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**INSTITUTE OF CHARTERED ACCOUNTANTS OF BERMUDA
ACT 1973**

1973 : 93

**INSTITUTE OF CHARTERED ACCOUNTANTS OF BERMUDA
BY-LAWS 2006**

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The Institute of Chartered Accountants of Bermuda, in exercise of the powers conferred on it by section 7 of the Institute of Chartered Accountants of Bermuda Act 1973, makes the following By-Laws:

Citation

1 These By-Laws may be cited as the Institute of Chartered Accountants of Bermuda By-Laws 2006.

Interpretation

- 2 (1) In these by-laws, unless the context otherwise requires —
- “the Act” means The Institute of Chartered Accountants of Bermuda Act 1973 as amended from time to time;
 - “by-laws” means these by-laws as amended and in force from time to time;
 - “committee” means a committee appointed under the by-laws;
 - “corporate member” means a member of the Institute that is a company;
 - “Council’ means the Council of the Institute;
 - “Executive Committee” means the Executive Committee of the Institute;
 - “financial year” means the financial year of the Institute as adopted by the Council from time to time;
 - “firm” means a partnership;
 - “Institute” means the Institute of Chartered Accountants of Bermuda as established and constituted under the Act;

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“member” in the context of the Institute means a person who became a member of the Institute by operation of sections 2 and 12 of the Act or by admission in accordance with one of by-laws 5, 6, 7 and 11;

“office of the Institute” means the office of the Institute designated by the Council from time to time by resolution and by notice to members and students;

“profession” means the profession of chartered accountants in Bermuda and “professional” refers to that profession;

“provincial institute” means an institute or ordre of chartered accountants incorporated in any province or territory of Canada;

“public accountant” has the meaning given to it in the Act;

“public accounting” means services performed by a member which result in the member being a public accountant;

“rules” and “regulations” means the rules and regulations of the Institute from time to time in force;

“seal” means the seal of the Institute as adopted by the Council from time to time by resolution;

“secretary” means the person elected as secretary of the Institute pursuant to by-law 21(1); and

“student” means a student registered under the by-laws;

and words importing the singular number only include more persons, parties or things of the same kind than one, and the converse.

(2) Headings are not part of the by-laws and are included only to assist with reference.

Interpretation Bulletins

3 In addition to all its other powers the Council may by resolution publish interpretations for the information and guidance of members and students on matters relating to the by-laws, regulations and rules of professional conduct.

General

4 (1) Every member and student by making application for membership or registration and by continuance of membership or registration shall agree and shall be deemed to have agreed with the Institute and each of its members to the terms of the by-laws, rules and regulations of the Institute and all acts or things done thereunder.

(2) All rules and regulations shall be published and distributed to all members and students promptly after they are made.

(3) Members and students shall comply with the by-laws, rules and regulations of the Institute.

Membership

Admission of individual to membership

5 (1) The Council may admit as a member —

(a) any person who is a student who has met the requirements prescribed by by-law 61; or

(b) any person who is a member in good standing of a provincial institute/ordre, and has, in the opinion of the Council, attained a standard of education, training and experience equivalent to that required of students to become members; or

(c) any person who meets all of the following requirements —

(i) is a member in good standing of The Institute of Chartered Accountants of Scotland, The Institute of Chartered Accountants in England & Wales, The Institute of Chartered Accountants in Ireland or another body having objects similar to those of the Institute,

(ii) has complied with the recommendations of the International Qualifications Appraisal Board of the Canadian Institute of Chartered Accountants concerning admission to membership in provincial institutes (except recommendations with respect to satisfying provincial institute course and examination requirements, hereinafter referred to as “transition recommendations”),

(iii) has, in the opinion of the Council, attained a standard of education, training and experience equivalent to that required of students to become members, and

(iv) is resident in Bermuda.

(2) A person admitted to membership under paragraph (1)(c) shall cease to be a member if, in the opinion of the Council, he or she has ceased to be resident in Bermuda, provided always that his or her membership shall not terminate as aforesaid if prior to his or her ceasing

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to be so resident in Bermuda he or she has complied with the transition recommendations.

Admission of company to membership

6 (1) The Council may admit as a corporate member any company incorporated in and under the laws of Bermuda where —

- (a) a principal object of the company is to practise as a public accountant in accordance with the Act;
- (b) not less than sixty percent of the issued shares in the capital of the company are registered in the names of and beneficially owned by one or more individuals each of whom is a member in good standing of the Institute, and the remainder (if any) are registered in the names of and beneficially owned by one or more individuals each of whom is a member in good standing —
 - (i) of a provincial institute, the Institute of Chartered Accountants of Scotland, The Institute of Chartered Accountants in England and Wales, or The Institute of Chartered Accountants in Ireland, or
 - (ii) of another body having objects similar to those of the Institute and who has complied with the recommendations of the International Qualifications Appraisal Board of the Canadian Institute of Chartered Accountants concerning admission to membership in provincial institutes (except recommendations with respect to satisfying provincial institute course and examination requirements);
- (c) every director of the company is an individual who is a member in good standing of the Institute; and
- (d) none but directors of the company have authority to issue on behalf of the company, in the course of services performed by the company in its practice as a public accountant, an opinion, report or certificate concerning any financial or accounting statement where a purpose in performing such services is to enhance the credibility of such a statement.

(2) Application for admission as a corporate member shall be made in a form prescribed by the Council, and shall include a declaration in writing by two directors of the applicant company that the conditions set out in paragraph (1) are satisfied by the company.

(3) A corporate member shall enjoy all the rights and privileges, and be subject to all the obligations, of members of the Institute except that —

- (a) a corporate member shall not be eligible for election to the Council or to an office;
- (b) a corporate member shall not be eligible for appointment to a nominating committee, a practice inspection committee, a professional conduct committee, a discipline committee, an appeal committee or any other standing or ad hoc committee of the institute, or as a scrutineer or a proxy; and
- (c) a corporate member shall not be entitled to vote on any matter which may come before a general meeting of the Institute, or which is the subject of a ballot taken by mail or electronic means, except a resolution to make, amend or repeal a by-law, or a rule of professional conduct, in a manner which will affect differently the rights, privileges or obligations of corporate members and of individual members and no such resolution shall be deemed passed unless passed by a majority of the votes of both corporate members and individual members voting thereon.

Re-admission of former member to membership

7 (1) A former member may apply for re-admission as a member provided such former member —

- (a) is not in default of payment of any monies payable to the Institute or a provincial institute;
- (b) has complied with every requirement in any order or orders made in respect of him or her under one or both of by-laws 73 and 75, or an equivalent order made under the by-laws of a provincial institute completed any outstanding continuing professional development under by law 60; and
- (c) satisfies at least one of the following requirements, that is to say —
 - (i) previously became a member by virtue of sections 2 and 12 of the Act,
 - (ii) was previously admitted as a member by virtue of by-law 5(1)(a),
 - (iii) was previously admitted as a member by virtue of by-law 5(1)(b),

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- (iv) was previously admitted a member by virtue of by-law 5(1)(c) or by-law 11 and —
 - (aa) is resident in Bermuda, or
 - (bb) has satisfied the course and examination requirements in Canadian taxation, law, the CICA (Handbook and the rules of professional conduct relating to membership in a provincial institute, or
- (v) was previously admitted as a member by virtue of by-law 6(1).

(2) Where a former member is precluded by sub-paragraph (1)(b) from applying for re-admission as a member, the Council shall have power, in addition to all its other powers —

- (a) where the time has expired which was fixed for compliance with an order or part thereof described in that sub-clause, to fix a new time for compliance, and
- (b) where compliance with a requirement is otherwise impractical or impossible, to substitute another requirement which in its opinion is a reasonable alternative,

each of which shall thereafter stand in place of that fixed in the order or orders for the purpose of affording such former member the opportunity of satisfying the requirements of sub-paragraph 1(b).

(3) An application for re-admission as a member shall be in the form prescribed by the Council, and shall include —

- (a) a declaration that the requirements of subparagraphs (1)(a) and (b) have been satisfied;
- (b) a statement as to which of the requirements of subparagraph 1(c) is satisfied;
- (c) a declaration in writing by the applicant, or in the case of a corporate member by each of two directors of the applicant, that, to the best of such applicant's or director's knowledge and belief, since the applicant's termination of, or resignation or expulsion from, membership the applicant has not engaged in conduct, other than as specifically described in the declaration, which, if engaged in by a member, could reasonably be considered a violation of the rules of professional conduct; and

- (d) a declaration as to whether the applicant has been a member in good standing of a provincial institute or another body having objects similar to those of the Institute, and if affirmative, then stating —
 - (i) the name and place of incorporation of such provincial institute or body;
 - (ii) the date and manner of cessation of such membership, if any; and
 - (iii) whether the applicant has complied with every requirement in any order or orders made in respect of the applicant by such provincial institute or other body.
- (4) The Council may investigate any application for re-admission as a member, and shall do so —
 - (a) where the applicant was expelled from membership in the Institute under the terms of an order of a discipline committee pursuant to by-law 73 or of an appeal committee pursuant to by-law 75, or the applicant's membership was terminated pursuant to by-laws 50 and 64;
 - (b) where the declaration furnished pursuant to subparagraph (3)(c) describes conduct in which the applicant has engaged which, if engaged in by a member, could reasonably be considered a violation of the rules of professional conduct;
 - (c) where a complaint has been made about the applicant's professional conduct during the time that he or she was a member, in respect of which proceedings were not completed because the complaint was made after the applicant's termination of, or resignation or expulsion from, membership in the Institute;
 - (d) where an objection has been raised to re-admission of the applicant to membership on grounds of the applicant's conduct since the applicant's termination of, or resignation or expulsion from, membership;
 - (e) where the applicant has not held membership in good standing, within five years of the date of application for re-admission, in the Institute, a provincial institute, The Institute of Chartered Accountants of Scotland, The Institute of Chartered Accountants in England and Wales, The Institute of Chartered Accountants in

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Ireland, or another body having objects similar to those of the Institute; or

- (f) where the declaration furnished pursuant to subparagraph 3(d) is affirmative,

and the Council shall have power, in addition to all its other powers, to appoint a committee of one or more members of the Institute to conduct or assist in conducting an investigation and to report, all in such manner as the Council shall prescribe.

(5) In considering an application for re-admission as a member the Council shall have regard to such circumstances as it may deem appropriate, which may include —

- (a) the information contemplated in paragraphs (3) and (4); and
(b) its opinion as to whether the applicant is competent to carry on the practice of public accounting.

(6) After its deliberations pursuant to paragraph (5) the Council may, subject to the provisions of paragraph (7) —

- (a) re-admit the applicant as a member;
(b) defer further action on the application pending fulfilment by the applicant of such requirements as it may deem appropriate; or
(c) reject the application.

(7) If the Council finds, upon its investigation pursuant to paragraph (4), that the application contains information which the applicant or the directors of the applicant knew, or should have known, was false or misleading, it shall reject the application for re-admission.

(8) Where a former member is re-admitted as a member having satisfied the requirements of sub-paragraph (1)(c) solely in terms of subparagraph (iv)(aa), then by-law 5(2) or by-law 11(2), as the case may be, shall be deemed to apply to that member.

Resignation from membership

8 (1) A member may present to the Executive Committee a written application to resign from membership in the Institute, provided that such an application may not be presented except with the express leave of the Executive Committee where there exists any of the following circumstances, that is to say —

- (a) the practice of the member, the member's employer, a firm of which the member is a partner, or a corporate

- member of which the member is a director or member, is the subject of a practice inspection;
- (b) the professional conduct of the member, the member's employer, or a corporate member of which the member is a director or member, is —
- (i) the subject of a preliminary investigation or of charges by the Executive Committee or a professional conduct committee; or
 - (ii) the subject of an investigation or of charges by the Executive Committee or a professional conduct committee;
- (c) the member, or a corporate member of which the member is a director or member, has not fully complied with an order of a discipline committee or an appeal committee; or
- (d) the member, or a corporate member of which the member is a director or member, is in default of payment of any monies payable to the Institute.
- (2) The Executive Committee may impose conditions which must be satisfied before an application to resign is accepted.
- (3) A resignation shall take effect on the day set by the Executive Committee.

Certificate of membership

9 Every member shall be entitled to receive a certificate of membership which shall be in such form as the Council may from time to time determine, and the member shall, while a member of the Institute, be entitled to hold the said certificate. Such certificate shall be the property of the Institute and in the event of cessation of membership for any reason other than death of an individual member shall be recoverable on demand and shall be returned to the Institute. The Council may on application and in its sole discretion return the certificate to the original holder. In the event a member is suspended the member's certificate shall be returned to the secretary immediately to be retained by the secretary during the period of suspension.

Former member has no interest in or claim against property

10 If a member dies or is wound up, or during the member's lifetime or corporate existence ceases to be a member of the Institute, the member shall not, nor shall the member's representatives, have any interest in or claim against the funds or property of the Institute in respect of the member's membership.

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Special provision for admission of individual to membership

11 (1) The Council may admit as a member a person who on the first day of June 1973 —

- (a) had Bermudian status;
- (b) was a member or registered student of a body which was —
 - (i) the society or other association of Certified Public Accountants of a state of the United States of America,
 - (ii) the Association of Certified Accountants of the United Kingdom, or
 - (iii) the Certified General Accountants Association of a province of Canada;
- (c) satisfies the Council that he or she has obtained training and practical experience in public accounting comparable to that prescribed for a student;
- (d) satisfies the Council that he or she has taken the course of instruction and passed the final examinations of such body;
- (e) satisfies the Council that he or she has had practical experience in diversified auditing work comparable to that prescribed for a student, in the employment and under the supervision of a public accountant or a practicing accountant outside Bermuda acceptable to the Council, and
- (f) satisfies the Council that he or she is resident in Bermuda.

(2) A person admitted to membership under this by-law 11 shall cease to be a member if, in the opinion of Council, he or she has ceased to be resident in Bermuda, provided always that his or her membership shall not terminate as aforesaid if prior to his or her ceasing to be resident in Bermuda he or she has satisfied the course and examination requirements in Canadian taxation law, the CICA Handbook and the rules of professional conduct relating to membership in a provincial institute.

Admission to Fellowship

12 (1) Where any member in good standing has, in the opinion of the Council, rendered outstanding service to the profession or brought distinction to the profession, the Council may, by an affirmative vote of

two thirds of all its members, admit that member a Fellow of the Institute.

(2) The power conferred on the Council in paragraph (1) includes the power to admit a Fellow posthumously.

Bankruptcy of a member

13 (1) It is a condition of membership in the Institute that a member who —

- (a) becomes bankrupt by reason of making an assignment in bankruptcy or of being declared bankrupt by a Court of competent jurisdiction; or
- (b) takes the benefit of any statutory provision for insolvent debtors,

shall *ipso facto* be suspended until such member is reinstated in accordance with the provisions of this by-law.

(2) A member who becomes bankrupt or takes the benefit of any statutory provision as aforesaid —

- (a) shall notify the secretary in writing not later than fifteen days after the event; and
- (b) may apply to the Council to be reinstated.

(3) Any application under paragraph (2)(b) shall be investigated by the Council and, after such investigation, the Council may, subject to other provisions of the by-laws, approve or reject the application.

(4) A student or membership candidate who becomes bankrupt or takes the benefit of any statutory provision as aforesaid shall notify the secretary in writing not later than fifteen days after the event.

Mental incompetence of a member

14 (1) A member is suspended *ipso facto* upon being —

- (a) declared by a Court to be a mentally incompetent person;
- (b) otherwise found in law to be incapable of managing his or her affairs through mental infirmity;
- (c) certified in law to be incompetent to manage his or her estate;
- (d) found on account of insanity unfit to stand trial on a criminal or similar offence; or
- (e) determined to be not guilty of a criminal or similar offence by reason of insanity.

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(2) A member who becomes aware that another member has been or become suspended pursuant to paragraph (1) shall report that fact to the secretary not later than fifteen days after becoming so aware.

(3) A member who has been suspended pursuant to paragraph (1) may apply to the Council to be reinstated.

(4) Any application under paragraph (3) shall be investigated by the Council and, after such investigation, the Council may, subject to the other provisions of the by-laws, approve or reject the application.

(5) A member who becomes aware that a student or an applicant for admission or re-admission to membership has been —

- (a) declared by a Court to be a mentally incompetent person,
- (b) otherwise found in law to be incapable of managing his or her affairs through mental infirmity,
- (c) certified in law to be incompetent to manage his or her estate,
- (d) found on account of insanity unfit to stand trial on a criminal or similar offence, or
- (e) determined to be not guilty of a criminal or similar offence by reason of insanity,

shall report that fact to the secretary not later than fifteen days after becoming so aware.

Corporate member

15 (1) Every corporate member is required to ensure at all times that —

- (a) a principal object of the company is to practise as a public accountant in accordance with the Act;
- (b) not less than sixty percent of the issued shares in the capital of the company are registered in the names of and beneficially owned by one or more individuals each of whom is a member of the Institute, and the remainder (if any) are registered in the names of and beneficially owned by one or more individuals each of whom is a member —
 - (i) of a provincial institute, the Institute of Chartered Accountants of Scotland, The Institute of Chartered Accountants in England and Wales, or The Institute of Chartered Accountants in Ireland, or

- (ii) of another body having objects similar to those of the Institute and who has complied with the recommendations of the International Qualifications Appraisal Board of the Canadian Institute of Chartered Accountants concerning admission to membership in provincial institutes (except recommendations with respect to satisfying provincial institute course and examination requirements);
 - (c) every director of the company is an individual who is a member in good standing of the Institute; and
 - (d) none but directors of the company have authority to issue on behalf of the company, in the course of services performed by the company in its practice as a public accountant, an opinion, report or certificate concerning any financial or accounting statement where a purpose in performing such services is to enhance the credibility of such a statement.
- (2) Every corporate member shall ensure that not later than one month after a date (hereafter in this paragraph called 'due date') upon which the annual membership fee for such corporate member becomes due and payable, two directors of such corporate member —
- (a) declare in writing to the Executive Committee, in a form prescribed by the Council, each to the best of his or her knowledge and belief, whether such corporate member has complied with each of the requirements set out in paragraph (1) throughout the period beginning on the due date next preceding such due date and ending on the date of declaration; and
 - (b) provide particulars therein of any failure of such corporate member so to comply.
- (3) Where a corporate member has not complied with the requirements of paragraph (2), the Executive Committee may order any two or more directors of such corporate member to make the declarations and provide the particulars therein described and may fix a date or dates by which such declarations and particulars are to be delivered to the secretary.

False or misleading application

16 Where any information provided to the Institute in connection with an application for admission or re-admission as a member, or an application for registration or re-registration as a student is found by the

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Council or the Executive Committee as the case may be false or misleading —

- (a) such admission or re-admission may be revoked by the Council; and
- (b) such registration or re-registration may be revoked by the Executive Committee,

without derogating from any other action which may be taken pursuant to by-laws 69 through 79.

Suspension of a member

17 (1) Where the Executive Committee, a discipline committee or an appeal committee makes an order that a member be suspended, or where a member is suspended by virtue of by-laws 13(1), 14(1), 50 or 64, the member shall not during the period of suspension exercise the right to hold himself, herself or itself out as, or practise, as a public accountant.

(2) Further, where such an order so provides, the member shall not during the period of suspension —

- (a) exercise the right to use the designation “Chartered Accountant” nor the initials “C.A.”, “A.C.A.” or “F.C.A” after the name of the member;
- (b) exercise such other rights and privileges of membership as are specified in the order; or
- (c) be subject to such obligations of membership as are specified in the order.

(3) A suspended member remains a member of the Institute subject to the by-laws.

Council, Nominating Committee, Officers, Auditor

Council

18 (1) The affairs of the Institute shall be managed and conducted by a Council consisting of —

- (a) eleven members elected at the annual general meeting or elected to fill vacancies in accordance with the by-laws (hereinafter called ‘elected members’), of whom not less than eight shall have Bermudian status; and
- (b) one member appointed by the Canadian Institute of Chartered Accountants to represent that body.

(2) The representative of the Canadian Institute of Chartered Accountants shall be a member ex officio of the Institute, without fee.

(3) Any member of Council may submit his or her resignation to the Council and his or her membership of Council shall terminate on the day set for such termination by the Council.

(4) The Council may, by resolution having the affirmative votes of eight of its members, remove a member from his or her place on the Council.

(5) Any vacancy which occurs among the elected members of the Council by death, resignation or otherwise in the interval between annual general meetings shall be filled by the election of a member by the Council.

(6) No member, other than the member described in paragraph (2), may serve more than six successive terms on the Council.

(7) The members of the Council shall serve without remuneration.

Nominating Committee, nominations

19 (1) The Executive Committee shall appoint annually from among the past presidents of the Institute, whom failing then from among other members of the Institute, a nominating committee of three.

(2) The nominating committee shall before the end of the financial year report to the Council the names of eleven members whom it nominates for election to the Council at the next annual general meeting, of whom not less than eight shall have Bermudian status.

(3) The secretary shall within a reasonable time thereafter send to every member a copy of the report of the nominating committee, together with notice of the date by which further nominations, if any, should be lodged with the secretary.

(4) Any other nomination of a candidate for election to the Council as an elected member shall be in writing signed by two members, shall have the written assent of the nominee appended thereto and shall be lodged with the secretary not less than twenty-eight days before the annual general meeting.

(5) The nominating committee shall also present to the Council the names of four members whom it nominates for election by the Council as chair, vice-chair, secretary and treasurer respectively, following the next annual general meeting and the Council shall entertain those nominations.

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Election of the Council

20 (1) Election of the elected members of the Council pursuant to by-law 18(1) shall be by ballot.

(2) Any ballot containing more or less than eleven votes shall be null and void.

(3) The chairman of the annual general meeting shall appoint two or more scrutineers from among the members who are not candidates.

(4) The scrutineers shall count the votes cast by the ballots and prepare, sign and deliver to the chairman of the annual general meeting a certificate of the names of the eight candidates who have Bermudian status receiving the highest number of votes, and the names of the three candidates among those remaining receiving the highest number of votes.

(5) Any tie shall be broken by lot drawn privately by the scrutineers.

(6) The chairman shall declare to the annual general meeting that the candidates named in the scrutineers' certificate have been elected to the Council with effect from the termination of the meeting, but the officers of the Institute shall notwithstanding continue to act until their successors are elected.

(7) The ballots and other evidence of the number of votes cast for each candidate shall be destroyed by the scrutineers immediately following the annual general meeting.

(8) Where scrutineers cannot be appointed in accordance with the provisions of this by-law, the chairman and secretary of the meeting shall act as scrutineers.

Election of officers

21 (1) Immediately after every annual general meeting of the Institute, the Council shall meet and shall elect a chair, a vice-chair, a secretary and a treasurer from among the elected members.

(2) From time to time the Council may appoint such other officers and agents for such duties and purposes as the Council may from time to time prescribe.

(3) Subject to by-law 27(d), the officers shall serve without remuneration.

Meetings of the Council

22 (1) Other meetings of the Council shall be held at least four times in each financial year at such times and places in Bermuda as the

chair shall determine and reasonable notice shall be given to all members of the Council of such meetings.

(2) At any meeting of the Council six members present shall constitute a quorum, provided that a majority of those present have Bermudian status.

(3) Every member of the Council present at a meeting of the Council shall have one vote, provided that the member appointed by the Canadian Institute of Chartered Accountants shall not be entitled to vote on a matter which, in the opinion of the chair affects professional practice in Bermuda.

The chair

23 (1) The chair shall preside at all meetings of the Institute, the Council and the Executive Committee.

(2) In the absence of the chair, or at his or her request, the vice-chair shall act as chair.

(3) At any meeting of the Institute, the Council or the Executive Committee where neither the chair nor the vice-chair is in attendance, those present at the meeting, provided they constitute a quorum under these by-laws, may by resolution appoint any other elected member of the Council to act as chair of the meeting.

The secretary

24 (1) The secretary shall be responsible for the keeping of the records and papers of the Institute and for the performance of all secretarial duties in the Institute and shall perform such other duties as the Council and the Executive Committee may direct.

(2) If the office of the secretary is vacant or if the secretary is absent or is unable for any other reason to perform his or her duties, the chair shall appoint in writing some other member of the Council to act as secretary *pro tempore*.

(3) The secretary shall keep a register of the members and students of the Institute in a form prescribed by the Executive Committee, in which shall be recorded the full name of every member with the date of his, her or its admission to membership and the date (if any) of his or her admission to Fellowship in the Institute, and the full name of every registered student with the date of his or her registration.

The treasurer

25 The treasurer shall be responsible for the receipt, custody and disbursement of the funds and the property of the Institute, the keeping of accounts and the preparation of financial statements and shall

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perform such other duties as the Council and the Executive Committee may direct.

Appointment of auditor

26 At the annual general meeting of the Institute, a member other than a member of the outgoing or incoming Council shall be appointed auditor to hold office until the termination of the next annual general meeting at a fee to be determined by the Council.

President and Chief Executive Officer

27 Without in any way limiting the generality of by-law 21(2), the Executive Committee may by resolution appoint a President and Chief Executive Officer of the Institute and the following provisions shall apply to any such appointment —

- (a) The President and Chief Executive Officer may be, but need not be, a member;
- (b) The President and Chief Executive Officer shall be an officer of the Institute;
- (c) The Executive Committee shall from time to time by resolution prescribe the duties of the office of the President and Chief Executive Officer and the rights and privileges appertaining to that office; and
- (d) Notwithstanding by-law 21(3), the Executive Committee shall from time to time by resolution determine the remuneration to be paid to the President and Chief Executive Officer and other terms of his or her employment.

Executive Committee

Executive Committee

28 There shall be an Executive Committee consisting of the elected members of the Council.

Functions

29 Subject to these by-laws and the direction of the Council, the Executive Committee shall exercise general supervision and control over the business and affairs of the Institute and shall perform such other duties as the Council may from time to time require.

Meeting of executive committee

30 (1) The Executive Committee shall meet at least four times in each financial year at such times and places in Bermuda as the chair

shall determine and reasonable notice shall be given to all members of the Executive Committee of such meetings;

(2) At any meeting of the Executive Committee four members present shall constitute a quorum, provided that a majority of those present have Bermudian status; and

(3) Every member of the Executive Committee shall have one vote.

Role of council

31 Any matter by these by-laws made the responsibility or prerogative of the Executive Committee may be dealt with by the Council, but the Executive Committee shall have power to vary or repeal any decision taken by the Council pursuant to this by-law as if it were a decision taken by the Executive Committee.

Meetings

Procedure at meetings

32 Subject to the by-laws, the procedure at all meetings in connection with the affairs of the Institute shall be governed by the rulings of the chair.

Notice

33 (1) Subject to by-law 87(27), any notice from the Institute to a member or student under these by-laws shall be deemed to have been duly given when sent by prepaid first class mail to an address in Bermuda or by prepaid first class airmail to an address outside Bermuda, addressed to the intended recipient at such address as appears in the records of the Institute or at the last address known to the secretary, and such notice shall be deemed to have been received by the member or student ten calendar days thereafter.

(2) Notwithstanding paragraph (1), any notice from the Institute to a member or student under these by-laws may be given orally or in writing in person, or by telephone or other electronic means, and shall be deemed to have been received when so given.

(3) The Executive Committee may from time to time determine in its sole discretion the manner of giving any notice under these by-laws and what the "reasonable notice" required under these by-laws should be in the circumstances and may declare that any notice already given has been properly and reasonably given.

(4) The certificate of the secretary, or of another officer appointed by the Executive Committee, shall be conclusive evidence of the due giving of any such notice.

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(5) The non-receipt of any notice under these by-laws shall not invalidate such notice or any meeting, or any resolution, proceeding or action at any meeting.

(6) Any notice or notification to the Institute, the Council, the Executive Committee or the secretary or any request for permission, approval, consent or waiver shall be deemed to have been duly given or made when received in writing on paper at the office of the Institute signed by the giver and addressed to the secretary.

Annual General meetings

34 (1) The annual general meeting of the Institute for the election of the Council, the appointment of an auditor and the transaction of such other business as may properly be brought before the meeting shall be held within four months after the end of each financial year at such time and place in Bermuda as the Executive Committee may determine.

(2) Not less than fourteen days before the date of the annual general meeting, notice shall be given to each member, together with the names of members nominated for election to the Council, a copy of the agenda for the meeting, the report (if any) of the chair and the Council, and the annual financial statements and the report of the auditor thereon.

Other general meetings

35 Other general meetings of the Institute shall be held after resolution of the Executive Committee, or after a requisition delivered to the secretary signed by fifteen or more members, or on the order of the chair, for such purposes or for the transaction of such business as may be specified in the resolution, requisition or order, and not less than fourteen days before the date of such a general meeting, notice shall be given to each member.

Adjournment

36 Any general meeting of the Institute may be adjourned from time to time by resolution passed by a majority of the members present but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Quorum and Voting

37 (1) At any general meeting of the Institute fifteen individual members present in person shall constitute a quorum;

(2) Subject to by-law 6(3)(c), every member present in person or by proxy shall have one vote;

(3) Voting shall be by show of hands unless three or more members present require a vote by ballot.; and

(4) If a vote by ballot is required the chair shall appoint scrutineers to take the vote.

Proxy

38 (1) Where a member is absent from Bermuda when a general meeting of the Institute is held, the member may appoint an individual member proxy to represent and to vote for the member at the general meeting, and the document of appointment shall be deposited with the secretary of the meeting before the commencement of the meeting.

(2) An appointment of a proxy shall include a declaration that the appointer is absent from Bermuda when a general meeting is held or during a certain period of time.

(3) Notwithstanding paragraphs (1) and (2), a corporate member shall be entitled to appoint an individual member proxy to represent it at a general meeting and to vote for it on any matter on which as a corporate member it is entitled to vote, and the document of appointment shall be deposited with the secretary of the meeting before the commencement of the meeting.

Postal ballots

39 (1) The Executive Committee may refer any matter to the members in writing by mail or by electronic means and determine the matter by a ballot taken by mail or by electronic means, and any such ballot shall be of the same effect as a ballot taken at a general meeting.

(2) There shall be allowed at least —

(a) in the case of mail, twenty-one days; and

(b) in the case of electronic means, fourteen days

between sending the ballot papers and closing the ballot.

(3) Ballot papers shall be sent in the manner prescribed in by-law 33 for giving notices.

(4) If a requisition delivered under by-law 35 proposes that the matter which is the subject of a ballot be referred to a general meeting, the ballot shall be abandoned and, in the discretion of the chair of the meeting —

(a) the meeting may deal with the matter as if no ballot had been proposed; or

(b) a new ballot may be taken which shall not be subject to the provisions of this by-law 39(4).

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Committees

Appointment of committees

40 (1) The Executive Committee may from time to time appoint such committees as it deems necessary or desirable and prescribe their powers and duties.

(2) Except where otherwise specially provided, meetings of committees shall be held as their respective chairman shall from time to time determine, on reasonable notice, at such times and places or by means of such telephone, electronic or other communication facilities as will permit all persons participating in the meeting to communicate with each other.

(3) Except where otherwise specially provided and provided that the number of members of the committee is two or more at any meeting of a committee two members present shall constitute a quorum.

(4) Every member of a committee present shall have one vote.

(5) All committees of the Institute shall be subject to the authority of the Executive Committee in connection with the affairs of the Institute.

Practice inspection committee

41 (1) The Executive Committee shall from time to time —

(a) authorize a mandatory programme of practice inspection as to the maintenance of proper professional standards by members engaged in the full-time or part-time practice of public accounting in Bermuda as such standards relate to the performance of accounting and auditing services;

(b) appoint from amongst the members of the Institute a practice inspection committee of not fewer than five nor more than six members; and

(c) prescribe the procedures to be followed by the practice inspection committee in carrying out its duties under the by-laws, and such prescription may include instruction to the effect that the services of a practice inspector or practice inspectors from a provincial institute shall be retained by the committee to carry out the inspections of the several practices and report to the committee without separately identifying to the committee the identities of the practices.

(2) The practice inspection committee shall —

- (a) review the procedures prescribed in accordance with sub-paragraph (1)(c) and recommend desirable changes to the Executive Committee;
 - (b) carry out the prescribed procedures;
 - (c) cause a report to be made to every member whose practice has been inspected, or to the member's firm, concerning any desired improvement in the standards of practice of public accounting of the member or firm as such standards relate to the performance of accounting and auditing services; and
 - (d) cause recommendations to be made to the Executive Committee upon the matters contemplated by by-law 64.
- (3) The practice inspection committee shall have power to —
- (a) require the cooperation of any member or student and the production of any books, documents and working or other papers in such member's or student's possession, custody or control which are directly relevant to the work of the committee; and
 - (b) retain the services of any person or persons on a fee basis or otherwise to assist with the programme of practice inspection, which services may include but are not limited to interviewing members and students and examining working paper files, books, documents and other material that are directly relevant to the work of the committee.
- (4) The practice inspection committee and every member thereof and any person whose services are retained by it pursuant to the provisions of paragraph 3(b) and any employee of any of them shall maintain the confidentiality of —
- (a) all practice inspection reports and files;
 - (b) all working paper files, books, documents and other material; and
 - (c) the affairs of any member and student and any client of any member.
- (5) Subject to the provisions of paragraph (2)(d), no matter arising out of a practice inspection shall be disclosed or brought to the attention of the Executive Committee, provided that such a matter may be reported to the Executive Committee where, as a result of an inspection, the practice inspection committee or a person retained by it pursuant to paragraph (3)(b) is of the opinion that any failure to maintain professional standards is sufficiently serious to reflect

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adversely upon the professional competence, reputation or integrity of a member or student.

Indemnification

Indemnification

42 (1) Every person when acting in his or her capacity as —

- (a) a member of the Council or the Executive Committee;
- (b) an officer of the Institute; or
- (c) a member of a committee of the Institute,

and any employee or agent of the Institute shall, out of the funds of the Institute, be indemnified and saved harmless

- (d) from and against any liability such person may suffer or incur arising out of the normal operation of the Institute, or out of any duty or responsibility under these by-laws, or out of any undertaking or assignment authorized by the Council or the Executive Committee, and

- (e) for all costs, charges and expenses which he or she may suffer or incur in or about the defence of any claim, action, suit or proceeding alleging such liability;

provided such liability, costs, charges and expenses are suffered or incurred without his or her own fraud or dishonesty.

Reimbursement of expenses

43 The Executive Committee may authorize reimbursement to be made to any member for authorized expenditures incurred on behalf of the Institute including, without limiting the generality of the foregoing, stationery, long distance telephone calls, fax, postage and travel.

Fees

Prescription of fees

44 Every member and student, and every applicant for admission or re-admission as a member and for registration or re-registration as a student, shall pay such fees as are prescribed by the Executive Committee from time to time.

Admission or re-admission fee

45 (1) Every person admitted or re-admitted as a member shall thereupon pay such admission fee as the Executive Committee may by resolution determine.

(2) Where a person who has ceased to be a member by virtue of by-law 5(2) or by-law 11(2) is re-admitted as a member within five years, he or she shall pay no admission fee on re-admission.

Classes of membership

46 (1) For purposes of this by-law there shall be such classes of membership as the Executive Committee may from time to time determine

(2) Subject to paragraph (4), the annual membership fee for each class of members, and any special assessments of fees pursuant to paragraph (3), shall be fixed or levied in such amounts, and shall be payable at such times, in respect of such membership period, and in such manner, as the Executive Committee may from time to time determine.

(3) From time to time there may, subject to the provisions of by-law 45(2), be levied on the members or on any class of members such special assessment of fees for such purposes as the Executive Committee may determine.

(4) The annual membership fee payable by each member shall be the sum of the annual membership fee fixed pursuant to paragraph (1)(b) and the annual amount payable by the Institute to the Canadian Institute of Chartered Accountants in respect of such member.

(5) Where a member is a public accountant and neither the member nor any partner or former partner of the member was a public accountant at any time more than three years before the member's annual membership fee becomes due and payable, the annual membership fee for that member, as prescribed in paragraph (2), and any member who is an employee in such member's practice, shall be reduced by one half.

(6) A person admitted or re-admitted to membership in any membership period shall pay the appropriate portion of the annual membership fee determined pro-rata for the remainder of the membership period.

(7) A member who during a membership period changes from one classification of membership to another for which a higher fee is prescribed, shall thereupon pay an additional fee equal to the difference between the fees prescribed for the two classifications, determined pro rata for the remainder of that membership period.

(8) An individual member shall be exempt from the payment of annual fees and special assessments if the member has attained the age of sixty-five years and is retired and not in regular, daily, gainful occupation on the date upon which any fees and special assessments become payable.

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(9) A member engaged in the practice of public accounting shall pay a fee in respect of any inspection of the member's practice authorized by the Executive Committee at such rate as the Executive Committee may determine.

(10) A member or student appealing against a finding or order by a discipline committee in accordance with by-law 73(6) shall, when giving written notice of such appeal to the secretary, pay to the Institute a fee in accordance with such rate or rates as the Executive Committee may from time to time determine.

(11) Notwithstanding by-law 45(2), a former member applying for re-admission as a member shall pay such investigation fee, if any, as may be fixed by the Executive Committee in respect of an investigation made or to be made in accordance with the provisions of by-law 7(4).

Failure to pay fees

47 (1) Failure to pay a fee or special assessment shall render a member liable to suspension from membership during such period of time and to fine and such other penalty not excluding expulsion as the Executive Committee may from time to time determine.

(2) The Executive Committee may remit fees in special circumstances which in its discretion warrant such remission.

(3) A member who has been expelled pursuant to paragraph (1) may apply to the Executive Committee for re-admission to membership, and the Executive Committee may notwithstanding by-law 7 grant the application if in its opinion the circumstances warrant, on payment of such fee for re-admission as it may prescribe.

Banking and Authorized Signatures

Banking

48 (1) The monies of the Institute shall be kept in such bank or banks as the Executive Committee may from time to time by resolution determine.

(2) The Executive Committee may invest monies of the Institute in any short-term fixed interest investments.

(3) All cheques exceeding an amount determined from time to time by the Executive Committee shall require the signature of two of the chair, the vice-chair, the secretary, the treasurer and the president and chief executive officer, and cheques equal to or less than the determined amount shall only require one of these signatures.

Authorized signatures

49 (1) All deeds, contracts, documents or legal papers to be executed by the Institute shall be executed under the seal attested by the signature of the chair or the vice-chair together with the signature of one other officer or in such other manner as the Executive Committee may from time to time determine by resolution.

(2) An officer of the Institute may affix the seal attested by his or her signature to a document for the purpose of certifying an extract or copy from the register of members, the register of students, the Act, the by-laws, the rules and regulations and interpretations of them by the Council, or the minutes of a general meeting of members or of a meeting of the Council or the Executive Committee.

Mandatory Professional Liability Insurance

Professional liability insurance

50 (1) Professional liability insurance coverage as prescribed in paragraphs (3), (4) and (5) shall be maintained by—

- (a) every firm or corporation in Bermuda engaged in the practice of public accounting, and
- (b) every member engaged in the practice of public accounting in Bermuda as a sole proprietor.

provided that, in such circumstances as the Council may approve, particularly where a member, firm or corporation is unable to obtain insurance coverage on reasonable terms, such member, firm or corporation may set aside assets at least equal in value to the amount of insurance coverage prescribed in paragraph (4) in lieu of such insurance and further provided that professional liability insurance coverage as required by this by-law 50 shall not be required for a member practising public accounting exclusively for a Government Department.

(2) A member, firm or corporation engaged in the practice of public accounting shall file with the Institute satisfactory proof of the maintenance of professional liability insurance coverage as required in paragraph (1) in a form satisfactory to the Council—

- (a) within two months of the date of commencement of the practice of public accounting in Bermuda, and
- (b) thereafter, within two months of the expiry date specified in the insurance policy in force at the date of the last filing of proof of professional liability insurance coverage.

(3) Where a member, firm or corporation has set aside assets in

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lieu of such insurance in accordance with paragraph (1), such member, firm or corporation shall file annually with the Institute a certificate certifying that it has set aside assets at least equal in value to the amount of the insurance as prescribed by paragraph (4) in a form satisfactory to Council.

(4) The amount of insurance maintained by such members shall be at least equal to the lesser of—

- (a) \$1,000,000 for each member who, as applicable, is an employee, partner, proprietor or director (each, for the purpose of this by-law, a “relevant member”); and
- (b) If the firm is not a corporation—
 - (i) \$1.5 million where the number of relevant members is equal to or less than three; and
 - (ii) \$2.0 million where the number of relevant members is greater than three; or
- (c) If the firm is a corporation—
 - (i) \$1.5 million where the number of relevant members is equal to or less than three; or
 - (ii) \$2.0 million where the number of relevant members is equal to or less than nine; or
 - (iii) \$5.0 million where the number of relevant members is equal to or less than 24; or
 - (iv) \$7.5 million where the number of relevant members is equal to or less than 34; and
 - (v) \$10 million where the number of relevant members is 35 or more.

(5) In the event of—

- (a) the withdrawal of a partner from a practice of public accounting, whether or not that partner continues to carry on the practice of public accounting elsewhere; or
- (b) the merger, dissolution or cessation of practice of a firm, proprietorship or partnership engaged in the practice of public accounting; or
- (c) the suspension, revocation or non-renewal of a corporation’s registration certificate, or the dissolution or discontinuance of a corporation;

the professional liability insurance that was required to be carried pursuant to paragraph (1), or the assets set aside in lieu of the insurance, prior to the occurrence of the event referred to in (a), (b) or (c), shall continue to be maintained for a period of at least six years following the event to cover acts or omissions occurring prior to the event.

(6) Every professional liability insurance contract shall be endorsed with the requirement that the insurer notify the Institute immediately of—

- (a) the cancellation of the insurance coverage; or
- (b) the reduction of the insurance coverage below the level required pursuant to paragraph (4).

Where a member, firm or corporation has set aside assets in lieu of insurance, it shall notify the Institute immediately in the event that the value of such assets falls below the level prescribed in paragraph (4).

(7) A member, firm or corporation who has not filed by the date prescribed in paragraph (2) proof of the maintenance of professional liability insurance coverage or a certificate of the value of assets set aside in lieu of insurance shall be required to remit a late filing fee of \$500 or as otherwise determined by the Council.

(8) In the event professional liability insurance coverage is not maintained or sufficient assets are not set aside as required by paragraph (1) or satisfactory proof of such coverage or a certificate that such assets have been set aside is not provided to the Institute as required by paragraphs (2), and (3) then:

- (a) in the case of a firm engaged in the practice of public accounting in Bermuda, the rights and privileges of membership in the Institute of the partners of the firm shall be suspended;
- (b) in the case of a corporation practicing public accounting in Bermuda, the rights and privileges of the corporation and each director of the corporation shall be suspended;
- (c) in the case of a member engaged in the practice of public accounting in Bermuda as a sole proprietor the rights and privileges of membership in the Institute of the member shall be suspended.

(9) A person whose rights and privileges of membership in the Institute have been suspended shall be reinstated to membership in good standing effective the date upon which satisfactory proof of the required coverage or a certificate that sufficient assets have been set aside, together with a reinstatement fee in the amount of \$1,000 or as

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otherwise determined by Council and the late filing fee prescribed by the Council, are received by the Institute.

(10) Subject to paragraph (2) and (3), in the event a person whose rights and privileges of membership in the Institute have been suspended pursuant to paragraph (8) remains suspended for a period of thirty (30) days, that person's membership in the Institute shall be terminated.

(11) A person whose membership has been terminated pursuant to this by-law shall be entitled, on paying the reinstatement fee required in paragraph (9), to apply for re-admission under by-law 7.

(12) Where—

- (a) a member's practicing unit is the subject of a practice inspection; or
- (b) a member is the subject of an investigation or a charge made by the professional conduct committee; or
- (c) a member has not fully complied with an order of the discipline committee or the appeal committee,

his or her membership shall not be terminated until the practice inspection or professional conduct committee investigation has been completed, or the final disposition of the charge has been made, or the member has fully complied with the discipline or appeal committee order, as the case may be.

(13) Members shall have until January 1, 2007 to obtain the professional liability insurance coverage required pursuant to this by-law.

Practice Names

Registration, authorization for use

51 (1) A member or firm shall register with the Institute, in the manner prescribed by the Executive Committee, the name or names under which the member or firm carries on a public accounting practice or a related business or practice.

(2) The Executive Committee, in its discretion, may authorize a member or firm to practise under a name which is part or all of the name, including a non-personal name, of an international public accounting organization of which the member or firm is an affiliate.

(3) The Executive Committee, in its discretion, may authorize a member or firm to use an additional name, including a non-personal name, to meet the international needs of clients if the additional name is —

- (a) part or all of the name of an international public accounting organization of which the member or firm is an affiliate; or
- (b) part or all of the name of a foreign-based affiliate, provided the member or firm agrees to use such additional name only when a name of the member or firm registered with the Institute pursuant to paragraph (1) is clearly and prominently associated with the additional name in the signature to any report or other communication.

Registered Students

Registration

52 (1) Any person resident in Bermuda who is employed in an office approved by the Executive Committee pursuant to by-law 66 and who is certified by a member to be of good moral character and habits may apply to the Executive Committee to be registered as a student.

(2) Every such applicant for registration shall, before registration —

- (a) satisfy the Executive Committee that he or she is of good moral character and habits and that he or she has attained the educational requirements prescribed by the Council;
- (b) give a declaration of intention to qualify for admission to membership in the Institute and to apply therefor;
- (c) give an undertaking to comply with the requirements of the Executive Committee in all matters relating to studies, practical experience and professional conduct; and
- (d) enter into agreement with the Institute that the by-laws, rules and regulations of the Institute will govern the relations between the applicant and the Institute.

(3) Every registered student shall pay such registration fee and such annual or other fees as the Executive Committee may prescribe.

Rules

53 (1) The Council may from time to time make rules and regulations with respect to requirements for registration of students, courses of study, examinations and practical experience.

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(2) Such rules and regulations, and any amendment thereof, shall be published and made available to all members and registered students promptly after they are made.

Student society

54 Students may form a society for the better advancement of their studies and professional knowledge and for the purpose of making recommendations affecting their joint interests for the consideration of the Council, but all rules and regulations for the government of such society shall have force and effect only after approval by and during the pleasure of the Council.

Prescription of courses of study

55 (1) Every registered student shall enter upon and pursue a course of study, examinations and practical experience and satisfy any other requirements which the Council may prescribe from time to time.

Courses of study

56 (1) The Council shall provide a course or courses of study for the registered students of the Institute and shall establish facilities for their instruction.

(2) The courses of study prescribed by the Council shall be substantially similar to those of the Institute of Chartered Accountants of Nova Scotia.

(3) The Council may enter into an agreement with the Atlantic School of Chartered Accountancy, or with any university or other organized body in Canada or Bermuda, for it to provide and administer all or any part of a required course of study which may include examinations relating thereto.

Examinations

57 (1) The Council shall provide for examinations prepared and marked by the Board of Examiners of the Inter-Provincial Education Committee of the Canadian Institute of Chartered Accountants (the "Uniform Final Examination") to be held at least once in each calendar year in Bermuda for registered students.

(2) Notice of the time and place of such examinations shall be sent to all registered students.

Experience requirements

58 The Council shall provide for the establishment of practical experience requirements for registered students.

Continuing Professional Development

Definitions

59 For the purposes of by-laws 60 to 65 —

“continuing professional development (or CPD)” means a program of formal education relevant to the individual member’s professional development needs, which includes participation in formal courses, seminars, conference sessions, in-house programs, video assisted instructional programs, home study programs, and research combined with the preparation of articles (research combined with the preparation of articles or other materials for publication will be recognized in the year of publication).

“structured programs” means measurable and verifiable learning programs, offered through a creditable learning institution (such as a university, college, private educator, professional association or an employer), and include —

- (a) courses, seminars or conferences;
- (b) technical discussion groups;
- (c) advanced or post-secondary education courses, and
- (d) structured self-study programs where there is some evidence of completion.

“unstructured programs” means independent and informal programs and includes —

- (a) private reading, study and technical research;
- (b) preparation time for lectures and presentations;
- (c) research and writing time for professional or business related articles; and
- (d) on-the-job training.

Obligations of members

60 (1) Every member shall complete a minimum of 120 hours of continuing professional development in structured and/or unstructured programs in every period of three calendar years (of which a minimum of 20 hours in each calendar year shall be in structured programs) in accordance with the provisions of these by-laws unless such member is exempt.

(2) On or before the last day of March in every year, every member who is required to complete CPD shall file with the Institute a CPD report, duly signed by the relevant member, in form and content as

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prescribed by the Council or a continuing professional development committee, in respect of such member's CPD activities during the previous calendar year. The Council or a continuing professional development committee may review or audit individual CPD reports filed by members and may, at its discretion, require a member to produce further information or evidence to prove or verify the activities described in such CPD report.

CPD Committee

61 The Council may constitute a continuing professional development committee with power to —

- (a) prescribe the form and content of CPD reports to be filed by members;
- (b) review or audit CPD reports filed by members; and
- (c) require a member to produce to the committee or as it may direct such information or evidence to prove or verify the contents of the member's CPD report as the committee deems necessary.

Exemption from CPD obligation

62 (1) A member shall be exempt from the requirement to complete CPD where such member —

- (a) meets the criteria set out by the Council from time to time for the exemption from CPD due to their current employment status ("the employment status exemption"); or
- (b) meets the criteria set out by the Council from time to time for the exemption from CPD due to their retirement status ("the retirement status exemption").

(2) Those members claiming an exemption shall file a CPD report in accordance with by-law 60 indicating which exemption they are claiming and, in the case of the employment status exemption, which of the relevant criteria they meet, in their opinion, and why.

Commencement of CPD obligation

63 Where a member is admitted to the Institute on or before 30th June in any year, such member's obligation to complete CPD shall be deemed to commence on 1st January of the same year, and where admitted thereafter the member's obligation to complete CPD shall be deemed to commence on 1st January of the next year.

Failure to meet CPD obligation

64 (1) In the event that a member fails to complete CPD and to file a report in accordance with this by-law, such failure shall be reported to the Council or a professional conduct committee which may, after a three month grace period, levy a charge of \$50 per month or any part thereof until the deficiency has been remedied by a completion of the required hours of CPD and filing of a report.

(2) In the event that a member fails, within three months of the date on which such member's CPD report was due to be filed under this by-law, to —

(a) remedy a deficiency by completing the required hours of CPD; or

(b) file a CPD report;

such member may be suspended.

(3) A suspension under paragraph (2) will cease upon the member remedying the deficiency by completing the required hours and/or filing the requisite CPD report and paying a reinstatement fee, as prescribed by the Council.

(4) In the event that, following suspension in accordance with paragraph (2) of this by-law, the relevant member continues to fail for a further three months to remedy a deficiency by completing the required hours of CPD and/or file a CPD report accompanied by the reinstatement fee, the Council shall be informed and such member's membership may be terminated.

(5) Any member whose membership has been terminated shall be entitled to apply for re-admission under by-law 7.

Transitional

65 (1) Every member who became a member before June 30, 2005 shall complete a minimum of 120 hours of continued professional development in structured and/or unstructured programs in 2006 and 2007 (of which a minimum of 60 hours shall be in structured programs, 40 hours of which shall be completed by December 31, 2006) in accordance with the provisions of these by-laws unless such member is exempt.

(2) For the purpose of paragraph (1) continuing professional development completed by a member after January 1, 2005 may be taken into account for the purposes of meeting the professional development requirement of these by-laws.

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Approval of offices to employ students

Rules and regulations

66 (1) The Council may from time to time make rules and regulations with respect to the approval of offices to employ students and the maximum number of students who may be employed.

(2) The Executive Committee shall from time to time approve in accordance with such rules and regulations the offices of members engaged in the practice of public accounting qualified to employ students (each an "approved office") and the maximum number of students who may be employed in each such office.

(3) For the purposes of this by-law 66, the Auditor appointed pursuant to section 73 of The Bermuda Constitution Order 1968 is deemed to be engaged in the practice of public accounting.

Obligations of members who employ students

67 (1) Every member engaged in the practice of public accounting who employs one or more students is responsible for giving such practical experience and instruction and for affording such opportunities as are necessary to enable the student to acquire the art, skill, science and knowledge of a chartered accountant.

(2) Every member engaged in the practice of public accounting who employs one or more students shall maintain records showing, in reasonable detail, the disposition of each student's time while so engaged and the type of work allocated to him or her.

(3) The Executive Committee shall have the power to make or cause to be made whatever investigation it deems necessary, including an inspection of the books and records of a member, to satisfy itself that the member is complying with the requirements of this by-law.

(4) No member engaged in the practice of public accounting shall employ in the member's public accounting office, or offer or permit the offer of such employment to, any person who intends or is required to apply for registration or re-registration as a student, and no such person shall be registered or re-registered —

(a) unless the office in which the person is, or is to be, employed has been approved by the Executive Committee pursuant to by-law 49(2) (such approval to be effected in advance of any offer or transfer of employment, as the case may be) as being qualified to give him or her proper practical experience and instruction; or

(b) if as a result of such registration or re-registration the total number of students employed in such office would

exceed the number approved by the Executive Committee.

Rules of professional conduct

Council may make rules

68 (1) The Council may from time to time make rules of professional conduct prescribing the standards of competency, fitness, moral character and conduct of members and students but no such rule or any amendment thereto shall take effect until it has been approved at an annual general meeting of the Institute or at a general meeting of the Institute called to consider such rule or amendment, or by ballot taken pursuant to by-law 39(1).

(2) Members and students shall comply with such standards as prescribed, and with the by-laws, rules of professional conduct and regulations of the Institute.

Complaints, Charges and Disciplinary Proceedings

Rules of discipline

69 The disciplinary work of the Institute shall be carried on in accordance with the by-laws by the Executive Committee and by any professional conduct committee, discipline committee or appeal committee which the Executive Committee may from time to time appoint, and the Executive Committee may make rules for the conduct of the work of such a committee.

Executive committee

70 The Executive Committee shall be responsible for the initiation of the disciplinary work of the Institute and shall have power, in addition to all its other powers —

- (a) To receive in writing from any person a complaint of professional misconduct by a member or student;
- (b) to make such investigation and inquiry as it deems proper into any such complaint or into any act, omission, matter or thing which may constitute or involve unfitness, lack of moral character, or professional or other misconduct in any member or student, or which may constitute or involve violation of the by-laws, rules of professional conduct or regulations of the Institute or which may impair, or may have impaired, the good reputation of the Institute or the profession or its ability to serve the public interest;

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- (c) to refer any such complaint, act, omission, matter or thing as described in subparagraph (b) to a professional conduct committee;
- (d) to require the attendance of a member or student and the production of any records, books, documents and working or other papers which may be in the member's or student's possession, custody or control and which may be relevant to such preliminary investigation and inquiry;
- (e) to interview any member or student and to examine any records, books, documents and working or other papers which may be relevant to the work of the committee;
- (f) in the committee's absolute discretion, to make a charge against a member or student and to refer such charge to a discipline committee;
- (g) to admonish informally a member or student whether or not charged under these by-laws;
- (h) to order that a member charged with professional misconduct be suspended if it appears that a member or members of the public would be at risk by the member charged remaining a member in good standing of the Institute until the final disposition of the charge or charges, provided —
 - (i) that no order shall be made under this by-law unless the Executive Committee or a professional conduct committee, and a discipline committee, are ready to proceed expeditiously with a formal hearing; and
 - (ii) that if an order is made hereunder the Executive Committee may give such directions as seem appropriate to protect the clients of the member charged, including a direction that the member charged practise under the supervision of another member or refrain from accepting specified types of engagements,
- (i) To retain the services of any person on a fee basis or otherwise, whether or not a member, and authorize such person —
 - (i) to assist with or make any investigation or inquiry described in paragraph (2), or any part or parts of such an investigation or inquiry;

- (ii) to interview any member or student and to examine any records, books, documents and working or other papers which may be relevant to the work of the committee,
- (j) to take whatever action it deems proper in connection with any charge or any complaint, act, omission, matter or thing described in subparagraph (b).

Charge by executive committee

71 (1) Without limiting the generality of the powers conferred by by-law 70, the Executive Committee may charge a member or student with having failed to maintain the good reputation of the profession and its ability to serve the public interest if he, she or it has been

- (a) convicted of an offence of fraud, theft, forgery or tax evasion;
- (b) found guilty of violating the provisions of any securities legislation;
- (c) convicted of any criminal or similar offence for conduct in or relating to such member's professional capacity, or for conduct in circumstances where there was reliance on such member's membership in or association with the Institute; or
- (d) discharged absolutely or upon condition after pleading guilty to or being found guilty of an offence described in sub-paragraph (a) or (c) or of a violation described in sub-paragraph (b) above.

(2) In respect of any charge under the by-laws or the rules of professional conduct, a certificate of conviction by any competent Court or a certified copy of the original information or indictment with the endorsement of the conviction thereon signed by the official having custody thereof, shall be sufficient evidence of the conviction; and a certified copy of the original information or indictment with the endorsement of the discharge thereon, signed by the official having custody thereof, shall be sufficient evidence of the discharge.

(3) In the event a certificate of conviction or certified copy of the original information or indictment described in paragraph (2) with respect to an offence or violation is filed as evidence with a discipline committee or appeal committee, then there is a rebuttable presumption that the member or student has failed to maintain the good reputation of the profession and its ability to serve the public interest.

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Professional Conduct Committee

72 (1) A professional conduct committee shall consist of such members of the Institute, not fewer than three, as may be appointed thereto by the Executive Committee.

(2) A professional conduct committee shall in respect of any complaint or any act, omission, matter or thing referred to it by the Executive Committee under by-law 70(c), have the powers granted to the Executive Committee by by-law 70 except those granted by by-laws 70(c) and 70(h).

(3) A professional conduct committee may seek an order of the Executive Committee made pursuant to by-law 70(h) suspending a member.

Discipline Committee

73 (1) A discipline committee shall consist of such members of the Institute, excluding members of the Council and Executive Committee not fewer than three, as may be appointed thereto by the Executive Committee.

(2) A discipline committee may retain legal counsel at any time during the discipline process.

(3) In any case where the Executive Committee or a professional conduct committee refers a charge to a discipline committee, the Executive Committee shall promptly appoint a discipline committee, and the discipline committee shall promptly give notice of the time and place in Bermuda appointed for a formal hearing.

(4) The procedure before and at such formal hearing shall be in accordance with the provisions of by-law 79.

(5) After a formal hearing the discipline committee shall find the member or student guilty or not guilty of a charge.

(6) If the member or student is found guilty of a charge, the discipline committee may order one or more of the following, namely —

- (a) that the member or student shall be reprimanded by the chairman of the committee;
- (b) that the member or student shall pay a fine to the Institute;
- (c) that the member shall be suspended;
- (d) that the member shall be expelled from membership in the Institute;
- (e) that the member shall be permitted to resign from membership in the Institute;

- (f) that the student shall be struck off the register of students;
- (g) that the student shall be permitted to abandon his or her registration;
- (h) that the member shall be required to complete satisfactorily, or to complete satisfactorily again, such professional development courses and examinations, or shall be required to engage an advisor or tutor, or such combination thereof, as the committee shall consider appropriate;
- (i) that the member shall be required to complete satisfactorily a period of supervised practice as prescribed by the committee,
- (j) that the member shall be reinvestigated by a professional conduct committee, or by a person whose services are retained by that committee pursuant to by-laws 72(2) and 70(i), as to the member's standards of professional practice or any other matter which the discipline committee may specify;
- (k) that the general practice of the member shall be restricted for a specified period of time by —
 - (i) restricting the types of professional services which may be performed by the member currently or in the future, or
 - (ii) restricting the types of clients for which the member may perform professional services currently or in the future,and, in the discretion of the committee, that such restriction shall be monitored at the member's expense by an investigator appointed by the Executive Committee, provided that the ordering of any such restriction or monitoring shall expressly take account of the interests of the member's clients;
- (l) that the member shall complete or, if a corporate member, establish a professional training programme in appropriate aspects of practice as determined by the committee, and satisfactory participation in the programme shall be mandatory for those directors and employees of a corporate member designated by the committee;

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- (m) that the member shall establish and maintain satisfactory quality control procedures for the member's practice;
 - (n) that in the event the member does not comply with a term or terms of the order within the time specified, the member shall be dealt with in such manner as the committee may determine, including suspension or expulsion for continued failure to comply with the terms of the order, and if a corporate member, that a director or directors who are identified by the committee as having the authority to cause the corporate member to comply with the terms of the order shall also be dealt with in such manner as the committee may determine, including suspension or expulsion for continued failure by the corporate member to comply with the terms of the order;
 - (o) that the student shall be required to complete satisfactorily, or to complete satisfactorily again, such courses and examinations, and to gain such practical experience, as the discipline committee shall consider appropriate;
 - (p) that in the event the student does not comply with a term or terms of the order within the time prescribed, the student shall be dealt with in such manner as the committee may determine, including being struck off the register of students;
 - (q) that the member or student shall be disciplined in such other way as the discipline committee may determine; and
 - (r) that notice of the committee's finding or order or both shall be given in accordance with by-law 74.
- (7) A discipline committee may accept as prima facie evidence of the facts therein certified, a certificate of a competent Court in which a conviction, order or declaration was had, returned or made.
- (8) A discipline committee shall have power during or after the conclusion of a formal hearing to admonish informally a member or student whether found guilty or not.
- (9) A discipline committee shall report forthwith to the Executive Committee and to the parties to the proceedings the disposition of every charge referred to it.

Notices

74 (1) Notice of any finding or order, or of both finding and order, made by a discipline committee may be given in such form and manner as the discipline committee may determine and notice of any order of expulsion or suspension of a member shall be given to all members of the Institute promptly after the period allowed for giving notice of appeal has expired.

(2) Such further or other notice of any finding or order, or of both finding and order, made by a discipline committee under by-law 74 may be given or published in such a way and at such times as the discipline committee or the Executive Committee may determine.

(3) Upon the giving of any notice of appeal against a finding or order of a discipline committee the terms of such order and the operation of this by-law as to notice and publication shall be stayed pending the disposition of any such appeal.

(4) All members and students, by their applications for membership or registration or by their continuance of membership or registration, shall consent and be deemed to have consented to any notice or publication under this by-law and by-law 75.

Appeal Committee

75 (1) An appeal committee shall consist of such members of the Institute, excluding current members of the Council and Executive Committee not fewer than three, as may be appointed thereto by the Executive Committee.

(2) An appeal committee may retain legal counsel at any time during the discipline process

(3) Any member or student found guilty of any charge by a discipline committee may appeal against any finding or any order under by-law 73(6)), and any director of a corporate member in respect of whom an order is made by a discipline committee pursuant to by-law 73(6)(n) may appeal against such order, by giving written notice of appeal to the secretary and by paying the fee required by by-law 46(10) not later than 21 days after the date of the making of any such finding or order, excluding such date but including the day of delivery, or not later than 21 days after the giving of notice of appeal in the case by a professional conduct committee, whichever is the later.

(4) The Executive Committee or a professional conduct committee, whichever made the charge, may appeal against any finding or order made by a discipline committee under by-law 73(6) by giving written notice of appeal to the secretary not later than 21 days after the date of the making of any such finding or order, excluding such date but including the day of delivery, or not later than 21 days after the giving of

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notice of appeal in the case by a student or member, whichever is the later.

(5) Unless notice of appeal is given as required by paragraph (2) or (3) or both, and any required fee is paid, the findings and orders of the discipline committee in any particular case shall be final, binding and conclusive for all purposes.

(6) Any notice of appeal given under the provisions of this by-law shall, in the manner required by the provisions of by-law 79(13), set forth the grounds of appeal and state the relief asked.

(7) When a notice of appeal is duly given, the Executive Committee shall promptly appoint an appeal committee, and the appeal committee shall promptly give notice of the time and place in Bermuda appointed for a hearing of the appeal.

(8) If, at the time appointed for the hearing of an appeal, the person appealing fails to appear, the appeal committee may in its discretion dismiss or adjourn such appeal, or proceed in accordance with by-law 79(4).

(9) If, at the time appointed for the hearing of an appeal, the person appealing appears, the appeal committee shall either hear the appeal on the basis set forth in the notice of appeal or, in its discretion, proceed by way of a new formal hearing provided there is a request to do so in the notice of appeal.

(10) The procedure before and at any appeal under this by-law shall be in accordance with the provisions of by-law 79.

(11) The appeal committee shall have power by order to confirm, reject or change any findings and orders of the discipline committee and to make any new finding or order which it deems appropriate.

(12) The appeal committee shall have power to order the refund of part or all of the fee paid by the member or student pursuant to paragraph (2).

(13) Subject to the provisions of the Act, the findings and orders of the appeal committee in any particular case shall be final, binding and conclusive for all purposes.

(14) The Executive Committee may, by order, on such terms as it thinks just, extend the period within which a person is required or permitted by this by-law 75 to do any act in any proceedings, even where the motion for extension is made after the expiration of that period.

(15) The provisions of by-law 74 shall apply mutatis mutandis to notice or publication of any finding or order, or of both finding and order, made by an appeal committee.

Taking notice not required

76 Neither the Institute nor the Council nor the Executive Committee shall be required to take notice of any published article or private communication or of any statement affecting the conduct of a member or student.

No cause of action or complaint

77 No member, student or other person shall have any cause of action or lawful complaint against the Institute, the Council, the Executive Committee or any member thereof, any member or student, or any officer, employee, agent, counsel or attorney of the Institute by reason of anything done or omitted to be done or any other matter or thing connected with or in respect of any investigation, inquiry, charge, hearing or report, or any disciplinary proceeding, order or publication, made or done in good faith under the by-laws.

Procedure at formal hearings and appeals

78 (1) In connection with any formal hearing by a discipline committee or with any appeal to or other hearing by an appeal committee, the following rules of procedure in by-law 79 shall apply.

Rules of procedure

79 (1) Any person charged shall be entitled to fifteen days' notice of the time and place in Bermuda appointed for any formal hearing of the charge (excluding the day of mailing and the day of hearing) together with a copy of the charge, addressed to the person at such address as appears in the records of the Institute or at the last address known to the secretary.

(2) Any person appealing to an appeal committee shall be entitled to fifteen days' notice of the time and place in Bermuda appointed for the hearing of the appeal (excluding the day of mailing and the day of hearing) at such address as appears in the records of the Institute or at the last address known to the secretary.

(3) In any case where an appeal committee proceeds by way of a new formal hearing, no further notice of the new formal hearing shall be required and the appeal committee may thereupon proceed with such hearing.

(4) Any person charged or appealing shall attend at the time and place appointed for the hearing of the charge or of the appeal; if the person charged or appealing does not attend at the formal hearing or the appeal, a discipline committee or an appeal committee, as the case may be, may proceed in the person's absence and the person will not be entitled to any further notice in the proceedings;

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(5) At any formal hearing of a charge, the person charged shall be entitled to be represented by legal counsel or by a member, to be present during the hearing, to call or question any witnesses either personally, by counsel or by such member, and to submit statements, evidence and argument; and at any appeal not involving a new formal hearing, any person appealing shall be entitled to be represented by legal counsel or by a member, to be present during the hearing and to submit argument;

(6) A discipline committee or an appeal committee may require the attendance before it of any member or student and the production of any records, books, documents and working or other papers which may be in the member's or student's possession, custody or control and which may be relevant to the work of the committee;

(7) Unless it be otherwise specially provided, the procedure at all formal hearings and appeals shall be determined by the rulings of the chair, whose decision shall be final, binding and conclusive;

(8) A formal hearing or an appeal may be adjourned at any time and from time to time and no further notice shall be required;

(9) A discipline committee or an appeal committee shall cause the proceedings at any formal hearing or appeal to be recorded in shorthand, by electronic means, or otherwise;

(10) Where an appeal is taken under the by-laws —

(a) the chair of the discipline committee shall cause the record of the formal hearing to be transcribed and shall, within such time as the chair of the appeal committee shall fix, furnish copies of the transcription to the appeal committee, to the person or committee appealing, to the committee which made the charge and, if the appeal is taken by the committee which made the charge, to the person charged, and

(b) the transcription shall be paid for by the party appealing;

provided that upon application made to the chair of the appeal committee by the person appealing with notice to all parties not later than fifteen days from the date of the filing of the notice of appeal, the chair of the appeal committee may, in his or her absolute discretion, dispense with the requirement for preparing a complete transcript and may order instead that there shall be transcribed and furnished only such portions of the record of the formal hearing as in his or her opinion bear upon the grounds of appeal set forth in the notice of appeal.

(11) If more than one member or student be involved in any charge or if there be more than one charge, the formal hearing or appeal

may proceed as to each charge or member or student separately or together as the chair may from time to time determine.

(12) The statutory declaration of any person may be accepted as *prima facie* evidence of the facts stated in it, and in any formal hearing a discipline committee or an appeal committee may administer oaths and affirmations for the purpose of any of its proceedings and may require evidence before it to be given under oath or affirmation.

(13) Any notice of appeal given under the provisions of these by-laws shall set forth the particular grounds of appeal and shall state the particular relief asked.

(14) Any charge may be amended at the hearing with leave of a discipline committee provided notice of application for amendment setting forth the proposed amendment has been given to the secretary of the Institute and served upon the member or student charged at least fifteen days prior to the date appointed for the hearing before the discipline committee.

(15) Any notice of appeal may be amended at the hearing with leave of the appeal committee, either upon the consent of the parties to the proceeding or provided that notice of application for amendment setting out the proposed amendment was given to the other party and the secretary of the Institute at least five days prior to the date appointed for the hearing of the appeal.

(16) Where the body hearing the appeal allows an amendment pursuant to paragraph (15), any reference in these by-laws to a "notice of appeal" thereafter shall mean the notice of appeal as amended.

(17) Notwithstanding any other provision of these by-laws, an appeal committee may in a particular case proceed in such manner and grant such relief as the nature of the case or natural justice may require.

(18) Where there is a variance between the wording of a charge and the evidence presented in support thereof, and where, in the opinion of the discipline committee, the member or student has not been prejudiced by lack of notice, the discipline committee may direct an amendment of the charge so as to make it conform to the evidence and proceed with the hearing of the charge, but where, in the opinion of the discipline committee, the member or student may be prejudiced by such amendment, the discipline committee may, if it is of the opinion that such prejudice can be removed by an adjournment, make such amendment and adjourn the hearing of the charge to a later date. This paragraph shall also apply to a new formal hearing in accordance with the provisions of these by-laws and shall be read and construed accordingly;

(19) Where the good character, propriety of conduct or competence of the person charged is in issue in any formal hearing, the

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Executive Committee or a professional conduct committee shall furnish such person with reasonable information of any allegations with respect thereto prior to the hearing.

(20) any person charged or appealing shall forthwith be informed of the disposition of the charge or of the appeal —

(a) by personal service; or

(b) by notice mailed by prepaid registered post addressed to the person at such address as appears in the records of the Institute or at the last address known to the secretary;

unless the person charged or appealing is informed in person of the disposition of the matter at the time of such disposition by the discipline or appeal committee dealing with it, the time limited by by-law 74 as to notice or publication of any order, and by by-law 75(3) as to the giving of notice of appeal, shall be deemed to commence on the day next following the day of personal service, deemed receipt by mail in accordance with by-law 33(1), or actual receipt by mail.

(21) A member who has heard a charge as a member of a discipline committee shall not participate in the hearing of any appeal or in any new formal hearing in the same matter.

(22) Any finding, order or decision by a discipline committee or an appeal committee shall be by majority vote on a show of hands;

(23) a discipline committee or an appeal committee, as the case may be, shall give its final decision together with its reasons in writing.

(24) a discipline committee or an appeal committee, as the case may be, may, for the purpose of preventing abuse of its processes —

(a) make such orders or give such directions in proceedings before it as it considers proper;

(b) reasonably limit cross examination of a witness; or

(c) exclude any person from a hearing.

(25) all members of a discipline committee or an appeal committee, as the case may be, must be present at any formal hearing or appeal hearing and must participate both in deliberations of the committee and in reaching its decision, provided

(a) that where any member of such a committee is unable to be present or to participate because of death, illness or other cause and there nevertheless remain at least three members of the committee present and participating, such remaining members of the committee shall

continue to hear the evidence and the submissions and reach a decision;

- (b) that no member of such a committee shall participate in its deliberations or in making its decision who has not heard all of the evidence and the submissions; and
- (c) that such a committee may continue to hear the evidence and the submissions and reach a decision with fewer than three members present and participating if all the parties to the proceedings consent.

(26) Notwithstanding by-law 33(1), any notice required to be given to a member or student by a discipline committee or an appeal committee under this by-law shall be recognized as having been received by such member or student on a later day of actual receipt where the member or student, acting in good faith, did not, by reason of accident, illness or other cause beyond the member's or student's control, receive a copy of the notice until such later day;

(27) In respect of any charge under the rules of professional conduct, a certificate of conviction by any competent Court or a certified copy of the original information or indictment with the endorsement of the conviction thereon signed by the official having custody thereof, shall be sufficient evidence of the conviction; and a certified copy of the original information or indictment with the endorsement of the discharge thereon, signed by the official having custody thereof, shall be sufficient evidence of the discharge.

(28) A discipline committee or an appeal committee, as the case may be, shall determine whether a formal hearing or appeal shall be held in camera or shall be open to the public, provided that the committee shall hold the hearing or appeal concerning such matters *in camera* where it is of the opinion that —

- (a) matters involving public security may be disclosed; or
- (b) intimate financial or personal matters or other matters may be disclosed which it is not necessary in the public interest to make public and which are of such a nature, having regard to the circumstances, that it is undesirable in the interest of a person affected to make them public.

Made this 14th day of December, 2006

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The Institute of Chartered Accountants of Bermuda