance of communications in all its forms from a reputational risk management perspective; and
11. be able to define and identify key stakeholders at any point in time and engage them as appropriate.

A balance of the following skills, knowledge and attributes should be considered by the Nominations and Governance Committee when nominating Board Members.

1. The candidate should preferably have an understanding of the core skills and training needs of accountancy and related subjects. It is critical that the Board understands key technical issues so that it can make appropriate strategic decisions relating to resource allocation.
2. The candidate should have an understanding of the future education and training needs of the profession, because changes implemented take 7 to 10 years to take effect.
3. The candidate should preferably have some understanding of legal issues.
4. The candidate should have some knowledge of the public sector and government.
5. The candidate should have some knowledge of small and medium business.
6. The candidate should have a strategic understanding of auditing and assurance and how these should be developed in the future to meet the public needs.

7. The candidate should have an understanding of finance and funding of the Institute and its activities.
8. The candidate should have an understanding of value creation and the six capitals and the various trade-offs.
9. The candidate should have an understanding of IT and digitalisation and the risks and opportunities associated with them.
10. The candidate should have a high-level understanding of a member-based organisation which has a focused mission.

Individuals not eligible for consideration by the Nominations and Governance Committee are listed in the By-laws under paragraph 5.1 thereof.

APPENDIX 2 OF THE BY-LAWS: COUNCIL CHARTER

1. INTRODUCTION

- 1.1 The Council is established in terms of paragraph 8 of the Constitution.
- 1.2 The Council Charter contained in this Appendix 2 is not intended to replace or amend the Constitution or and part of the By-laws in any way whatsoever. In the event of a conflict between the Constitution and the By-laws, the Constitution shall prevail.
- 1.3 Words and phrases defined in the Constitution and the By-laws will have the same meaning for purposes of this Council Charter, unless the context indicates otherwise.

2. PURPOSE OF THE CHARTER

- 2.1 The purpose of this Council Charter is to set out the composition, function and mandate of the Council.

3. COMPOSITION

- 3.1 The Council composition shall be representative of constituencies and shall consist of not more than 40 (forty) individuals, appointed as follows:
 - 3.1.1 2 (two) members shall be appointed from time to time by the Council of the Central Region;
 - 3.1.2 2 (two) members shall be appointed from time to time by the Council of the Eastern Region;
 - 3.1.3 2 (two) members shall be appointed from time to time by the Council of the Northern Region;
 - 3.1.4 2 (two) members shall be appointed from time to time by the Council of the Southern Region;
 - 3.1.5 2 (two) members shall be appointed from time to time by The Association for the Advancement of Black Accountants of Southern Africa (ABASA);
 - 3.1.6 1 (one) member shall be appointed from time to time by the African Woman Chartered Accountants (AWCA);
 - 3.1.7 2 (two) members shall be appointed from time to time by the Members in Business Interest Group;
 - 3.1.8 2 (two) members shall be appointed from time to time by the CFO forum who are CA(SA)s;
 - 3.1.9 2 (two) members shall be appointed from time to time by the Large Practices Interest Group;
 - 3.1.10 2 (two) members shall be appointed from time to time by the Small and Medium Practices Interest Group;
 - 3.1.11 1 (one) member shall be appointed by the International Members Executive Committee from time to time as a representative of international members;
 - 3.1.12 1 (one) member shall be appointed by an appropriate academic forum from time to time as a representative of academics;
 - 3.1.13 1 (one) member shall be appointed from time to time by the Public Sector Committee as a representative of the public sector;

- 3.1.14 2 (two) members shall be appointed by associate colleges from time to time representing associates, and consisting of at least one AGA(SA);
 - 3.1.15 a maximum of 5 (five) members may be co-opted to the Council;
 - 3.1.16 the CEO shall be an *ex officio* member; and
 - 3.1.17 1 (one) other member of management appointed by the Board on the recommendation of the CEO shall be an *ex officio* member of the Council.
- 3.2 A casual vacancy occurring in the membership of the Council shall be filled by a person appointed by the constituency concerned.
 - 3.3 The eligibility for appointment, and the termination of appointment respectively, of members of the Council are dealt with in paragraph 5 of the By-laws.
 - 3.4 The Council should strive to reflect the race, gender and disability demographics of the country.
 - 3.5 The composition will be amended from time to time to ensure representation of constituencies subject to the entrenched rights
 - 3.6 The Council may, at any time, invite any person as a non-voting observer, whenever it deems such invitation necessary or appropriate.
 - 3.7 The Board shall have the right to suspend or remove any member of the Council whenever it deems it appropriate to do so, or to require a member to recuse himself or herself from proceedings of the Council.
 - 3.8 A member of the Council shall at all times act in the interests of the Institute as a whole and not only as a delegate of the constituency which appointed him or her.

4. FUNCTION AND MANDATE OF THE COUNCIL

- 4.1 The function and mandate of the Council is as follows:
 - 4.1.1 to serve as a consultative forum to consider and advise the Board on matters relating to the long-term strategy of the Institute and the profession;
 - 4.1.2 to represent Members' and Associates' interests facilitated through input from the Regional Councils and other relevant sources and communicated by the Council to the Board and management;
 - 4.1.3 to identify new Interest Groups and recommend these to the Board for representation on the Council;
 - 4.1.4 to provide input to the Nomination and Governance Committee for the appointment of members to the Board;
 - 4.1.5 to consider and advise the Board on the award of honorary life membership to Members; and
 - 4.1.6 to recommend changes to the Code of Professional Conduct for approval by the Board.
 - 4.1.7 to temporarily assume the powers and functions of the Board if the majority of the members of the Board resign or are removed and are not replaced in accordance with the provisions of the Constitution and the By-laws until such time as a new Board can be appointed.
- 4.2 The Council shall not interfere with the agenda or activities of the Board, unless the Board operates or threatens to operate outside of its mandate as set out in the Constitution, in which case the concerns of the Council must be brought to the attention of the membership at a General Meeting called in terms of the Constitution.

5. TERM OF OFFICE

Members of the Council shall hold office for a period of 3 (three) years, which may be renewed for a further 3 (three) year period.

6. PRESIDENT

- 6.1 The Council shall elect from among its members a President.
- 6.2 The President elected in terms of paragraph 6.1 shall act as Chairperson of the Council and shall serve a 1 (one) year term of office reviewed annually, up to a maximum of 6 (six) years in the aggregate.
- 6.3 In the event of the President being unable to attend a meeting, an Acting Chairperson shall be elected from those nominated members (not *ex officio*) present at the Council meeting.
- 6.4 The President or his/her nominee shall be an *ex officio* non-independent member of the Board.

7. MEETINGS AND MINUTES

- 7.1 The Council shall meet at least twice a year.
- 7.2 The Council shall cause proper minutes to be kept in separate bound minute books of all meetings of the Council and shall be made available to the Board.
- 7.3 The Chairperson must call additional meetings upon a reasonable request of any member of the Council, including *ex officio* members.
- 7.4 A quorum shall comprise at least 50% (fifty percent) plus 1 (one) member, 1 (one) of whom shall be the CEO or his/her delegated alternate.
- 7.5 Decisions shall be taken by an ordinary majority of members of the Council.

8. DISSOLUTION OF THE COUNCIL

The Council may be dissolved by a decision of the majority of the members of the Council.

9. REVIEW OF CHARTER

This Council Charter shall be reviewed by the Board annually and must be placed on the Institute's website.

APPENDIX 3 OF THE BY-LAWS: REGIONS AND INTEREST GROUPS

1. For the purposes of the Constitution and By-laws, the Board has determined the following Regions:
 - 1.1. Central Region consisting of the Free State, North-West and Northern Cape provinces;
 - 1.2. Eastern Region consisting of the Kwazulu Natal province;
 - 1.3. Northern Region consisting of the Gauteng, Mpumalanga and Limpopo provinces; and
 - 1.4. Southern Region consisting of the Eastern and Western Cape provinces.

2. For the purposes of the Constitution and the By-laws, the Board has determined the following interest groups / committees:
 - 2.1. The Association for the Advancement of Black Accountants of Southern Africa, more commonly referred to as ABASA;
 - 2.2. African Women Chartered Accountants, more commonly referred to as AWCA;
 - 2.3. Members in Business Interest group;
 - 2.4. The Large Practices Interest group;
 - 2.5. The Small and Medium Practices Interest Group;
 - 2.6. CFO Forum; and
 - 2.7. Public Sector Committee.

Schedule 3

Advertisement for Board members

Call for Applications/Nominations

APPLICATIONS AND NOMINATIONS

In terms of the SAICA Constitution approved at the Annual General Meeting held on 26 June 2019, the Transitional Nominations Committee (TNC) is now calling for applications and/or nominations for a reconstituted Board for SAICA which shall comprise executive and non-executive members as well as Chartered Accountants (SA) and non-Chartered Accountants (SA). The TNC are seeking applications/nominations for the SAICA Board as follows:

- Four to six members of SAICA (Chartered Accountants (SA)) who are not members of Council or employees of SAICA),
- Two to three non-members (non-Chartered Accountants (SA)),

Elected non-executive Board members are appointed for 3-year terms and may be re-elected for a second term depending upon the balance of skills and demographic needs of the continuing Board as determined by the Board and the Nominations Committee from time to time with a limitation of 6 years of service. In terms of the Constitution one third of the non-executive Board members of the Board retire each year but may be re-elected if they have not completed six years of service on the Board.

Successful candidates will be required to serve on the Board as non-executive members fulfilling their obligations in terms of the governance framework as detailed in the Constitution and By-Laws. This will include preparing for and attending at least 4 Board meetings per year, Board committee duties and an Annual General Meeting.

It is the aim of the TNC to strive to achieve a balance of relevant skills, expertise and knowledge of the core skills of the profession that are appropriate for the governance of SAICA. The application of eligibility is subject to the discretion of the TNC when recommendations will be submitted will be submitted to a Special General Meeting of members for approval.

In order to enhance the composition of a truly diverse Board and assist in achieving a sustainable competitive advantage for the profession, the TNC will also consider race, gender, age and disability diversity in its selection process. All Board appointments are made having due regard to these attributes which the Board may require to be effective.

An extract of the requirements for the composition of the Board is contained in the Appendix A attached.

The closing date for applications is XX XXXXX 2019.

OVERVIEW OF SAICA

SAICA is a non-profit, voluntary association that provides a wide range of services to its Members and Associates. It is controlled by a Board which is elected by its Members and advised by a Council representing Member constituencies. The President of the Council will be a member of the Board.

The principal purpose and object of the Institute is to enhance the relevance, values, competence and influence of Members and Associates in South Africa and abroad, and to contribute to economic and social development in South Africa. In order to achieve this purpose, it has the following ancillary objects:

- To act in the public interest and to safeguard the values of the profession
- To promote the common interests of Members and Associates nationally and internationally
- To support and encourage the advancement of skills and knowledge and ensure Members have the appropriate competencies
- To contribute to economic and social advancement of South Africa
- To grow and transform the profession

SAICA Members are active in various activities including business advisors, business leaders and entrepreneurs amongst others. Members of SAICA are entitled to use CA(SA) designation after their names. The designation is Associated with someone who has considerable expertise in the theory and practice of accountancy.

The Institute also has Associates known as Associate General Accountants (SA). An AGA (SA) is a highly skilled accountant who has completed both a SAICA-accredited BCom degree and SAICA accredited training programme. AGA's operate in a broad range of varied work activities, most of which are complex and non-routine.

For more information on SAICA please visit the website at www.saica.co.za .

SAICA BOARD

In terms of the SAICA Constitution, the Board of SAICA shall comprise executive and non-executive members as well as Chartered Accountants (SA) and non-Chartered Accountants (SA).

The majority of non-executive Board members shall be independent. In reviewing independence of a Board member, King IV™ will be considered. In particular, King IV™ provides that a Board member can be determined to be independent if, when judged from the perspective of a reasonable and informed third party, the Board member has no interest, position, association or relationship which is likely to unduly influence or cause bias in decision-making in the best interests of the Institute; provided that membership of the Institute will not automatically result in a presumption of a lack of independence.

FORMAT OF APPLICATIONS/NOMINATIONS

Applications/nominations submitted should include the following:

- Completed application/nomination form, **together with an accompanying motivation for the position** (which should include the specific skills that the candidate will offer the Board) duly signed by the candidate as confirmation that they are willingly make themselves available for election as a candidate;
- Detailed curriculum vitae of the candidate (which should include a list of references and, if they are a SAICA Member, their SAICA membership number);

- A list of all potential conflicts of interest and a description as to how they will be safeguarded against; and
- A signed agreement to stand for election and allow the performance of probity checks.

Non-chartered accountants should indicate how their skills meet the specific skill requirements for designated non-chartered accountants as described below.

Applications/nominations for vacancies (together with a required documents listed above) should be sent to the Company Secretary of SAICA (at JacoS@saica.co.za), who will forward them to the chairman of the TNC. Nominations for vacancies will be considered by the TNC in the context of the criteria set out below and in Appendix B attached hereto. The TNC will compile a short-list of appropriate candidates and conduct interviews with short-listed candidates. After consultation with Council, the TNC will present a list of candidates for voting by members at a special general meeting to be held on XX XXX 2019

Please note that nominees who are shortlisted should tentatively diarise the morning of xx xxx 2019 for interviews. Interviews will only be confirmed with shortlisted nominees.

APPENDIX A OF THE ADVERTISEMENT

**EXTRACT FROM THE SAICA CONSTITUTION APPROVED ON 26 JUNE 2019
REQUIREMENTS FOR THE SAICA BOARD**

6	Board
6.1	The affairs of the Institute shall be governed by a Board.
6.1.1	The Board may determine the number of Board members at any time, subject to the proviso that the minimum number shall be eight (8) and the maximum number twelve (12), and that the composition of the Board will be diverse and will have an appropriate mix of race, gender and diversity.
6.1.2	The Board shall comprise a balance of executive and non-executive Board members, with a majority of the Board members being independent. Up to three (3) and not less than two (2) of the non-executive Board members shall be non-Chartered Accountants and shall be independent.
6.1.3	The President or his or her nominee shall be an ex-officio non-independent member of the Board.
6.1.4	The Board must appoint a Chief Executive Officer and approve his or her nominated senior executive to the Board as ex officio members.
6.1.5	Only individuals with sound ethical reputations and business or professional expertise, and who have sufficient time to effectively fulfil their role as Board Members, will be considered for appointment to the Board.
6.1.6	The Board must include sufficient members who understand the core skills of the accountancy profession as well as the future training needs of the profession.
6.1.7	The Board may fill casual vacancies up until the next AGM.
6.1.8	Board members shall be elected by the Members of the Institute. Board members appointed by the Board to fill a casual vacancy, retire at the first subsequent annual general meeting (“AGM”) unless they are elected at such Members’ meeting.
6.1.9	One-third of Board members, excluding the ex-officio members, must retire at each AGM provided that the Board member has served at least one year. The Board members who retire shall be those that have been the longest in office since their last election. Should there be more members than necessary who have been on the Board for an equal length of time, those to retire shall be chosen by lots.
6.1.10	Retiring Board members may be re-elected provided they are eligible. If at the date of the AGM, any Board member has held office for a period in excess of three years or longer since his or her last election or appointment, he or she shall retire at such AGM, either as one of the Board members who are subject to rotation or in addition thereto.
6.1.9	No Board member shall serve for a period longer than six years. Should a Board member be appointed to fill a vacancy or be appointed at a Special General Meeting (SGM) then the six years shall be determined from the first AGM subsequent to their appointment.
6.1.10	The roles and responsibilities of the Board shall be described in a Board Charter.
6.1.11	New Board members will be inducted prior to their first meeting. This shall be facilitated by the Secretary.

APPENDIX B OF THE ADVERTISEMENT

ELIGIBILITY OF NOMINEES FOR THE SAICA BOARD

All Nominees must meet the following eligibility criteria:

All candidates must be upstanding individuals who demonstrate the highest levels of integrity and be fanatical supporters of high ethical standards. This should be included in the motivation accompanying the application/nomination.

Individuals with material enduring conflicts of interest with the Institute or any of its direct or indirect subsidiaries that cannot be reasonably managed by the normal methods of declaration of interests and temporary recusal from meetings will not be considered for appointment. All details of potential conflict of interests should be included in the application.

In addition, candidates should possess some of the following knowledge, skills, experience and characteristics:

- Be strategic thinkers who are visionary and understand integrated thinking and the concept of value creation in the short, medium and long-term.
- Have a knowledge and understanding of the various capitals employed in an organisation to create value and how these need to be accumulated to implement strategy.
- Have a sound knowledge of King IV and suitable governance experience at a high level in an organisation of substance.
- Have a deep understanding of the essential or core skills and knowledge that underpins the accountancy profession.
- Have an understanding of due process and standard-setting.
- Have an understanding of the future education and training needs of the accountancy profession.
- Have an understanding of information technology and how it can be used to enhance strategy and operations and how IT risks can be mitigated.
- Have high level experience in monitoring performance of management and taking action where performance is below par
- Have a good understanding of Member and stakeholder engagement and demonstrable record of effective implementation of stakeholder engagement.
- Have a good understanding of governance in an NPO environment
- Have a sound knowledge of financial management, financial reporting and integrated reporting.
- Have a recognised legal qualification and experience of dealing with organisational or corporate law at a high level and be able to advise the Board on legal issues.

Chartered Accountants (SA)

Candidates must be SAICA Members in good standing.

Non - Chartered Accountants (SA)

Preferred candidates would possess a professional qualification and be Members in good standing of a professional institute.

The institute is seeking the following skills to enhance the Board from its non-Chartered Accountant candidates, either individually or collectively:

- An attorney or similar with related practical knowledge of the Accountancy Profession;
- An expert in digitisation and related issues; and
- An expert in disciplinary, integrity and ethics environments.

Schedule 4
Results of Questionnaire

QUESTIONNAIRE

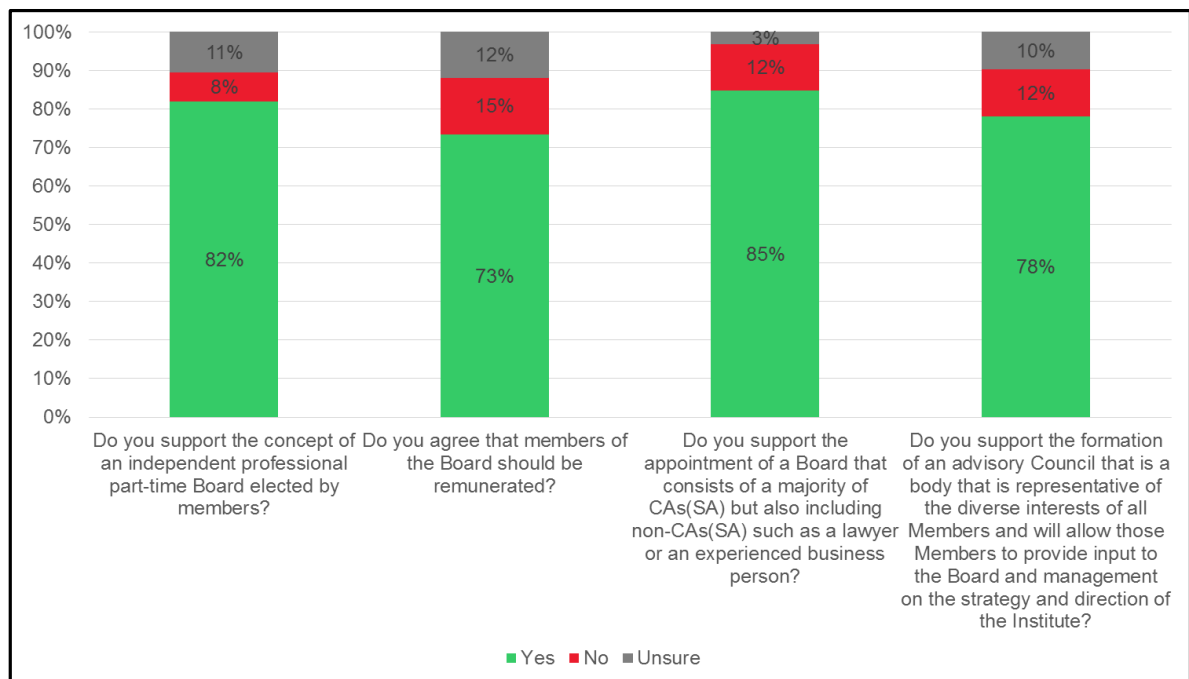
As part of the membership engagement process, GRTT composed and sent a questionnaire to Members to gauge their level of support for the proposed changes at a principle level.

The questionnaire included the following key questions:

1. Do you support the concept of an independent professional part-time Board elected by Members?
2. Do you agree that Members of the Board should be remunerated?
3. Do you support the appointment of a Board that consists of a **majority** of CAs(SA) but also including non-CAs(SA) such as a lawyer or an experienced business person?
4. Do you support the formation of an advisory Council that is a body that is representative of the diverse interests of all Members and will allow those Members to provide input to the Board and management on the strategy and direction of the Institute?
5. What role do you believe the Board should play with regards to the investigation and disciplinary processes?
6. Is there anything else you wish to bring the attention of the GRTT?

1941 responses were received (5% of Members), which is a very low response rate considering that there are over 44000 Members, however, the GRTT are led to believe that this was a better response than many other questionnaires sent out to Members.

The quantitative results to the first 4 questions are shown in figure 1 below:



The key sentiments of those who responded “no” or “unsure” are reported in the table below.

<p>Do you support the concept of an independent professional part-time Board elected by Members</p>
<ul style="list-style-type: none"> • A board cannot be part time as not enough focus will be given • Respondents feel that the current board structure is capable enough as it is. The view is that the problem is people based and not necessarily because of structure. What benefit will a new structure hold? • Not prepared to pay an extra fee. • Such a board could run the SAICA business very well, but might have shortcomings in strategic focus. The background and experience of such Members must be taken into consideration. • Some respondents are worried that an independent board will be representative of a minority group of Members. • There is nothing wrong with the existing governance structure. The issue is with disciplining Members.
<p>Do you agree that Members of the Board should be remunerated?</p>
<ul style="list-style-type: none"> • If Board members are remunerated it will compromise the independence of the Board. • SAICA is a Member organisation and its Members should be honoured to serve on the board free of charge. • Fees are already too high.
<p>Do you support the appointment of a Board that consists of a majority of CAs(SA) but also including non-CAs(SA) such as a lawyer or an experienced business person</p>
<ul style="list-style-type: none"> • SAICA is a Membership organization. A non CAs(SA) will not understand the needs of the profession. • Non CAs(SA) can always be consulted, but should not be on the board.
<p>Do you support the formation of an advisory Council that is a body that is representative of the diverse interests of all Members and will allow those Members to provide input to the Board and management on the strategy and direction of the Institute?</p>
<ul style="list-style-type: none"> • There are too many committees already. • The current board should fill this role. • Board already fulfil the role. • The Council would be ineffective. • The cost will drive fees up. • The Board should report to Members not to a Council.
<p>What role do you believe the Board should play with regards to the investigation and disciplinary processes</p>
<p>Responses varied widely from no role to an active role, however, the following sentiment was the most common view:</p>

"The Board should play a very active role with respect to the mentioned processes and give reassurance to the Members and the public that the investigations are actively being followed up and a final decision will be made in a timely manner. Also provide Members and the public with the final decision made as it will give comfort to Members and the public that matters are taken seriously. Name and shame the culprits to avoid further unethical behaviour."

Is there anything else you wish to bring the attention of the GRTT?

The following key themes emerged:

- Complaints regarding membership fees.
- Concern regarding ethics and discipline and the impact that errant Members have on the reputation of the profession.
- Members perceive the discipline function to be ineffective.
- Concern with SAICAs communication (both with Members and public).