

## **MEMORANDUM ON SAICA CONSTITUTIONAL REVIEW:**

### **1. EXECUTIVE SUMMARY:**

Following requests by Members, and an undertaking by the Board at the AGM on 28 May 2020, the Constitutional review initiative commenced on 1 June 2020 when Members were requested to provide suggestions to further enhance the SAICA Constitution.

Members were specifically requested to take the time to motivate their proposed amendments to the Constitution and send these to the Governance Division of SAICA by e-mail.

The email address was active from 1 June 2020 and closed on 31 July 2020. Following the consideration of comments received from Members and the SAICA legal team, amendments were made to the SAICA Constitution for review by the SAICA Management team as well as the SAICA Exco.

The proposed amendments were carefully reviewed by the Social Ethics and Transformation Committee of the Board, and based on its recommendations, the Board proposes the approval of the amendments to the Members with the following resolution being tabled at the upcoming AGM:

#### **Resolution:**

**“Resolved that the Constitution be amended in terms of Section 18 of the current Constitution as proposed in the circulated documents.”**

### **2. THE PROCESS FOLLOWED:**

The Constitutional review initiative commenced on 1 June 2020 when Members were requested to provide suggestions to further enhance the SAICA Constitution.

Members were specifically requested to take the time to motivate their proposed amendments to the Constitution and send these to the Governance Division of SAICA by e-mail.

The email address was active from 1 June 2020 and closed on 31 July 2020. Annexure A1 and A2 are the communications that were sent out to SAICA Members in June and July 2020.

Following the consideration of comments received from Members and Management, amendments were made to the SAICA Constitution for review by the SAICA Management team as well as the SAICA Exco.

Following much deliberation, the proposed amendments were tabled for consideration by the SETCO and the committee approved this at its meeting of 4 March 2021.

The External legal advisors of SAICA was requested to do a final legal review and their comments were incorporated.

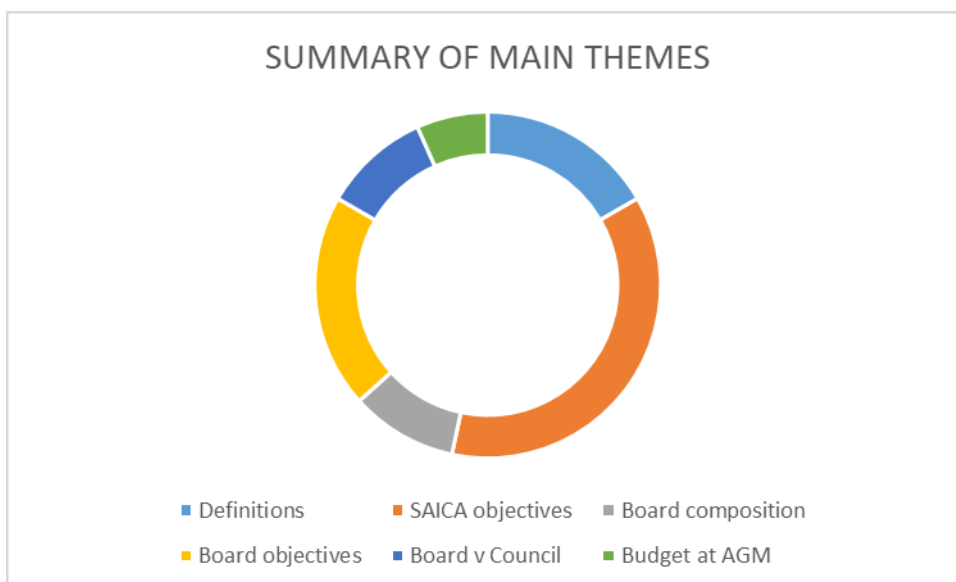
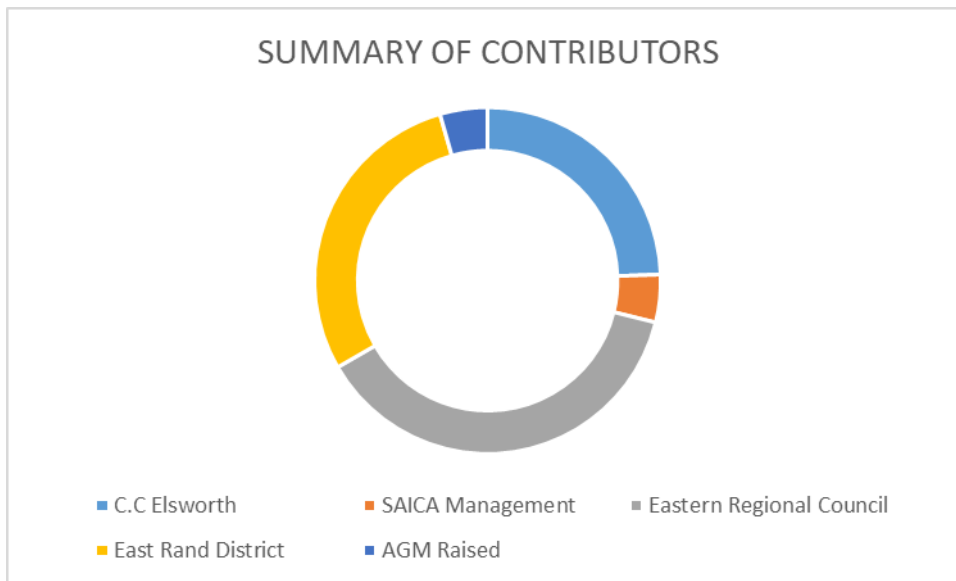
On 15 April 2021, the Board considered and expressed its support for the proposed amendments and referred the matter to the AGM for approval by the Members.

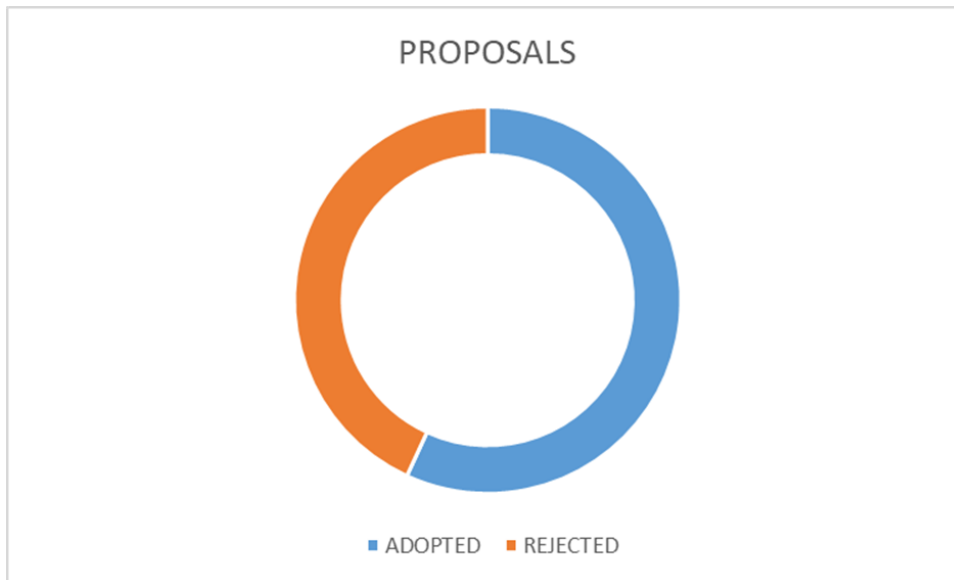


(Overview of the process.)

### 3. SUMMARY OF KEY ISSUES

SAICA did receive responses from Members on suggestions of what needs to be reviewed and amended in the Constitution and for convenience, the following summary is provided:





It should be clear from the above that the main contribution focus was with regard to SAICA's Objectives as set out in the Constitution. In this regard the comments that can be noted were the following:

- *The purpose and objects section feels empty focusing on the office or Secretariat, asserting that the Constitution is meant to be the most superior document. It was indicated that the Constitution should include the 'Principles and Values' of the profession – in essence 'What does the profession stand for?'*
- *There should be additional clauses around protecting the image and reputation of the profession which could be included.*
- *This clause deals with the object of SAICA. This clause seems to suggest that SAICA is an educational and marketing body rather than a body representing its members.*
- *SAICA is not a business and should not involve itself in providing any services to any party.*
- *SAICA should be transparent and answerable to Members.*
- *Objectives to be aligned to the United Nations Sustainable Development Goals and these should be incorporated into the constitution.*
- *'Transformation' seems vague. This could refer to transforming skills base or digital transformation and it needs to be clear that it relates to demographic diversity or socio-economic transformation. Clearer wording is required.*
- *SAICA is not in the business of recruitment. SAICA plays a developmental role in developing ethical Members. It is SAICA's Member firms that are training offices that undertake recruitment. It is suggested that this section be changed to include "development of".*

#### **4. DETAILED ACCOUNT FOR REVISIONS MADE**

For the sake of completeness, we have prepared **ANNEXURE A** which sets out all the amendments made and the reasons for such changes.

#### **5. CONCLUSION**

The amended Constitution (clean version) and a marked version which reflect the proposed amendments have been published with this memorandum for consideration by the Members.

We want to express our appreciation for the participation of Members and the valuable suggestions received.

## ANNEXURE A

Summary of amendments proposed.

Clause	Previous	Amended	Reasons
1.	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)	This is the Constitution of the voluntary membership not for profit association (registered under the Non-Profit Organisation Act, 71 of 1997 with registration no 020-050-NPO) known as THE SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS ("SAICA")	Amended to align to the legislation that regulates it.
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	"Associate" means a person who has satisfied the requirements for associateship pursuant to the By-laws and who has been admitted as an Associate of the Institute in a category defined in paragraph 5 of this Constitution and in the definition of "associates" in the By-Laws.	Amended to align to the By-Laws and in compliance with the process for admission as an Associate.
2.3	New clause	<p>"Examination Candidates" means those persons who register with the Institute for any of its professional examinations and who thereby agree to comply with the required Examination Regulations. These examinations are -</p> <p>for CA(SA)s, the Initial Test of Competence (ITC) and the Assessment of Professional Competence (APC);</p> <p>for AT(SA)s, the Test of Professional Competence (ToPC);</p>	This has been incorporated to cover the students who will sit for the admission examination for the designations held by the Institute. This being necessary so that the Code of Professional Conduct may be applicable to them as well as the SAICA disciplinary process.

2.15	"Good Standing" means, in relation to a Member	"Good Standing" means, in relation to a Member and an Associate:	This amendment was to ensure that all SAICA designations are recognized.
2.22	New clause	"Prospective members" means Examination Candidates and Trainee Accountants;	This amendment was necessary to ensure that all designations are covered.
2.23	"Profession" means the persons who are registered as Chartered Accountants, Associate General Accountants, Accounting Technicians and persons who are training to achieve those designations	"Profession" means the profession of accountancy represented by persons who are registered as Chartered Accountants or Associates;	The amendment was to streamline the definition.
2.29	"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	"Trainee Accountant" means a person who is in the permanent employ of a training office, as accredited by the Institute, and who is serving under the Institutes registered training contract and who thereby agrees to comply with the separately published Trainee Regulations; and	The amendment is to give clarity to what the Institutes recognizes as a trainee accountant.
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:	The principal purpose and object of the Institute is to promote the common interests of Members and Associates and the public interest by enhancing 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:	This amendment was to refine our principal purpose and object in a manner that will clearly articulate what the Institute's priorities and focus is directed accordingly. This also serves to guide the Board when determining the Institute's strategy.
4.1.1.1	New clause	The Institute shall promote and enforce compliance with the	This amendment was to align the Constitution

		<p>following fundamental principles as set out in the SAICA Code of Professional Conduct:</p> <p>Integrity;</p> <p>Objectivity;</p> <p>Professional competence and due care;</p> <p>Confidentiality;</p> <p>Professional behaviour.</p>	<p>with the Code of Professional Conduct, i.e. the fundamental principles.</p>
<b>4.1.1.2</b>	<p>In order to serve the public interest, and safeguard the values of the Profession, the Institute must, <i>inter alia</i> -</p>	<p>In order to serve its Members and Associates and the public interest, and to safeguard the fundamental principles and values of the Profession, the Institute should, <i>inter alia</i> -</p>	<p>This amendment is to articulate that the Institute's responsibility is equally to its Members, Associates and the public interest.</p>
<b>4.1.3.3</b>	<p>Set standards for the Profession</p>	<p>Deleted. No replacement clause.</p>	<p>It is read into the other objectives and does not need to be isolated.</p>
<b>4.1.4</b>	<p>To contribute to economic and social advancement of the Republic</p> <p>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, <i>inter alia</i> –</p> <p>4.1.4.1 design and implement programmes to assist in enhancing accounting and business skills in the public sector and for emerging business;</p> <p>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</p>	<p>To establish and conduct life-long learning programmes where appropriate.</p>	<p>The amendment is all encompassing.</p>

	<p>sector bodies on accountancy and business related issues;</p> <p>4.1.4.3 secure funding for the implementation of development programmes; and</p> <p>4.1.4.4 uphold, safeguard and advance the rule of law, administration of justice, the Constitution and the laws of the Republic.</p>		
<b>4.1.4.1</b>	strive to recruit highly ethical and competent trainees into the Profession	strive to attract and develop highly ethical and competent Trainee Accountants and Examination Candidates for the Profession;	Amended for clarity.



<b>4.1.4.2</b>	develop and implement competitive education and training programmes for new recruits which are in line with international standards and national needs;	develop and implement a high quality qualification process and related competency framework for Prospective Members which are in line with international standards and national needs;	This amendment was for benchmarking the Institute's qualification process and competency framework.
<b>4.1.5.3</b>	Identify the requirements for the advancement and transformation of the Profession in the Republic and internationally; and	Deleted. No replacement clause	It was deemed unnecessary.
<b>5.2</b>	Associates of the College of General Accountants are entitled to use the designation "Associate General Accountant (South Africa)" or "AGA(SA)"	Associate General Accountants are entitled to use the trademark registered designation "Associate General Accountant (South Africa)" or "AGA(SA)" and Associate Accounting Technicians are entitled to use the trademark registered designation "Accounting Technician" or AT(SA).	This is to clarify the basis upon which each designation is with the Institute.
<b>6.2.1.3</b>	the composition of the Board must be diverse and must have an appropriate mix of age, race, gender and diversity.	the composition of the Board must be diverse and must have an appropriate mix of age, race, gender and skills.	This is to specify the requirements to be considered when appointing Board Members.
<b>6.2.6</b>	The Board must include sufficient Members who understand the core skills of the Profession as well as the future training needs of the profession.	The Board must include a sufficient number of Members who have a reasonable understanding of the concept of professional status and a vision of the future competencies required of the profession.	Clearly articulate the caliber of persons to be appointed to the Board.
<b>6.3.1.1</b>	New insertion	promote the public interest;	As a responsible corporate citizen, the Institute acknowledges that it has a role to play in promoting the public interest.
<b>6.3.1.2</b>	New insertion	promotes the common interests of Members and Associates;	As a Member Institute, it acknowledges that it must promote the

			interest of its Members and Associates.
<b>18.2</b>	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 approval shall be by not less than three-fourths of the Members who are present in person or electronically or by proxy at a General Meeting of such Members;	
<b>18.4</b>	New clause	The amendments are subsequently submitted to the relevant regulatory authority.	This is in line with the legislative requirements imposed on the Institute.
<b>21</b>	Transitional arrangement	Deleted.	These arrangements are no longer relevant.