

The Tax Institute**By-Laws**

Effective 21 August 2026

The Tax Institute's By-Laws are underpinned by our Constitution and set out how the Institute operates. This includes our processes and procedures governing membership of the Institute, the meeting of professional standards and continuing professional education requirements, and regulation of our members' professional conduct. Our By-Laws may be amended from time to time in accordance with clause 16 of the Constitution.

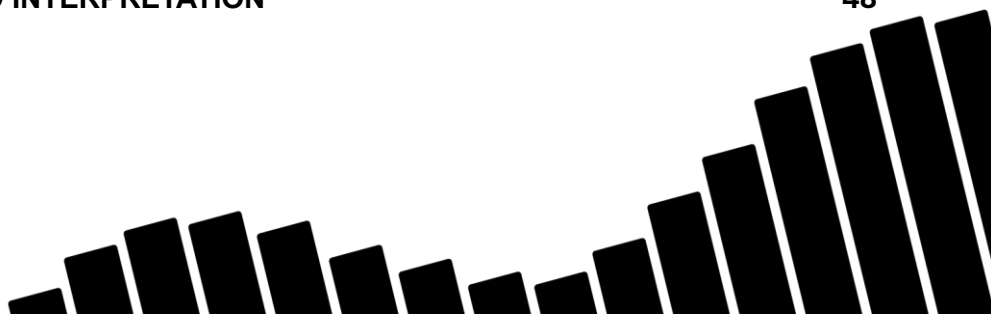
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1 Notices and privacy

- 1.1 Clause 33 of the Constitution applies to any notice, consent or other communication required to be given for the purposes of these By-Laws.
- 1.2 Privacy
- (a) A Member may at any time request access to the personal information that the Institute holds about that Member in accordance with the Institute's Privacy Policy and the privacy laws that apply at the time the request is made.

2 The National Council

2.1 Acknowledgement

- (a) The National Council is constituted under clause 26.1 of the Constitution.
- (b) In accordance with clause 26.2 of the Constitution, the powers and duties of the National Council are as prescribed by the Constitution and the By-Laws, and are as set out in this By-Law. The Directors may also delegate powers and duties to the National Council from time to time.
- (c) The National Council is an advisory council only. Any recommendations of the National Council do not bind the Directors.

2.2 National Councillors

- (a) In accordance with clause 26.3 of the Constitution, National Councillors shall be appointed by the State Councils in accordance with this By-Law.

2.2.1 Number of National Councillors

- (a) The National Council must have at least three National Councillors all of whom must ordinarily reside in Australia.

2.2.2 Appointment

- (a) Each State Council is entitled to appoint one of its current or former State Councillors to be a National Councillor.
- (b) A State Council is entitled to appoint one additional National Councillor for each additional two thousand Members registered as residing in that State Council's State Division as at 30 September immediately preceding the date of appointment of its first National Councillor (**Additional National Councillor**).
- (c) If, during the term of an Additional National Councillor, the number of Members registered as residing in the relevant State Division falls below the number required under clause 2.2.2(b) to appoint the Additional National Councillor, the Additional National Councillor may remain in that position, but during that period, the State Council of that State Division will not be entitled to appoint a replacement National Councillor to fill the vacancy created if that Additional National Councillor or one of the other National Councillors appointed by that State Council subsequently resigns or is removed or becomes the President or Vice President.

- (d) Subject to their term ending for any other reason, a National Councillor who becomes the President or Vice President continues to be a National Councillor while they hold the position of President or Vice President, and for a period of 12 months from the date they cease to be President (**Immediate Past President**).
- (e) Subject to the preceding paragraphs of this clause 2.2.2, a State Council is entitled to appoint one of its current or former State Councillors as a new National Councillor to the National Council if a National Councillor appointed by it becomes the President or Vice President.
- (f) Subject to clause 2.2.2(c), if a National Councillor position becomes vacant, the State Council who appointed the former National Councillor is entitled to appoint one of its current or former State Councillors as a replacement National Councillor for a term determined in accordance with clause 2.2.3, or to fill the position as a casual vacancy under clause 2.2.4.
- (g) The President is taken to be the Chairperson of the National Council.
- (h) National Councillors are not remunerated.

2.2.3 Term

- (a) If a National Councillor is appointed by a State Council:
 - (i) during the period from 1 January to 30 June in a year, the term of appointment of that National Councillor ends on 31 December third occurring after the date of appointment; and
 - (ii) during the period from 1 July to 30 December in a year, the term of the appointment of that National Councillor ends on 31 December fourth occurring after the date of appointment.
- (b) A National Councillor is eligible for reappointment for one further consecutive term, on the same terms as clause 2.2.3(a).
- (c) A National Councillor is not precluded from appointment to President or Vice-President by virtue of having served as a National Councillor for the maximum terms prescribed by this clause.
- (d) A National Councillor may at any time resign from the National Council by giving written notice of resignation to the CEO.
- (e) The position of a National Councillor shall be vacated on the expiration of their term or if they:
 - (i) resign or are removed from that position pursuant to these By-Laws;
 - (ii) cease to be a Member for any reason;
 - (iii) are suspended for any period from membership of the Institute;
 - (iv) become prohibited from being a Director of any entity by reason of any order made under the Corporations Act;

- (v) are absent from three consecutive meetings of the National Council without permission of the National Council; or
- (vi) are charged with a Serious Offence.

2.2.4 Casual Vacancies

- (a) If a vacancy occurs on the National Council, the State Council that appointed the vacating National Councillor may treat the vacancy as a casual vacancy and appoint one of its current or former State Councillors as an interim replacement National Councillor who shall hold that position until 31 December following the occurrence of the vacancy.
- (b) If the vacancy relates to the position of the President or Vice-President, the current or former State Councillor appointed as an interim replacement National Councillor shall not by virtue of the interim appointment become the President or Vice-President. In such circumstances, the National Council shall appoint an interim President or Vice-President from among the National Council.
- (c) Clause 2.2.4(b) does not preclude the National Council from appointing an interim replacement National Councillor as an interim President or Vice-President.

2.2.5 President and Vice President

- (a) No later than 31 December each year, the National Council shall in meeting:
 - (i) appoint a Vice-President from among the National Council;
 - (ii) appoint the current Vice-President to the position of President unless:
 - (A) the person currently holding the position of President is re-elected by the National Council to that position; or
 - (B) the National Council resolves otherwise, in which event the National Council shall appoint a new President from among the National Council.
- (b) Subject to clause 2.2.5(d), the President and Vice President may stand for re-election.
- (c) The duties (if any) of the President, the Vice President and other positions will be as determined by the National Council from time to time.
- (d) A person may hold the position as President or Vice President for up to a total of two consecutive years (in addition to any period served in the position to fill a casual vacancy) at any time.
- (e) If a person holding the position as President is appointed for a second consecutive year under this clause 2.2.5, the person holding the position as Immediate Past President by virtue of the operation of 2.2.2(d) may continue in that position for a further 12 months notwithstanding the terms of clause 2.2.2(d).

2.2.6 Transition

- (a) On the date of adoption of this By-Law, the National Council shall comprise the existing National Councillors immediately prior to the adoption of this By-Law and for any unexpired term of their respective appointments (**Existing National Councillors**).

2.3 Powers and Duties

- (a) The powers and duties of the National Council prescribed by the Constitution include the matters listed in clause 26.2(a) of the Constitution.
- (b) In accordance with clause 26.2 of the Constitution, the National Council shall have the following additional powers and duties:
 - (i) subject to a two thirds majority in a meeting of the National Council:
 - (A) the power to approve the Charter for the operation of the State Councils;
 - (B) the power to veto any nominations for election to the position of State Councillor;
 - (C) the power to remove a State Councillor from their position; and
 - (D) the power to remove a National Councillor from their position.
- (c) Powers and duties delegated by the Directors to the National Council must be retained in the Company's register of delegations.

2.4 Meetings

2.4.1 Meetings of the National Council

- (a) A meeting of the National Council may be called at any time by:
 - (i) the President; or
 - (ii) the Chief Executive Officer at the written request of a National Councillor, giving reasonable notice individually to every National Councillor.
- (b) Unless the National Council determines otherwise, a quorum for a meeting of the National Council is the greater of:
 - (i) three; or
 - (ii) a majority of the National Council.
- (c) A quorum must be present at all times during the meeting.

2.4.2 Passing of resolutions by the National Council

- (a) In the case of equality of votes for and against a resolution:
 - (i) the chairperson of the meeting does not have a second or casting vote; and
 - (ii) the resolution is not passed.

2.4.3 Circular resolutions of the National Council

- (a) The National Council may pass a resolution without a meeting of the National Council being held if all National Councillors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by National Councillors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last National Councillor signs.

3 State Councils

3.1 Acknowledgement

- (a) In accordance with clause 27.1 of the Constitution, the following State Divisions exist for which there is a State Council:
 - (i) New South Wales (**NSW**) and the Australian Capital Territory (**ACT**) represented by the NSW State Council.
 - (ii) Victoria (**Vic**) represented by the Victorian State Council.
 - (iii) Queensland (**Qld**) represented by the Queensland State Council.
 - (iv) Western Australia (**WA**) represented by the WA State Council.
 - (v) South Australia (**SA**) and the Northern Territory (**NT**) represented by the SA State Council.
 - (vi) Tasmania (**Tas**) represented by the Tasmanian State Council.
- (b) In accordance with clause 27.3 of the Constitution, the powers and duties of State Councils are as prescribed in this By-Law. The Directors may also delegate powers and duties to the State Councils from time to time.
- (c) The State Councils must have an Approved Charter under which to operate.

3.2 State Councillors

- (a) In accordance with clause 27.4 of the Constitution, State Councillors shall be elected in accordance with this By-Law.

3.2.1 Number and Qualification of State Councillors

- (a) Each State Council must have at least three, and a maximum of twelve, State Councillors, all of whom must ordinarily reside in the respective State they represent.
- (b) A State Councillor must be a Member who is eligible to vote at an Annual General Meeting of the Institute.
- (c) A National Councillor appointed by a State Council will serve on that State Council as an ex-officio member.

3.2.2 Election

- (a) When a vacancy arises, State Councillors will be elected into their role in accordance with the following procedures:
 - (i) At least 2 months prior to the Annual Meeting of a State, the State Council must provide all Voting Members resident in that State notice of any current or upcoming vacancies on the State Council, any State Councillors subject to re-election at that Annual Meeting, and request any nominations to fill the role of any vacancies.
 - (ii) Accompanying the Notice of Annual Meeting, notice must be provided to the Voting Members resident in the State containing, for each nominee (including a State Councillor seeking re-election):
 - (A) the person's name;
 - (B) the Membership tenure and category;
 - (C) an overview of why they wish to join the State Council and what they wish to achieve through their contributions on the State Council; and
 - (D) an overview of the contributions they have made to the Institute.
 - (iii) Subject to an ordinary resolution at the Annual Meeting of a State, a State Councillor whose term would otherwise expire may be re-elected in accordance with clause 3.2.3. Should the resolution fail for a particular State Councillor, that position is then considered vacant.
 - (iv) Any vacancies will be filled by vote at the Annual Meeting of the State, in order of the highest number of votes per nominee.
- (b) State Councillors are not remunerated.

3.2.3 Term

- (a) A State Councillor will be elected for a term commencing on the date of the Annual Meeting of the State in which they are elected and ending at the third Annual Meeting of that State following the date of election.
- (b) A State Councillor is eligible for re-election for one further consecutive term commencing on the date of the Annual Meeting of the State in which they are re-elected and ending on the date of the third Annual Meeting of that State following the date of re-election.
- (c) Subject to the election process in clause 3.2.2 being undertaken, the National Council may, in circumstances it considers exceptional, approve one further extension of term for a State Councillor for a period of up to twelve months from the date of the Annual Meeting of the State when the State Councillor's term was otherwise due to end. Exceptional circumstances may include, among other things, where there would otherwise be an insufficient number of State Councillors for a State Division.

- (d) A State Councillor is not precluded from appointment to Chair or Deputy Chair of that State Council by virtue of having served as a State Councillor for the maximum terms prescribed by this clause.
- (e) A State Councillor may at any time resign from the State Council by giving written notice of resignation to the CEO.
- (f) Voting Members resident in a State may, at an Annual Meeting of that State and by ordinary resolution, vote to remove an individual from the position of State Councillor.
- (g) The position of State Councillor shall be vacated on the expiration of their term or if they:
 - (i) resign or are removed from their role pursuant to these By-Laws;
 - (ii) cease to ordinarily reside in the State which they represent;
 - (iii) cease to be a Member for any reason;
 - (iv) are suspended for any period from membership of the Institute;
 - (v) become prohibited from being a Director of any entity by reason of any order made under the Corporations Act;
 - (vi) are absent from three consecutive meetings of the State Council without permission of the State Council; or
 - (vii) are charged with a Serious Offence.
- (h) Subject to clause 3.2.3(c), a person cannot re-nominate for the role of State Councillor for a period of two years following the cessation of their term as a State Councillor.

3.2.4 Chair and Deputy Chair

- (a) Each year a State Council must, in a meeting no later than the date of the Annual Meeting of that State:
 - (i) appoint a Vice-Chair from among themselves;
 - (ii) appoint the current Vice-Chair to the position of Chair unless:
 - (A) the person currently holding the position as Chair is re-elected by the State Council to that position; or
 - (B) the State Council resolves otherwise, in which event the State Council shall appoint a new Chair from among the State Councillors;
- (b) Subject to clause 3.2.4(c), the Chair and Deputy Chair may stand for re-election.
- (c) A person may hold the position as Chair, Deputy Chair for up to a total of two consecutive years (in addition to any period served in the position to fill a casual vacancy) at any time, unless the National Council determines otherwise to resolve exceptional circumstances.

3.2.5 Transition

- (a) On the date of adoption of this By-Law, the State Councillors of a particular State Council shall be the State Councillors of that State Council immediately prior to the adoption of this By-Law (**Existing State Councillors**).
- (b) Existing State Councillors shall remain in their positions without the need for re-election until the earlier of:
 - (i) their position being vacated under an item referred to in clause 3.2.3(g)(i) - (vii); or
 - (ii) the date of the Annual Meeting of the State the individual represents first occurring after the 6th anniversary of the date they were first appointed to the position of State Councillor in their current term.
- (c) A State Councillor is not precluded from appointment to Chair or Deputy Chair of that State Council by virtue of having served as a State Councillor for the maximum terms prescribed by this clause.

3.3 Powers and Duties

- (a) The duties of the State Council are contained within the State Council Charter as approved by the National Council.
- (b) Powers and duties delegated by the Directors to State Councils must be retained in the Company's register of delegations.

3.4 Meetings

3.4.1 State Council meetings

- (a) A State Council meeting may be called at any time by:
 - (i) the Chair of the State Council;
 - (ii) the President; or
 - (iii) the Chief Executive Officer at the written request of a National Councillor or State Councillor,

giving reasonable notice individually to every State Councillor of that State Council.
- (b) Unless the State Council determines otherwise, a quorum for a State Council meeting is the greater of:
 - (i) three; or
 - (ii) a majority of State Council.
- (c) A quorum must be present at all times during the meeting.

3.4.2 Passing of State Council resolutions

- (a) In the case of equality of votes for and against a resolution:
 - (i) the chairperson does not have a second or casting vote; and
 - (ii) the resolution is not passed.

3.4.3 Circulating resolutions of State Council

- (a) The State Council may pass a resolution without a State Council meeting being held if all State Councillors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by State Councillors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last State Councillor signs.

3.5 Annual Meeting of a State

- (a) A State Council must call an Annual Meeting to be held at the annual Tax Forum or Tax Convention of that State.
- (b) If, for any reason, the annual Tax Forum or Tax Convention of a State is not held in a particular twelve-month period, the State Council must call an Annual Meeting of the Voting Members resident in that State as close as possible to 12 months, but no later than 15 months following the date of the last Annual Meeting of that State.
- (c) The State Council must give no less than 21 days written notice to the Voting Members resident in that State (**Notice of Annual Meeting**) containing:
 - (i) the date and time of the meeting;
 - (ii) the location of the meeting, including if it is to be held through the use of technology;
 - (iii) any matters on which the members may need to vote, including the election of State Councillors; and
 - (iv) details on how members are able to vote, or provide proxies, if they are absent.
- (d) The conduct, rights of members, and operation of the Annual Meeting are taken to be the same as the Annual General Meeting of the Institute as set out in the Constitution.

3.5.1 Transition

- (a) The requirement in clause 3.5(a) applies only from 1 January 2026.

4 Membership

4.1 Register of Members

- (a) The Institute will maintain a Register of Members in accordance with clause 7.10 of the Constitution.

- (b) Whenever any person ceases to be a Member, the Institute must update its Register of Members to indicate that the person is no longer a Member.

4.2 Classes of Membership

- (a) Pursuant to clause 7.2 of the Constitution, the Directors have determined the following classes of Membership.

4.3 Chartered Tax Adviser

- (a) A person will be eligible to apply to be admitted as a Chartered Tax Adviser if they:
 - (i) meet the Fellow Membership criteria (clause 4.4); and
 - (ii) have successfully passed the Institute's Chartered Tax Adviser Examination.
- (b) A person who is a Chartered Tax Adviser will retain that status subject to clause 6.1 of By-Law 6, provided that they meet the Voting Membership Criteria.
- (c) If a Chartered Tax Adviser, who has gained that status without having completed the Chartered Tax Adviser Examination, has their Membership ceased under By-Law 7, they will be required to complete the Chartered Tax Adviser Examination to be reinstated as a Chartered Tax Adviser.

4.4 Fellow of the Institute

- (a) A person will be eligible to apply to be admitted as a Fellow of the Institute if they meet the Voting Membership Criteria, have at least 3 years' Relevant Experience, and satisfy one or more of the following criteria:
 - (i) have successfully passed the Institute's CTA1, CTA2A and CTA2B subject assessments or equivalent from the Register of The Tax Institute Approved Providers/Subjects;
 - (ii) have been awarded a Master of Tax from a provider recorded on the Register of The Tax Institute Approved Providers/Subjects.
- (b) A person who was a Fellow at 1 July 2012 will retain that status subject to clause 6.2 of By-Law 6, provided that they meet the Voting Membership Criteria.
- (c) A person who was a Fellow at 1 July 2012 and who complies with clause 6.2 of By-Law 6, but who cannot meet one of the Voting Membership Criteria, may retain their status as a Fellow but is not entitled to vote at a meeting of the Institute.

4.5 Associate of the Institute

- (a) A person will be eligible to apply to be admitted as an Associate of the Institute if they meet the Voting Membership Criteria, have at least one year's Relevant Experience and satisfy one or more of the following criteria:
 - (i) have successfully passed CTA1 subject assessments or equivalent from the Register of The Tax Institute Approved Providers/Subjects;

- (ii) are a member of Chartered Accountants Australia and New Zealand, CPA Australia or Institute of Public Accountants;
 - (iii) are an Australian legal practitioner; or
 - (iv) are a voting member of another Recognised Tax Agent Association.
- (b) A person who was an Associate at 1 July 2012 will retain that status subject to clause 6.2 of By-Law 6, provided that they meet the Voting Membership Criteria.
- (c) A person who was an Associate at 1 July 2012 and who complies clause 6.2 of By-Law 6, but who cannot meet one of the Voting Membership Criteria, may retain their status as an Associate but is not entitled to vote at a meeting of the Institute.

4.6 Affiliate of the Institute

- (a) A person will be eligible to apply to be admitted as an Affiliate of the Institute if they:
- (i) would otherwise qualify for admission as an Associate under clause 4.5 above but does not meet the Relevant Experience requirement;
 - (ii) are not eligible to be or remain admitted as a Student Member, and do not meet the Relevant Experience requirement for an Associate under clause 4.5 above;
 - (iii) have successfully passed the Institute's CTA1 Foundations course or an equivalent course from the Register of The Tax Institute Approved Providers/Courses;
 - (iv) are enrolled in the Institute's CTA2A Advanced course;
 - (v) are employed by a commonwealth or state revenue authority engaged in taxation practice or administration;
 - (vi) meet the requirements to be admitted as an Associate, Fellow or Chartered Tax Adviser but elect to be admitted as an Affiliate; or
 - (vii) are a person having an interest in the affairs of the Institute who the Directors resolves to admit as an Affiliate.

4.7 Student Member of the Institute

- (a) The Institute may admit as a Student Member a person who is:
- (i) an undergraduate student in an accounting or law discipline at a recognised university or tertiary institution in Australia;
 - (ii) not working more than 25 hours per week in a tax-related discipline; and
 - (iii) of good fame, integrity and character.
- (b) A person is ineligible be a Student Member if they are a current, or were formerly an, Affiliate, Associate, Fellow, or Chartered Tax Adviser.

- (i) Students who become a Student Member and later secure employment in excess of 25 hours per week while holding a Student Membership will retain their membership as a Student Member until its expiration.

4.8 Academic Member of the Institute

- (a) The Institute may admit as an Academic Member a person who:
 - (i) is employed at a lecturer level or higher in an accounting or law discipline at a recognised university or tertiary institution in Australia;
 - (ii) holds a masters or doctorate-level qualification (or an equivalent);
 - (iii) is employed in a:
 - (A) full-time capacity, with teaching as the primary source of income; or
 - (B) part-time capacity, with no income from employment or the provision of professional services in the field of taxation;
 - (iv) meets the requirements of membership admission for either a Chartered Tax Adviser or Fellow Membership; and
 - (v) is of good fame, integrity and character.

4.9 The Directors' discretion to admit or refuse admission to a person as a Member

- (a) The Directors may exercise their discretion under clause 7.6 of the Constitution to admit as a Member a person who does not meet all of the criteria as set out in these By-Laws if the Directors resolve that they be admitted to a class of Membership.
- (b) The Directors may exercise their discretion under clause 7.6 of the Constitution to refuse a person admission as a Member without giving any reason for refusing.
- (c) Notwithstanding clause 4.9(a) above, a person who is admitted to a class of Membership will not be entitled to vote at a meeting of the Institute unless that person meets the Voting Membership Criteria.
- (d) In the course of exercising its discretion to admit a person as a Member, the Directors must have regard to:
 - (i) whether the person is currently undertaking, or enrolled to undertake, a course of study, either full-time or part-time, at a university or other tertiary education institution;
 - (ii) the amount of experience the person has in the taxation and superannuation profession;
 - (iii) the amount of experience the person has in fields other than taxation and superannuation;
 - (iv) whether it would be more appropriate for the person to be admitted to a different class of Membership; and

- (v) any other circumstance or facts specific to the person's circumstances that the Directors consider relevant.

4.10 Life Membership

- (a) The Directors may at their discretion elect as a Life Member of the Institute any Member who has rendered special and exceptional services to the Institute which would in the opinion of the Directors entitle the Member to the distinction of Life Member of the Institute.
- (b) All Life Members of the Institute are entitled to enjoy all of the privileges of Membership and are not required to pay an annual Membership Fee.
- (c) Life Members who no longer carry on business as tax professionals do not need to satisfy any CPE requirements for continuing Membership.
- (d) Notwithstanding any of the above, any Life Member who does not meet the Voting Membership Criteria is not entitled to vote at a meeting of the Institute.

4.11 Membership rights (voting, holding of position or office, etc.)

- (a) Subject to the Constitution and the operation of the Institute's other By-Laws including other parts of this By-Law, Chartered Tax Advisers, Fellows and Associates enjoy all of the rights and privileges of full Membership of the Institute as published on the Institute's website, including the right to join in calling a vote and voting at a meeting of the Institute, and may hold any position or office in the Institute.
- (b) Chartered Tax Advisers, Fellows and Associates must meet the CPE requirements set out in By-Law 6 for their class of Membership.
- (c) Affiliates admitted under clause 4.6 above are entitled to the benefits of Affiliate Membership as published on the Institute's website. Affiliates may not hold any position or office in the Institute nor join in calling a vote nor vote at a meeting of the Institute.
- (d) Student Members admitted under clause 4.7 above are entitled to the benefits of Student Membership as published on the Institute's website. Student Members may not hold any position or office in the Institute nor join in calling a vote nor vote at a meeting of the Institute.
- (e) The Institute may at any time delegate, outsource or transfer the provision of any services it provides to Members (including educational programs, events, publications, member support and other member benefits) to another entity, and any such delegation, outsourcing or transfer will not affect the Membership relationship between the Institute and its Members or the rights and obligations of Members under the Constitution or these By-Laws.

4.12 Use of words indicating Membership of the Institute

- (a) So long as a person continues to be a Chartered Tax Adviser Member, they may use the words 'Chartered Tax Adviser' or 'CTA' after their name or signature.
- (b) So long as a person continues to be a Fellow Member, they may use the words 'Fellow of The Tax Institute' or 'FTI' after their name or signature.

- (c) So long as a person continues to be an Associate Member, they may use the words 'Associate of The Tax Institute' or 'ATI' after their name or signature.
- (d) A person who is elected as a Life Member of the Institute may use the words 'Life Member of The Tax Institute' or 'FTI – Life', 'CTA – Life', as the case may be, after their name or signature.
- (e) For the avoidance of doubt, if a Fellow, Associate or Life Member of the Institute is not permitted to vote at a meeting of the Institute, nothing in this By-Law prohibits their use of the post-nominals outlined above.

4.13 Member Logos

- (a) The Institute's Member Logos are available from the Institute for use by Chartered Tax Adviser, Fellow and Associate Members in accordance with this clause 4.13 and the Member Logo Guidelines published by the Institute. The Member Logo Guidelines are available to Members on the Institute's website or upon request.
- (b) Subject to clause 4.13(e) below, the Institute's Member Logos may be used by Chartered Tax Adviser, Fellow and Associate Members to promote their Membership of the Institute and Chartered Tax Adviser, Fellow or Associate status. The use of the Institute's Member Logos will be on such terms and conditions as determined by the Institute from time to time.
- (c) Chartered Tax Adviser, Fellow and Associate Members must only use the Member Logos that has been authorised by the Institute for their use. No alteration or redesign of the Member Logos is permitted.
- (d) Subject to the conditions outlined in the Member Logo Guidelines, Members can use the Institute's Member Logo in connection with the services they provide as tax professionals on both, hard copy and electronic stationery, promotional materials and on office signage.
- (e) The right to use a Member Logo ceases if the Member ceases to satisfy the requirements for the relevant class of Membership as a Chartered Tax Adviser, Fellow, or Associate of the Institute.

5 Membership Fees

5.1 Membership Fees

- (a) Membership Fees will be determined by the Directors from time to time in accordance with clause 7.9 of the Constitution.
- (b) Until otherwise determined by the Directors:
 - (i) there will be an annual Membership Fees payable by Members for each class of Membership except for Student Members and Life Members;
 - (ii) Members are required to pay Membership Fees applicable on the date that they become Members or renew their Membership;

- (iii) the Directors will determine any increase or other change in annual Membership Fees when the Directors approve the Institute's budget for the year; and
 - (iv) the amount of the annual Membership Fees for each class of Member will be set on 1 July of each year for a 12-month period and published on the Institute's website.
- (c) A Member's annual Membership period will run for 12-months from the date of joining (or most recent renewal), and the anniversary of that joining date will be the due date for renewal. Each subsequent annual Membership period will run for 12-months from the most recent renewal date. However, the Institute (in its discretion) may permit a Membership to be renewed on a date other than the due date for renewal. If the Institute permits renewal on another date:
 - (i) the Member's annual Membership period will expire immediately before that other date (**the new renewal date**), and the Institute in its discretion may make determinations altering the Membership Fees applicable to that annual Membership period; and
 - (ii) the Member's annual Membership period will thereafter run for 12-months (or such other period as the Directors may determine under clause 5.1(d)) and end on the anniversary of the new renewal date (which will be the due date for renewal thereafter).
- (d) Notwithstanding clauses 5.1(b) and 5.1(c), the Directors may determine that Membership periods (including existing periods then on foot) will be shorter than 12 months, and may adjust the Membership Fees accordingly.
- (e) Where the Institute transfers its business and operations to another entity, or otherwise ceases to carry on its operations, the Directors may make arrangements for Members to transfer their Membership to that other entity (with the Member's written consent) or for the cessation of Membership. Any such cessation will not be treated as a resignation or cessation for the purposes of By-Law 7.
- (f) Upon written application, Members are able to request a deferral of their Membership for up to 2 years. Reasons for deferral may include (but are not limited to):
 - (i) parental leave;
 - (ii) study leave;
 - (iii) overseas travel;
 - (iv) unemployment; or
 - (v) financial reasons.
- (g) The Institute in its sole discretion may determine whether to grant an application for Membership deferral.
- (h) A Member who has deferred their Membership is not entitled to vote at a meeting of the Institute during the period of deferral.

5.2 Voting Member becomes non-financial

- (a) A Voting Member becomes non-financial once they have been in arrears for at least thirty days following the due date for payment of their Membership Fees.
- (b) In the event a Voting Member becomes non-financial, then clause 7.3 of By-Law 7 applies.

6 Continuing Professional Education

- 6.1 Chartered Tax Advisers must complete at least 40 hours of structured tax-related CPE each Membership year (or at least 120 hours of structured tax-related CPE each triennium, and no less than 20 hours of CPE in each year), to maintain and improve their knowledge and skills as tax professionals, keep up to date with developments in the taxation laws and maintain and build on their primary qualifications.
- 6.2 Fellows and Associates must complete at least 40 hours of tax-related CPE each Membership year (or at least 120 hours of tax-related CPE each triennium year, and no less than 20 hours in each year), to maintain and improve their skills as tax professionals. A minimum of 20 hours of CPE each Membership year (or 60 hours of CPE per triennium) must be structured tax-related CPE.
- 6.3 Chartered Tax Advisers, Fellows and Associates may satisfy the structured component of their CPE obligations by completing any combination of CPE programs provided by the Institute and equivalent tax-related CPE programs offered by other organisations and educational providers of appropriate or equivalent professional standing.
- 6.4 CPE activities can include:
 - (a) seminars, workshops, courses, lectures and training;
 - (b) structured in-house training, conferences, discussion groups and webinars;
 - (c) tertiary courses and educational activities, including distance learning;
 - (d) up to 25% of technical or professional reading;
 - (e) up to 10% on health and wellbeing activities, such as attending webinars on stress management, resilience, and self-care.
- 6.5 Chartered Tax Advisers, Fellows and Associates are responsible for selecting, undertaking and recording their own CPE, and will need to confirm that they continue to satisfy the CPE requirements as part of their annual Membership renewal.
- 6.6 The Institute may require a Chartered Tax Adviser, Fellow or Associate to provide details in writing of their completed CPE activities during the preceding Membership year. If the Institute is not satisfied with the details provided by the Chartered Tax Adviser, Fellow or Associate, the Institute will notify the Member. If the Member does not meet their CPE requirement during the Membership year in which the notice is given together with any shortfall of the Member in relation to the CPE requirement for previous years, the Directors may impose a condition or conditions on the Member to retain or regain their existing Membership category, or may cancel the Member's Membership.

7 Cessation and suspension of Membership

7.1 Cessation of Membership

- (a) A Member ceases to be a Member if:
 - (i) the Member dies;
 - (ii) the Member resigns in writing subject to clause 8.6(d) below;
 - (iii) the Member becomes of unsound mind or become liable to be dealt with in any way under a law relating to mental health;
 - (iv) the Member's Membership is cancelled in accordance with clause 7.3(a)(ii) below;
 - (v) the Member's Membership ceases in accordance with clause 7.3(b) below;
 - (vi) operation of any of the Institute's By-Laws imposes a sanction of termination of Membership including but not limited to:
 - (A) an Adverse Third Party Decision which results in a termination of registration occurs in respect of the Member; and
 - (A) that action or decision is not appealed within the relevant Appeal Period.
 - (vii) the Disciplinary Panel imposes a sanction of termination of Membership in respect of that Member pursuant to By-Law 10 and that decision is not appealed within the relevant Appeal Period;
 - (viii) the Appeal Panel pursuant to By-Law 12 confirms a sanction of termination of Membership imposed by the Disciplinary Panel in respect of the Member or otherwise imposes a sanction of termination of Membership in respect of the Member; or
 - (ix) the Member, before a court of competent jurisdiction, has pleaded guilty to, or has been found guilty of, any Serious Offence, and all avenues of appeal have been exhausted.
- (b) In addition, if a Member ceases to be a Member, the Institute may in its absolute discretion and by notice to the Member (or former Member) rescind, revoke or cancel any awards or honours granted to the Member by the Institute prior to the cessation of Membership if the Member (or former Member) is found to have committed a Disciplinary Event while they were a Member and that action or decision is not appealed within the relevant Appeal Period.
- (c) The Member (or former Member) may apply to the Appeal Panel to have the revocation of the awards or honours under clause 7.1(b) above overturned in accordance with the procedures in clause 10.14 By- Law 10 for a Revocation Notice.

7.2 Suspension of Membership

- (a) A Member is suspended as a Member if:

- (i) the Member's Membership is suspended in accordance with clause 7.3(a)(i) below;
- (ii) the Disciplinary Panel imposes a sanction of suspension of Membership in respect of that Member pursuant to By-Law 10 and that decision is not appealed within the Appeal Period;
- (iii) an Adverse Third Party Decision which results in a suspension of registration occurs in respect of the Member; or
- (iv) the Appeal Panel pursuant to By-Law 12 confirms a sanction of suspension of Membership imposed by the Disciplinary Panel in respect of that Member or otherwise imposes a sanction of suspension of Membership in respect of that Member.

7.3 Membership Fees dues in arrears

- (a) If a Member is in arrears for at least thirty days following the due date for payment of any Membership Fees or for payment of other moneys due to the Institute, the Directors may at any time thereafter in its discretion and without notice to the Member:
 - (i) suspend the Member from all privileges of Membership including attendance or voting at any meeting of the Institute; or
 - (ii) cancel the Member's Membership.
- (b) If a Member is in arrears for at least sixty (60) days following the due date for payment of Membership Fees or for payment of other moneys due to the Institute, the Membership of that Member will automatically cease at the expiry of the sixty (60) day period.

7.4 Continuing obligations

- (a) Any Member whose Membership has been suspended or has otherwise ceased continues to remain liable for:
 - (i) all money owing by the Member to the Institute including any Membership Fees as at the date of suspension, cancellation or cessation; and
 - (ii) subject to clause 5.1 of the Constitution, the Guarantee.

7.5 Readmittance to Membership

- (a) Subject to clause 7.5(b) below, the Directors may at their discretion readmit or reinstate a Member (or former Member, as the case may be) whose Membership has been suspended, or cancelled or ceased, on such terms and conditions as the Directors consider fit to apply from time to time, including without limitation the undertaking of such additional education or remediation by the Member and the payment of all money owing by the Member to the Institute as at the date their Membership was suspended, or cancelled or ceased, and all moneys that would have become due to the Institute since that time if the person had remained a Member.

- (b) The Directors have no discretion to readmit a Member who is the subject of an Adverse Third Party Decision except in accordance with any terms of such Adverse Third Party Decision including in relation to a duration of suspension or termination of registration.

8 Complaints and Disciplinary Events

8.1 Complaints

- (a) The Institute's Complaints Officer is responsible for handling Complaints received by the Institute.
- (b) If a person makes a Complaint against a Member, the Complaints Officer must determine whether there are sufficient grounds to investigate the Complaint.
- (c) With the approval of the CEO, the Complaints Officer may refer Complaints to be investigated by another person who may be an employee of or contractor to the Institute, a Member or another third party (**Investigator**). All references to the Complaints Officer include an Investigator, as relevant.
- (d) On completion of the investigation of a Complaint, the Complaints Officer will provide the Investigation File to the Chair of the Professional Standards and Disciplinary Committee.
- (e) Upon receipt of the Investigation File, the Chair of the Professional Standards and Disciplinary Committee will empanel a Disciplinary Panel to consider the Complaint.
- (f) Proceedings of the Disciplinary Panel will be conducted in accordance with By-Law 10 and the Disciplinary Panel may make Findings (including a Finding that the Complaint is not made out), and Orders including imposing sanctions, in accordance with that By-Law.
- (g) A Member who is the subject of a Complaint and in respect of whom the Disciplinary Panel has made Findings and/or imposed sanctions may appeal against the Findings and/or the sanctions imposed to the Appeal Panel in accordance with the rights and procedures set out in By-Law 11.
- (h) Proceedings of the Appeal Panel will be conducted in accordance with By-Law 12 and the Appeal Panel may make Findings (including a Finding that the Complaint is not made out) and Orders, and may affirm or impose sanctions in accordance with that By-Law.

8.2 Disciplinary Events

- (a) Each Member is required to meet the standards of professional and ethical conduct set out in the Taxation Laws and the Institute's Code of Professional Conduct (contained in By-Law 13 and published on the Institute's website).
- (b) Each of the following is a Disciplinary Event in respect of a Member's professional conduct obligations:
 - (i) engaging in conduct which:
 - (A) is unbecoming of a Member;

- (B) is prejudicial to or not in the best interests of the Institute; and/or
 - (C) brings discredit on the Institute or brings the Institute into disrepute;
- (ii) engaging in derogatory or discriminatory conduct or harassment of any type;
 - (iii) failing to observe a proper standard of professional care, skill or competence;
 - (iv) failing to comply with a written direction issued by the Directors or National Council in accordance with the Constitution or any of the Institute's By-Law;
 - (v) being the subject of an adverse finding in relation to their professional conduct, competence or recognition by any body or authority having jurisdiction or competence to make such a finding;
 - (vi) being convicted of a Serious Offence;
 - (vii) being found in any civil proceedings in a court in Australia or elsewhere to have acted dishonestly;
 - (viii) involuntarily ceasing to be a director by virtue of the Corporations Act or being prohibited from being a director by reason of any order made under the Corporations Act;
 - (ix) becoming bankrupt or assigning their estate or entering into a deed of arrangement for the benefit of their creditors;
 - (x) failing to comply with the Constitution or any By-Law of the Institute;
 - (xi) failing to comply with the Institute's Code of Professional Conduct;
 - (xii) making a frivolous or vexatious Complaint about a Member, or knowingly making a false or misleading Complaint about a Member;
 - (xiii) failing to reasonably assist the Complaints Officer or hindering or obstructing the Complaints Officer in the carrying out of an investigation of a Complaint;
 - (xiv) failing to acknowledge or comply with a reasonable written direction of the Institute prior to, or in the course of, the carrying out of an investigation of a Complaint;
 - (xv) not reasonably cooperating with, nor treating with respect, the Institute, any of its employees or contractors or any individual appointed to act on behalf of the Institute; and
 - (xvi) for any reason, ceasing to be a person of good fame, integrity and character.
- (c) Where a Member also practices as a chartered accountant, certified practising accountant, barrister or solicitor, they must also abide by the ethical rules of the relevant governing body, and breach of such ethical rules constitutes as a Disciplinary Event.
 - (d) In all other cases, Members must abide by APES 220 Taxation Services, or such other ethical statements on the provision of taxation services issued by the Accounting

Professional & Ethical Standards Board or its successor bodies. Any breach of APES 220 or such other ethical statements constitutes as a Disciplinary Event.

- (e) The Disciplinary Events relevant to the making of, and subsequent consideration of, any Complaint will be those set out in the version of this By-Law in force on the date or dates that the actions or events that are set out in the Complaint are alleged to have taken place.
- (f) The procedures provided for in this By-Law apply to any Complaints initiated after the coming into force of this By-Law. Any changes to this By-Law will govern the procedure adopted on Complaints initiated after such changes come into force; but any subsequent changes to this By-Law will not retrospectively adversely affect the rights and liabilities of the Member. A Member will not be liable for sanctions that were inapplicable at the time of the actions or events giving rise to the Complaint.

8.3 Requirements for a Complaint

- (a) Any person, whether or not a Member, may make a Complaint against a Member.
- (b) A Complaint must:
 - (i) be in writing;
 - (ii) identify the Member against whom the Complaint is made;
 - (iii) specify the alleged Disciplinary Event or Disciplinary Events;
 - (iv) identify and describe in sufficient detail the factual basis of the Complaint;
 - (v) be addressed to the Institute's Complaints Officer;
 - (vi) be signed by the Complainant (in the case of an entity other than an individual, signed on behalf of the entity making the Complaint);
 - (vii) have a return address, telephone number, and/or email address at which the complainant can be contacted; and
 - (viii) be lodged in accordance with clause 8.4 below.
- (c) The Institute may make a Complaint against a Member.
- (d) The Complaints Officer may, in their absolute discretion, waive strict compliance with requirements contained in subparagraphs 8.3(b)(iv), 8.3(b)(v), 8.3(b)(vi), 8.3(b)(vii), and/or 8.3(b)(viii).
- (e) The Complaints Officer may, in their absolute discretion, request additional information at any time, and require the facts alleged by the Complainant to be given by way of a statutory declaration.

8.4 Lodgment of a Complaint

- (a) A Complaint must be lodged in one of the following manners:

- (i) in person at the National Office of the Institute located in Sydney, New South Wales;
- (ii) by registered mail to the National Office of the Institute located in Sydney, New South Wales; or
- (iii) by email to the Institute at Complaints@taxinstitute.com.au.

8.5 Consideration of a Complaint

- (a) Where the Complaints Officer assesses a Complaint and concludes that there are sufficient grounds to constitute a Disciplinary Event and there is sufficient basis to investigate, the Complaints Officer will inform the Complainant that the Complaint will be investigated and also advise the Complaint Number.
- (b) The Complaints Officer will inform the relevant Member that a Complaint has been lodged concerning that Member and provide the Member with relevant details of the Complaint. The Complaints Officer may redact the Complaint to protect the identity of the Complainant.
- (c) Where the Complaints Officer assesses a Complaint concludes that there are insufficient grounds to investigate the Complaint, the Complaints Officer will inform the Complainant that the Complaint will not be investigated by the Institute and may include an explanation of the reason why the Institute has determined not to pursue an investigation into the Complaint.

8.6 Complaints regarding former Members

- (a) Where a Complaint is received about a former Member, clause 8.5(a) above does not apply. The Complaints Officer:
 - (i) will advise the Complainant that the individual who is the subject of the Complaint is a former Member and is no longer a Member of the Institute; and
 - (ii) may refer the Complainant to a relevant regulatory body or other avenue for complaint, as appropriate in the circumstances; and
 - (iii) will, if the Complaints Officer assesses, and concludes, that should the former Member have been a Member at the time the Complaint was received, there would have been sufficient grounds to constitute a Disciplinary Event, retain details of the Complaint as an open Complaint on the Register of Complaints.
- (b) Where clause 8.6(a) above applies, should the former Member seek readmission as a Member, the Complaints Officer must:
 - (i) inform the former Member that an outstanding Complaint is on file concerning the former Member and provide the former Member with the relevant details of the Complaint; and
 - (ii) address the Complaint in the same manner as they would for a Member in accordance with the Institute's By-Laws. For the purposes of addressing the Complaint, any reference to Member in the By-Laws are to be read as including a former Member.

- (c) Notwithstanding any other provision in any of the Institute's By-Laws, the former Member cannot be readmitted as a Member until the Complaint is resolved and any sanctions that may have otherwise been imposed should the former Member have been a Member, are resolved or otherwise addressed in a manner deemed appropriate by the Directors.
- (d) Any resignation from the Membership of the Institute notified by a Member, or non-payment of the Membership Fee including renewal of Membership, after the Institute has advised the Member of the Complaint will not preclude the Disciplinary Panel from completing their Hearing, making Findings or Orders, including imposing any sanctions.

8.7 Withdrawal of a Complaint

- (a) A Complaint may be withdrawn by a Complainant in writing.
- (b) If a Complaint is withdrawn before the investigation has been completed, then:
 - (i) the investigation will be closed at that point; and
 - (ii) the Member will be advised that the Complaint has been withdrawn and the matter is concluded.
- (c) Despite paragraph 8.7(a), the CEO may, in their absolute discretion, determine that there are sufficient grounds to continue the investigation and in such circumstances, the investigation will continue as if the Institute were the original complainant.
- (d) For the avoidance of doubt, cessation of a Member's membership with the Institute will not result in the withdrawal of the Complaint.

8.8 Recording of Complaints received

- (a) The Complaints Officer will keep a Register of Complaints received for a minimum period of 7 years.
- (b) The Complaints Officer will provide a statistical report at least annually to the Professional Standards and Disciplinary Committee summarising all Complaints activity during the year.

8.9 Excluded disputes

- (a) Any fee dispute that forms part of a Complaint will not be treated as forming part of the Complaint.
- (b) The Complaints Officer may reject or defer consideration of any Complaint which, in the opinion of the Complaints Officer;
 - (i) involves a commercial dispute (such as breaching a restraint of trade or poaching clients); and
 - (ii) can be properly addressed in another and more suitable forum.

8.10 Adverse Third Party Disciplinary Decisions

- (a) Each of Disciplinary Events 8.2(b)(v), 8.2(b)(vi), 8.2(b)(vii), 8.2(b)(viii), or 8.2(b)(ix) above are referred to as an **Adverse Third Party Decision** in this By-Law.
- (b) The procedures adopted by the Institute in relation to an Adverse Third Party Decision will differ, depending on whether the Adverse Third Party Decision has been made by:
 - (i) the TPB in relation to a breach of the TASA; or
 - (ii) a statutory or judicial body constituted under the laws of Australia or another country; or
 - (iii) another professional association of which the Member is a member, whether in Australia or elsewhere.

8.11 Adverse Third Party Decisions by the Tax Practitioners Board

- (a) This clause relates to Adverse Third Party decisions by the TPB against a Member under section 30-25 of the TASA (**Suspension of registration**), and section 30-30 of the TASA (**Termination of registration**). Such decisions arise from breaches of the Code of Professional Conduct in Division 30 of TASA. This clause also relates to Adverse Third Party Decisions by the TPB against a Member under Division 40 of the TASA.
- (b) Where an Adverse Third Party Decision by the TPB results in:
 - (i) suspension of a Member's registration under section 30-25 of the TASA;
 - (ii) termination of a Member's registration under section 30-30 of the TASA; or
 - (iii) termination of a Member's registration under Division 40 of the TASA,

the Member's Membership will be, after conclusion of any appeals process relating to such TPB decision, if the suspension or termination decision by the TPB is not overturned on appeal, or if no such appeal has been lodged and the time to do so has lapsed, be suspended or terminated, as applicable, for the same period as determined by the TPB.
- (c) Any resignation from the Membership of the Institute notified by the Member, or non-payment of the Membership Fee including renewal of Membership, after the TPB has advised the Member of the outcome of its investigation but before the end of any relevant appeal period will not preclude the Institute from suspending or terminating the Member's Membership in accordance with the TPB's decision.
- (d) A person whose Membership of the Institute has been suspended or terminated under this clause 8.11, or who has resigned from Membership of the Institute after the relevant TPB investigation commenced but before such suspension or termination took effect, may only apply to the Institute for their Membership to be reinstated by providing evidence to the Institute that the TPB has reinstated the person's registration.
- (e) If paragraph 8.11(d) above applies, the requirements of By-Law 4 will also apply.

8.12 Adverse Third Party Decisions by a statutory or judicial body

- (a) This clause relates to the Disciplinary Events contained in clauses 8.2(b)(vi), 8.2(b)(vii), 8.2(b)(viii), or 8.2(b)(ix), each of which is an Adverse Third Party Decision.
 - (b) Where an Adverse Third Party Decision in respect of any of the events listed in clause 8.12(a) above is made, and all relevant avenues of appeal have lapsed or been exhausted, the Member's Membership will be terminated.
 - (c) A person whose Membership has been terminated under paragraph 8.12(b) above may reapply for Membership of the Institute 3 years or more after their Membership was terminated under that clause provided that any sentence or order of any statutory or judicial body has lapsed or otherwise been exhausted.
 - (d) If paragraph 8.12(c) above applies, the requirements of By-Law 4 will also apply.
- 8.13 Adverse third party decisions by the TPB or another statutory or judicial body in relation to a Member's professional conduct, competence or recognition.
- (a) This clause relates to Adverse Third Party Decisions made against a Member by the TPB other than under sections 30-25 or 30-30 or Division 40 of the TASA, or by another statutory or judicial body in relation to a Member's professional conduct, competence or recognition.
 - (b) Where the Institute becomes aware that the TPB or another statutory or judicial body has allegedly made an Adverse Third Party Decision in relation to a Member's professional conduct, competence or recognition, the Institute may request the Member to confirm the details of the alleged decision. The Member must respond within 28 days of the request.
 - (c) Where the Adverse Third Party Decision is confirmed by the Member or the Member does not respond to an information request in accordance with clause 8.13(b), the Institute will be deemed to make a Complaint in relation to the Member for the purposes of paragraph 8.3(c) above.
 - (d) Where the Adverse Third Party Decision is disputed by the Member, or otherwise not confirmed by the Member, the Institute will make all reasonable endeavours to clarify the matter with the TPB or such other statutory or judicial body. Where the Adverse Third Party Decision is confirmed as having been made against the Member by the TPB or such other statutory or judicial body, the Institute will be deemed to make a Complaint in relation to the Member for the purposes of paragraph 8.3(c) above.
 - (e) Where in accordance with paragraph 8.13(b) above a request has been sent to a Member, any resignation from the Membership of the Institute notified by the Member prior to a Complaint being made in accordance with paragraph 8.13(c) or 8.13(d) will not preclude the Institute from undertaking an investigation.
- 8.14 Adverse third party decisions by a professional association
- (a) Where the Member belongs to another professional association in addition to the Institute, and the Institute becomes aware that the other professional association has allegedly made an Adverse Third Party Decision in relation to the Member's professional conduct, competence or recognition which results in the suspension or termination of the Member's membership of that other professional association, the Institute will request the Member to confirm the details of the alleged decision of that

other professional association. The Member must respond within 28 days of the request.

- (b) Where the Adverse Third Party Decision is confirmed by the Member, the Institute will be deemed to make a Complaint in relation to the Member for the purposes of paragraph 8.3(c) above.
- (c) Where the Adverse Third Party Decision is disputed by the Member, or otherwise not confirmed by the Member, the Institute will make all reasonable endeavours to clarify the matter with the other professional association. Where the Adverse Third Party Decision is confirmed as having been made against the Member by the professional association, the Institute will be deemed to make a Complaint in relation to the Member for the purposes of paragraph 8.3(c) above.
- (d) Where in accordance with paragraph 8.14(a) above a request has been sent to a Member, any resignation from the Membership of the Institute notified by the Member prior to a Complaint being made in accordance with paragraph 8.14(b) or 8.14(c) will not preclude the Institute from undertaking an investigation.

9 Investigation of Complaints

9.1 Carrying out of the investigation

- (a) In carrying out an investigation the Complaints Officer must, at all times, act solely in the interests of the Institute and will have no obligation to act in the interests of the Member or the Complainant.
- (b) The Complaints Officer will be entitled to any reasonable assistance in relation to the carrying out of the investigation required from employees or contractors of the Institute.
- (c) The CEO will have general oversight of the conduct of the investigation. As part of the oversight, the CEO has powers including, but not limited to:
 - (i) requesting updates on the progress of the investigation;
 - (ii) directing other staff of the Institute, Members of the Institute, or third parties to assist the Complaints Officer with the investigation; and
 - (iii) ensure that the Member is properly afforded due process.
- (d) The CEO may delegate any such powers to an employee of the Institute with adequate skill and experience to undertake such functions.
- (e) Notwithstanding paragraph 9.1(c) above, the CEO will not have the power to direct the outcome reached by the Complaints Officer. The CEO's approval of the Complaints Officer's decision or an alternate recommendation must be made pursuant to paragraphs 9.5(d) below.

9.2 Obtaining information

- (a) In the course of investigating a Complaint, the Complaints Officer has the power to call for, and it will be the duty of every Member to provide, such information (if any) as is in the Member's power to give that the Complaints Officer may consider relevant to the consideration of the Complaint.

- (b) When requesting information from Members, other than the Member against whom the Complaint is made, the Complaints Officer is required to follow the time requirements set out in paragraphs 9.4(e) and 9.4(f) below.
- (c) The Complaints Officer may access Investigation Files or other information regarding any Complaint against the same Member that have been previously received or considered by the Institute.

9.3 Suspension by the Complaints Officer of investigation of a Complaint against a Member pending other matters being resolved

- (a) The Complaints Officer may suspend or defer further investigation of a Complaint against a Member if the Complaints Officer considers that there are reasonable grounds for doing so.
- (b) Such grounds may include, but are not limited to:
 - (i) proceedings of a civil or criminal nature being brought against the Member in a competent court or tribunal relating to the issues identified in the Complaint;
 - (ii) an ongoing investigation or disciplinary proceedings, or a sanction imposed by the TPB or another regulatory body on the Member relating to the issues identified in the Complaint;
 - (iii) an ongoing investigation or a sanction imposed by the ATO or another tax administrator on the Member relating to the issues identified in the Complaint; and/or
 - (iv) an ongoing disciplinary process or decision being undertaken by another RTAA or RTFAA on the Member relating to the issues identified in the Complaint.

9.4 Due process to be afforded to a Member by the Complaints Officer

- (a) The Complaints Officer must provide the Member against whom the Complaint has been made with a reasonable opportunity to give either orally or in writing any explanation or defence, as well as any supporting evidence, in response to the Complaint.
- (b) Members who request to provide their defence or explanation orally may request to do so over a phone call, or an in-person or online meeting. Subject to paragraph 9.4(c) below, if the Member provides their defence orally, the Complaints Officer is required to:
 - (i) make a record of what was stated during the phone call or meeting;
 - (ii) if requested by the Member, provide the Member with a copy of the record that outlines what the Member has stated;
 - (iii) provide the Member with 14 calendar days to make any amendments or corrections to the record; and
 - (iv) store as a separate record, the Member's requested corrections and amendments.

- (c) The Complaints Officer may require any oral explanation or defence to be reduced to writing by the Member.
- (d) The Complaints Officer may require that any written explanation or defence of the relevant facts and events be given by way of statutory declaration sworn by the Member.
- (e) Members must be provided with at least 14 calendar days to provide their explanation or defence. The Complaints Officer may allow additional time based on the circumstances of the investigation and Member.
- (f) The Complaints Officer must seek approval from the CEO if they wish to provide, or a Member requests, more than 90 calendar days to provide the requested information.
- (g) The Member must be notified in writing of the outcome of the investigation and the decision that has been made under paragraphs 9.5(d) below.
- (h) For the avoidance of doubt, a Member cancelling their membership, or not renewing their membership, before or during an investigation will not preclude the investigation from proceeding or discharge the obligation of the Member to respond to a request for information by the Complaints Officer.

9.5 Preparation by the Complaints Officer of the Investigation File

- (a) The Complaints Officer will collect information which is relevant to the Complaint and such information will be included in and form part of the Investigation File.
- (b) To the extent applicable, the Investigation File must include, but is not limited to:
 - (i) the Complaint;
 - (ii) written correspondence withdrawing the Complaint;
 - (iii) supporting evidence provided with the Complaint;
 - (iv) the Complaints Officer's records of any oral explanation or defence provided by the Member as outlined in paragraph 9.4(b) above;
 - (v) any corrections or amendments made by the Member of the Complaints Officer's notes of any oral explanation provided as outlined in subparagraph 9.4(b)(iv) above;
 - (vi) any written explanation or defence provided by the Member, or a note stating that that no such explanation or defence was received within the timeframe allowed for the Member to provide the information;
 - (vii) any relevant third-party statement concerning the Complaint;
 - (viii) facts, findings, recommendations and previous Complaints, as outlined in paragraph 9.2(c) above, to the extent they are considered relevant by the Complaints Officer;
 - (ix) any other notes or evidence compiled by the Complaints Officer concerning the Complaint; and

- (x) whether the investigation has been suspended in accordance with clause 9.3 above.
- (c) The Complaints Officer must also include in the Investigation File a recommendation as to the resolution of the Complaint. The possible recommendations are:
 - (i) there are substantial grounds to conclude that a Disciplinary Event has occurred and should proceed to a Hearing under By-Law 10;
 - (ii) there are substantial grounds to conclude that a Disciplinary Event and that the matter should be determined by other means, and in such case the Complaints Officer may recommend such other means; or
 - (iii) there are insufficient grounds to conclude there is a Disciplinary Event and therefore the Complaint should be dismissed.
- (d) When the Complaints Officer makes a recommendation pursuant to paragraph 9.5(c), the Complaints Officer will provide the Investigation File to the CEO, who will consider the recommendation. The CEO may, in their absolute discretion, endorse the Complaints Officer's recommendation or substitute an alternative recommendation. The CEO's determination must be in writing and attached to the Investigation File to be provided to the Professional Standards and Disciplinary Committee.

10 Professional Standards and Disciplinary Committee and Disciplinary Panel Procedures

10.1 Role of the Professional Standards and Disciplinary Committee and Disciplinary Panel

- (a) The Professional Standards and Disciplinary Committee is a standing committee of the National Council that meets when required. The Professional Standards and Disciplinary Committee is comprised of Members of the Institute with relevant experience who are available to be appointed to a Disciplinary Panel to hear Complaint matters in accordance with the Institute's By-Laws.
- (b) The Disciplinary Panel may make Findings and Orders under this By-Law in respect of Complaints escalated in accordance with the Institute's By-Laws.

10.2 Appointment of Chair of the Professional Standards and Disciplinary Committee

- (a) The Immediate Past President will serve as Chair of the Professional Standards and Disciplinary Committee while holding the position as Immediate Past President.
- (b) The National Council has the discretion to terminate and replace the Chair of the Professional Standards and Disciplinary Committee. Decisions under this paragraph 10.2(b) must be made in writing.
- (c) The National Council may in writing, appoint a Deputy Chair to the Professional Standards and Disciplinary Committee to perform the functions under the By-Laws to assist the Chair or if the Chair is unable to perform such functions during their appointment.

10.3 Appointment of Members of the Professional Standards and Disciplinary Committee

- (a) The Immediate Past President is appointed for a term of three (3) years.
- (b) The National Council may in writing, appoint a person to be a member of the Professional Standards and Disciplinary Committee for a fixed term. The term of appointment will usually be for a period of three (3) years. At the expiry of the term, the person will be eligible for reappointment for one (1) further term of three (3) years.
- (c) A member of the Professional Standards and Disciplinary Committee may at any time resign from the position by notice in writing given to the Institute.
- (d) The National Council has the discretion to terminate and replace a member of the Professional Standards and Disciplinary Committee.
- (e) The Professional Standards and Disciplinary Committee will consist of no less than three (3) persons and no more than twelve (12) persons, including the Chair and the Deputy Chair.

10.4 Empanelling a Disciplinary Panel

- (a) The Chair of the Professional Standards and Disciplinary Committee has the discretion to empanel a Disciplinary Panel of either three (3) or five (5) persons that are members of the Professional Standards and Disciplinary Committee to consider a Complaint.
- (b) Each Disciplinary Panel must include the Chair of the Professional Standards and Disciplinary Committee or the Deputy Chair of the Professional Standards and Disciplinary Committee except in the case of a conflict of interest.
- (c) The Chair of the Professional Standards and Disciplinary Committee will be the Chair of the Disciplinary Panel and responsible for ensuring that the Hearing is undertaken in accordance with this By-Law.
- (d) The Deputy Chair of the Professional Standards and Disciplinary Committee will undertake the responsibility assigned in paragraph 10.4(c) above if the Chair of the Professional Standards and Disciplinary Committee is not a member of that Disciplinary Panel.
- (e) If neither the Chair of the Professional Standards and Disciplinary Committee or the Deputy Chair of the Professional Standards and Disciplinary Committee is able to be a member of a Disciplinary Panel, the members of the Disciplinary Panel will elect a person on that Disciplinary Panel to undertake the responsibility assigned in paragraph 10.4(c) above.
- (f) In the course of empanelling a Disciplinary Panel, the Chair of the Professional Standards and Disciplinary Committee must ascertain if there are any conflicts of interests that may preclude a member from fulfilling their duties as a member of the Disciplinary Panel.
- (g) Each member of the Disciplinary Panel must disclose to the Chair of the Professional Standards and Disciplinary Committee any actual, potential or perceived conflicts of interest in respect of either the Complainant or the Member who is the subject of the Complaint as soon as possible.
- (h) If a conflict of interest relating to an empanelled Disciplinary Panel member cannot be resolved or appropriately managed, the Chair of the Professional Standards and

Disciplinary Committee may empanel another member of the Professional Standards and Disciplinary Committee to replace the conflicted Disciplinary Panel member.

- (i) If all remaining members of the Professional Standards and Disciplinary Committee have conflicts of interest that cannot be resolved or appropriately managed, the Chair of the Professional Standards and Disciplinary Committee may, with written permission from the National Council, empanel a Member of the Institute who is not a member of the Professional Standards and Disciplinary Committee onto that Disciplinary Panel.

10.5 Alternative dispute resolution

- (a) If the Disciplinary Panel considering a Complaint is, in its absolute discretion, of the opinion that it is appropriate to do so, the Disciplinary Panel may recommend to the Member and the Complainant that they attempt to resolve the Complaint by conciliation or mediation or in some other way not involving disciplinary action, and, if successful, will take no further action unless subsequently the Disciplinary Panel considers that new facts or matters have arisen which alter the circumstances or render the earlier resolution of the Complaint by the Member and the Complainant inappropriate.

10.6 Matters relating to a Hearing

- (a) The Chair of the Disciplinary Panel is responsible for the conduct of the Hearing.
- (b) The Chair of the Disciplinary Panel, may, at their discretion, choose to continue a Hearing, if one or more members of the Disciplinary Panel is/are not present, provided that there are at least two members of the Disciplinary Panel present for the Hearing.
- (c) If the Hearing does not proceed, or conclude, on the scheduled day(s), the Disciplinary Panel must reschedule to start, or complete, the Hearing as soon as practicable for all involved parties.
- (d) The Disciplinary Panel may request assistance from the CEO in relation to the organisation of a Hearing.
- (e) Proceedings of the Disciplinary Panel may be recorded. If proceedings are recorded, then the Member may request a copy of the recording. The Institute reserves the right to charge an administrative fee in relation to the provision of this recording.
- (f) The Disciplinary Panel may instruct a solicitor to act, or to brief counsel to act, as its legal adviser at or otherwise in respect of a Hearing.
- (g) The CEO may appoint any person to represent the Institute in the Hearing, or may instruct a solicitor to present the Complaint or to brief counsel to present the Complaint, or instruct a suitably qualified employee of the Institute to instruct a solicitor, brief counsel or to present the Complaint. This person is referred to as the **Presenter** in these By-Laws.
- (h) The Chair of the Disciplinary Panel may expel from a Hearing any person who acts in a disrespectful manner, or becomes aggressive or otherwise disruptive to the proceedings.
- (i) In any Hearing before a Disciplinary Panel:
 - (i) the Hearing is subject to these By-Laws and the Constitution;

- (ii) the Hearing will be conducted with as little formality and technicality, and with as much expedition as practicable, subject to the requirements set out in the By-Laws and the Constitution, and ensuring that a proper consideration of the matters occurs; and
 - (iii) the Disciplinary Panel is not bound by the rules of evidence, though these rules may inform the Disciplinary Panel on any matter in such manner as it considers appropriate.
- (j) If a Disciplinary Panel is unable to arrive at any determination under clauses 10.11 or 10.12 below, the Complaint must be reheard by a new Disciplinary Panel empanelled in accordance with clause 10.4 above. The new Disciplinary Panel cannot include any members of the previous Disciplinary Panel.
- (k) The Disciplinary Panel may order that the details of the Complaint be kept confidential.
- (l) The Hearing will be held in private. However, the Chair of the Disciplinary Panel may, in their absolute discretion, determine that the Hearing should be open to the public in whole or in part if:
 - (i) the Hearing concerns matters of significant public interest;
 - (ii) all parties are given written notice of this decision;
 - (iii) all parties are provided with the opportunity to have their views regarding the public Hearing considered by the Chair of the Disciplinary Panel; and
 - (iv) the Member, or any other party, will not be significantly prejudiced as a result of making the Hearing public.
- (m) Any statement made in any Hearing or in respect of any Finding or Order by a Disciplinary Panel in relation to a Complaint against a Member attracts a defence of qualified privilege in favour of each member that constitutes the relevant Disciplinary Panel.

10.7 Standard of proof

- (a) The Disciplinary Panel must be satisfied, on the balance of probabilities, that a Disciplinary Event in relation to the Member has occurred.

10.8 Due process to be afforded to a Member by the Disciplinary Panel

- (a) The Disciplinary Panel must provide the Member against whom the Complaint has been made with 28 calendar days to give, either orally or in writing, any explanation or defence in relation to the Complaint and outcome of the investigation.
- (b) The Disciplinary Panel, in their discretion, may extend the period of time up to 60 calendar days.
- (c) If the Member agrees with the final decision made during the investigation, the Disciplinary Panel will not need to convene a Hearing but may make a Finding to that effect. In such circumstances, the Disciplinary Panel must make an Order under paragraph 10.12 below.

- (d) If the Member does not respond to the Disciplinary Panel's request for information as outlined in paragraph 10.8(a), and the Disciplinary Panel is satisfied that the Member has been provided with a reasonable period of time to provide their response, the Disciplinary Panel may determine whether to convene a Hearing and may make a Finding whether it convenes a Hearing. In such circumstances, the Disciplinary Panel must make an Order under paragraph 10.12 below.
- (e) If the Member does not agree with the outcome of the investigation, the Disciplinary Panel must convene the Hearing and provide the Member with at least 28 calendar days' written notice of the details of the Hearing. The notice must include:
 - (i) the time and place of the Hearing of the Disciplinary Panel, including details for an online option to join the Hearing if applicable;
 - (ii) the Disciplinary Event(s) that have been alleged against the Member;
 - (iii) any witnesses intended to be called;
 - (iv) information on the Member's right to give any oral or written explanation or defence at the Hearing;
 - (v) a summary of the rules under which the Hearing will be conducted; and
 - (vi) the rights and obligations of the Member.
- (f) The Disciplinary Panel will make reasonable endeavours to accommodate the needs of all parties.
- (g) The Member may represent themselves or be represented by another person. If the Member chooses to be represented by another person:
 - (i) the Member must give the Disciplinary Panel 14 days' notice that the Member will be represented at the Hearing by another person and provide the name of the representative and the representative's relationship with the Member;
 - (ii) the Member will be deemed to be present at the Hearing if only the Member's representative attends the Hearing; and
 - (iii) the Member's representative cannot hold a position or office at the Institute.
- (h) The Disciplinary Panel will give the Member or the Member's representative a fair and reasonable opportunity to be heard. Submissions, explanations or any defence may be made orally or in writing.
- (i) The Member will be entitled to be heard before the Disciplinary Panel and will be permitted to be legally represented, to call witnesses and to cross-examine witnesses called by a person other than the Member.
- (j) The Member must give the Disciplinary Panel 14 days' notice of any witnesses the Member intends to call at the Hearing. If a witness nominated by the Member is unavailable, or replaced, the Disciplinary Panel may, in its absolute discretion, defer the Hearing to another time and a place.

- (k) If the Member provides their defence or explanation solely in writing, the Member may agree to allow the Disciplinary Panel make their decision on the written evidence before them.
- (l) If the Member does not attend the Hearing, then, provided that the Disciplinary Panel is satisfied that notice of that Hearing was served on the Member, the Disciplinary Panel may proceed to hear the Complaint in the absence of the Member.
- (m) If the Disciplinary Panel proceeds with the Hearing in the absence of the Member, then the Member will not be entitled to any rehearing of the Complaint by the Disciplinary Panel.
- (n) Where the Member, before a court of competent jurisdiction and/or the TPB or another RTAA or RTFAA, pleaded guilty to, or has been found guilty of, any Disciplinary Event, it will be presumed, unless the contrary is established, that such a conviction or finding constitutes proof of the commission of a Disciplinary Event that is part of the Complaint.

10.9 Suspension by the Disciplinary Panel of consideration of a Complaint against a Member pending other matters being resolved

- (a) The Disciplinary Panel, in its absolute discretion, may determine to suspend or defer further consideration of a Complaint against a Member if it considers that there are reasonable grounds for doing so.
- (b) Such grounds may include, but are not limited to:
 - (i) proceedings of a civil or criminal nature being brought against the Member in a competent court or tribunal relating to the issues identified in the Complaint;
 - (ii) an ongoing investigation or disciplinary proceedings, or a sanction imposed by the TPB or another regulatory body on the Member relating to the issues identified in the Complaint;
 - (iii) an ongoing investigation or a sanction imposed by the ATO or another tax administrator on the Member relating to the issues identified in the Complaint; and/or
 - (iv) an ongoing disciplinary process or decision being undertaken by another RTAA or RTFAA on the Member relating to the issues identified in the Complaint.

10.10 Adjournments

- (a) The Disciplinary Panel may, in their absolute discretion, decide whether or not to postpone or adjourn or grant any application for an adjournment or postponement of a Hearing, and subject to any conditions they determine. Written notice must be given to the Member of the date, time and place of the adjourned or postponed Hearing.
- (b) Where a Hearing is adjourned in order that further information or evidence may be obtained, the Disciplinary Panel may give directions regarding the disclosure of such information or evidence to the Member prior to the resumption of the Hearing.
- (c) An application for further adjournment made before a Hearing is resumed may be determined by the Chair of the Disciplinary Panel.

- (d) An adjournment may not last for more than 60 calendar days.

10.11 Findings by the Disciplinary Panel

- (a) Upon conclusion of a Hearing, the Disciplinary Panel may:
 - (i) reach a decision in respect of the Complaint and make a Finding;
 - (ii) reserve its decision for further consideration; or
 - (iii) adjourn the Hearing pending further information being provided to the Disciplinary Panel.
- (b) If the Disciplinary Panel finds that a Complaint has been proven, it will make a Finding to that effect.
- (c) If the Disciplinary Panel finds that a Complaint has not been proven, it will make a Finding to that effect.
- (d) Where a Complaint is found to be proven and a Finding is made to that effect, the Member will be called upon to make any submissions in mitigation of penalty to the Disciplinary Panel prior to determination of the sanction.
- (e) After considering the submissions presented for the purposes of paragraph 10.11(d) above, the Disciplinary Panel must determine the appropriate sanction. The Disciplinary Panel must also consider any evidence of previous disciplinary sanctions imposed on the Member.
- (f) Notice of any Finding made by the Disciplinary Panel must, as soon as possible, be conveyed to the Member orally (on the day of the Hearing) if practicable, and confirmed in writing together with reasons for the decision.

10.12 Orders of the Disciplinary Panel

- (a) If the Disciplinary Panel makes a Finding that a Complaint has been proven, then it may, by written notice, sanction the Member with one or more of the following:
 - (i) order the Member to undertake specific educational activity;
 - (ii) order the Member to undertake another specific activity;
 - (iii) order the suspension of the Membership of the Member for a specified period of time or until the happening of a specified event;
 - (iv) order the termination of the Membership of the Member; or
 - (v) make any such other orders as reasonably determined by the Disciplinary Panel,each, an **Order**.
- (b) In making an Order under this clause 10.12, the Disciplinary Panel may have regard to the status of the Member and the Disciplinary Panel's views as to the nature and

seriousness of the Complaint and any other circumstances that the Disciplinary Panel considers relevant.

- (c) An Order imposed by the Disciplinary Panel will not take effect until as follows:
 - (i) if an appeal is lodged, until the appeal is decided; or
 - (ii) in any other case, until the period in which an appeal may be lodged has expired.
- (d) If, notwithstanding a Finding that a Complaint has been proven, the Disciplinary Panel is of the opinion that, in the circumstances of the matter, no sanction is appropriate, it may make an Order that no further action be taken in respect of the Complaint.
- (e) The Disciplinary Panel must advise the Complaints Officer in writing of its Finding(s) and Order(s) and reasons as soon as possible.
- (f) The Complaints Officer must:
 - (i) maintain a register of all Findings and Orders made by the Disciplinary Panel; and
 - (ii) subject to clause 10.12(h) advise the Complainant in writing of the Finding(s) and Order(s) of the Disciplinary Panel as soon as possible.
- (g) The Institute will report any relevant aspect of the Finding(s) and Order(s) as required by law to any relevant regulatory body including, but not limited to, the TPB.
- (h) Whenever the Disciplinary Panel makes an Order under this By-Law, the Disciplinary Panel may cause its Order to be published in such manner as it considers fit, provided that, if the Disciplinary Panel has ordered that no further action be taken on the Complaint, the Order will not be published unless the Member so requests.
- (i) Any Order of the Disciplinary Panel made under this By-Law may be made on such terms and conditions (if any) as the Disciplinary Panel may consider appropriate, including, in the case of an Order terminating a Member's Membership, a recommendation that no application for admission or readmission to Membership will be entertained for such period as the Disciplinary Panel, in its Order, determines.

10.13 Rehearing by another constituted Disciplinary Panel

- (a) If, at any time, the Chair of the Disciplinary Panel is of the opinion that it is, for any reason, impracticable for the Hearing of a Complaint to be completed by the Disciplinary Panel appointed to hear that Complaint, the Chair of the Disciplinary Panel may direct that the Complaint be reheard by a new Disciplinary Panel.
- (b) Whenever a Complaint is reheard by a new Disciplinary Panel pursuant to this clause 10.13, any of the members of the original Disciplinary Panel may be appointed to the new Disciplinary Panel except in circumstances contemplated under paragraph 10.6(j) above.

10.14 Awards and Honours

- (a) If the Membership of the Member is terminated in accordance with the Institute's By-Laws, then, in addition to the powers granted to the Disciplinary Panel under this By-Law 10, the Institute may at its absolute discretion and by notice to the Member (or former Member), rescind, revoke or cancel any awards or honours granted to the Member prior to the termination of Membership (or former Membership) (**Revocation Notice**).
- (b) The Member (or former Member) must immediately without delay, remove any references to the Member (or former Member) being awarded any such awards or honours granted by the Institute upon receiving a Revocation Notice from the Institute.
- (c) If the Member (or former Member) fails to remove any references as required under paragraph 10.14(b) above, the Institute reserves its rights to bring any claims or complaints to any other statutory authority, including but not limited to a complaint for misleading and deceptive conduct under the appropriate legislation.

10.15 Costs

- (a) The Institute is not liable to the Member or any other person in respect of any and all of the costs incurred by the Member in relation to the Member responding to the Complaint or defending himself or herself against the Complaint, including costs associated with another person representing the Member.
- (b) To the extent a Finding is proven, the Institute reserves its rights to seek reimbursement from the Member about whom a Complaint is heard, for the Institute's costs incurred in relation to the Complaint. The Institute may issue enforcement and recovery proceedings against the relevant Member under this clause in any court of competent jurisdiction at any time.

11 Appeal against a Finding or Order of the Disciplinary Panel

11.1 Right of appeal

- (a) If a Member is dissatisfied with a Finding or Order of the Disciplinary Panel against the Member then the Member may appeal against the Finding or Order of the Disciplinary Panel.
- (b) If the Institute provides a Member (or former Member) a Revocation Notice under paragraph 10.14(a) of By-Law 10 that any awards or honours granted to the Member by the Institute are rescinded, revoked or cancelled, then the Member (or former Member) may appeal against such rescission, revocation or cancellation imposed by the Institute.

11.2 Form and content of appeal

- (a) The Member may, subject to clause 11.3 below, give notice of appeal of the Findings or Order of the Disciplinary Panel or Revocation Notice from the Institute (as applicable) in accordance with these procedures.
- (b) An appeal under clause 11.1 above must be addressed to the Complaints Officer of the Institute, be in writing, and set out fully the grounds on which the Member appeals against the Finding or Order of the Disciplinary Panel, or a Revocation Notice by the Institute.

11.3 Time limit on exercise of right of appeal

- (a) An appeal under clause 11.1 above must be received by the Institute at its National Office in Sydney within 21 calendar days of service upon the Member of a notice in writing setting out the Findings or Order of the Disciplinary Panel or a Revocation Notice by the Institute (**Appeal Period**).
- (b) An appeal under clause 11.1 above is only received by the Institute if it is delivered:
 - (i) in person at the National Office of the Institute located in Sydney, New South Wales;
 - (ii) by registered mail to the National Office of the Institute located in Sydney, New South Wales; or
 - (iii) by email to the Institute at Complaints@taxinstitute.com.au.

12 Appeal Panel Procedures

12.1 Role of Appeal Panel

- (a) An Appeal Panel will be constituted to hear appeals from the Disciplinary Panel. An Appeal Panel will be comprised of members of the Professional Standards and Disciplinary Committee who have not been members of the Disciplinary Panel that heard the matter relating to a Complaint in the first instance.
- (b) The Appeal Panel may make Findings and Orders under this By-Law in respect of Complaints escalated in accordance with the Institute's By-Laws.

12.2 Procedure for an appeal by a Member against a Finding or Order of a Disciplinary Panel, or a Revocation Notice by the Institute

- (a) Upon receipt of an appeal from a Member in accordance with By-Law 11, the Complaints Officer will inform the CEO and Chair of the Professional Standards and Disciplinary Committee.
- (b) The Chair of the Professional Standards and Disciplinary Committee will consider the nature of the appeal and empanel an Appeal Panel to consider the appeal in accordance with clause 12.3 below.

12.3 Empanelling an Appeal Panel

- (a) The Chair of the Professional Standards and Disciplinary Committee has the discretion to empanel an Appeal Panel of either three (3) or five (5) persons that are members of the Professional Standards and Disciplinary Committee to consider an appeal regarding Findings or Orders made by a Disciplinary Panel in respect of a Complaint, or a Revocation Notice by the Institute subject to paragraphs 12.3(b) and 12.3(c) below.
- (b) If the Appeal is in relation to a Finding or an Order of the Disciplinary Panel, no person who has been a member of the Disciplinary Panel in respect of the Complaint may also be a member of the Appeal Panel.

- (c) If the Appeal is in relation to a Revocation Notice, no person who was involved in the decision to issue the Revocation Notice may also be a member of the Appeal Panel.
- (d) The Chair of the Professional Standards and Disciplinary Committee may, in their absolute discretion, consult with the CEO in considering the empanelling of an Appeal Panel.
- (e) In the course of empanelling an Appeal Panel, the Chair of the Professional Standards and Disciplinary Committee must ascertain if there are any conflicts of interests that may preclude a member from fulfilling their duties as a member of the Appeal Panel.
- (f) Each member of the Appeal Panel must disclose to the Chair of the Professional Standards and Disciplinary Committee any actual, potential or perceived conflicts of interest in respect of either the Complainant or the Member who is the subject of the Complaint as soon as possible.
- (g) If a conflict of interest relating to an empanelled Appeal Panel member cannot be resolved or appropriately managed, the Chair of the Professional Standards and Disciplinary Committee may empanel another member of the Professional Standards and Disciplinary Committee to replace the conflicted Appeal Panel member.
- (h) If all remaining members of the Professional Standards and Disciplinary Committee have conflicts of interest that cannot be resolved or appropriately managed, the Chair of the Professional Standards and Disciplinary Committee may, with written permission from the National Council, empanel a Member of the Institute who is not a member of the Professional Standards and Disciplinary Committee onto that Appeal Panel.
- (i) The Chair of the Professional Standards and Disciplinary Committee must appoint a Chair of the Appeal Panel from its members or may act as the Chair of the Appeal Panel if they were not a member of the Disciplinary Panel in respect of the Complaint.

12.4 Matters relating to an Appeal Hearing

- (a) The Chair of the Appeal Panel is responsible for the conduct of the Appeal Hearing.
- (b) The Chair of the Appeal Panel, may, at their discretion, choose to continue an Appeal Hearing, if one or more members of the Appeal Panel is/are not present, provided that there are at least two members of the Appeal Panel present for the Appeal Hearing.
- (c) If the Appeal Hearing does not proceed, or conclude, on the scheduled day(s), the Appeal Panel must reschedule to start, or complete, the Appeal Hearing as soon as practicable for all involved parties.
- (d) The Appeal Panel may request assistance from the CEO in relation to the organisation of an Appeal Hearing.
- (e) Proceedings of the Appeal Panel may be recorded. If proceedings are recorded, then the Member may request a copy of the recording. The Institute reserves the right to charge an administrative fee in relation to the provision of this recording.
- (f) The Appeal Panel may instruct a solicitor to act, or to brief counsel to act, as its legal adviser at or otherwise in respect of an Appeal Hearing.

- (g) The CEO may appoint any person to represent the Institute in an appeal before the Appeal Panel, or may instruct a solicitor, or brief counsel to represent the Institute in an Appeal, or instruct a suitably qualified employee of the Institute to instruct a solicitor, brief counsel or to represent the Institute in an Appeal Hearing. This person is referred to as the **Appeal Presenter** in these By-Laws, and may be the same person who acted as the Presenter before the Disciplinary Panel in this matter.
- (h) The Chair of the Appeal Panel may expel from an Appeal Hearing any person who acts in a disrespectful manner, or becomes aggressive or otherwise disruptive to the proceedings.
- (i) In any Appeal Hearing before an Appeal Panel:
 - (i) the Appeal Hearing is, subject to these By-Laws and the Constitution;
 - (ii) the Appeal Hearing will be conducted with as little formality and technicality, and with as much expedition as practicable, subject to the requirements set out in the By-Laws and the Constitution, and ensuring that a proper consideration of the matters occurs; and
 - (iii) the Appeal Panel is not bound by the rules of evidence, though these rules may inform the Appeal Panel on any matter in such manner as it considers appropriate.
- (j) The Appeal Panel may order that the details of the Complaint be kept confidential.
- (k) The Appeal Hearing will be held in private. However, the Chair of the Appeal Panel may, in their absolute discretion, determine that the Appeal Hearing should be open to the public in whole or in part if:
 - (i) the Appeal Hearing concerns matters of significant public interest;
 - (ii) all parties are given written notice of this decision;
 - (iii) all parties are provided with the opportunity to have their views regarding the public Hearing considered by the Chair of the Appeal Panel; and
 - (iv) the Member, or any other party, will not be significantly prejudiced as a result of making the Appeal Hearing public.
- (l) Any statement made in any Appeal Hearing or in respect of any Finding or Order by an Appeal Panel in relation to an appeal attracts a defence of qualified privilege in favour of each member that constitutes the relevant Appeal Panel.

12.5 Standard of proof

- (a) The Appeal Panel must be satisfied, on the balance of probabilities, that a Disciplinary Event in relation to the Member has occurred.

12.6 Due process to be afforded to a Member by the Appeal Panel

- (a) The Appeal Panel must provide the Member against whom the Complaint has been made, or to whom the Revocation Notice applies, with 28 calendar days to give, either orally or in writing, any explanation or defence in relation to the appeal.

- (b) The Appeal Panel, in their discretion, may extend the period of time up to 60 calendar days.
- (c) The Appeal Panel must provide the Member with at least 28 days' written notice of the Appeal Hearing. The notice must include:
 - (i) the time and place of the Appeal Hearing, including details for an online option to join the Appeal Hearing, if applicable;
 - (ii) the Disciplinary Event(s) that have been alleged against the Member;
 - (iii) any Findings or Orders of the Disciplinary Panel in respect of the Complaint;
 - (iv) any witnesses intended to be called;
 - (v) information on the Member's right to give any oral or written explanation or defence at the Hearing;
 - (vi) a summary of the rules under which the Appeal Hearing will be conducted; and
 - (vii) the rights and obligations of the Member.
- (d) The Appeal Panel will make reasonable endeavours to accommodate the needs of all parties.
- (e) The Member may represent themselves or be represented by another person at the Appeal Hearing. If the Member chooses to be represented by another person:
 - (i) the Member must give the Appeal Panel 14 days' notice that the Member will be represented at the Appeal Hearing by another person and provide the name of the representative and the representative's relationship with the Member;
 - (ii) the Member will be deemed to be present at the Appeal Hearing if only the Member's representative attends the Appeal Hearing; and
 - (iii) the Member's representative cannot hold a position or office at the Institute.
- (f) The Appeal Panel will give the Member or the Member's representative a fair and reasonable opportunity to be heard. Submissions, explanations or any defence can be made orally or in writing.
- (g) The Member will be entitled to be heard before the Appeal Panel and will be permitted to be legally represented, to call witnesses and to cross-examine witnesses called by a person other than the Member.
- (h) The Member must give the Appeal Panel 14 days' notice of any witnesses the Member intends to call at the Appeal Hearing. If a witness nominated by the Member is unavailable, or replaced, the Appeal Panel may, in its absolute discretion, defer the Appeal Hearing to another time and a place.

- (i) If the Member provides their defence or explanation solely in writing, the Member may agree to allow the Appeal Panel make their decision on the written evidence before them.
- (j) If the Member does not attend the Appeal Hearing, then, provided that the Appeal Panel is satisfied that notice of that Appeal Hearing was served on the Member, the Appeal Panel may proceed to hear the appeal in the absence of the Member.
- (k) If the Appeal Panel proceeds with the Appeal Hearing in the absence of the Member, then the Member will not be entitled to any rehearing of the appeal by the Appeal Panel.
- (l) Where the Member, before a court of competent jurisdiction and/or the TPB or another RTAA or RTFAA, pleaded guilty to, or has been found guilty of, any Disciplinary Event, it will be presumed, unless the contrary is established, that such a conviction or finding constitutes proof of the commission of a Disciplinary Event that is part of the Complaint.

12.7 Suspension by the Appeal Panel of consideration of an appeal pending other matters being resolved

- (a) The Appeal Panel, in its absolute discretion, may determine to suspend or defer further consideration of an appeal if it considers that there are reasonable grounds for doing so.
- (b) Such grounds may include, but are not limited to:
 - (i) proceedings of a civil or criminal nature being brought against the Member in a competent court or tribunal relating to the issues identified in the Complaint;
 - (ii) an ongoing investigation or disciplinary proceedings, or a sanction imposed by the TPB or another regulatory body on the Member relating to the issues identified in the Complaint;
 - (iii) an ongoing investigation or a sanction imposed by the ATO or another tax administrator on the Member relating to the issues identified in the Complaint; and/or
 - (iv) an ongoing disciplinary process or decision being undertaken by another RTAA or RTFAA on the Member relating to the issues identified in the Complaint.

12.8 Adjournments

- (a) The Appeal Panel may, in their absolute discretion, decide whether or not to postpone or adjourn or grant any application for an adjournment or postponement of an Appeal Hearing, and subject to any conditions they determine. Written notice must be given to the Member of the date, time and place of the adjourned or postponed Appeal Hearing.
- (b) Where an Appeal Hearing is adjourned in order that further information or evidence may be obtained, the Appeal Panel may give directions regarding the disclosure of such information or evidence to the Member prior to the resumption of the Appeal Hearing.

- (c) An application for further adjournment made before an Appeal Hearing is resumed may be determined by the Chair of the Appeal Panel.
- (d) An adjournment may not last for more than 60 calendar days.

12.9 Findings by the Appeal Panel

- (a) Upon conclusion of an Appeal Hearing, the Appeal Panel may:
 - (i) reach a decision in respect of the appeal and make a Finding;
 - (ii) reserve its decision for further consideration; or
 - (iii) adjourn the Appeal Hearing pending further information being provided to the Appeal Panel.
- (b) If the Appeal Panel finds that a Complaint has been proven, it will make a Finding to that effect.
- (c) If the Appeal Panel finds that a Complaint has not been proven, it will make a Finding to that effect.
- (d) If the Appeal Panel finds that a Revocation Notice was validly and appropriately issued, it will make a Finding to that effect.
- (e) If the Appeal Panel finds that a Revocation Notice was not validly and appropriately issued, it will make a Finding to that effect.
- (f) Where a Complaint is found to be proven and a Finding is made to that effect, the Member will be called upon to make any submissions in mitigation of penalty to the Appeal Panel prior to determination of the sanction.
- (g) After considering the submissions presented for the purposes of paragraph 12.9(f) above, the Appeal Panel must determine the appropriate sanction. The Appeal Panel must also consider any evidence of previous disciplinary sanctions imposed on the Member.
- (h) Notice of any Finding made by the Appeal Panel must, as soon as possible, be conveyed to the Member orally (on the day of the Appeal Hearing) if practicable, and confirmed in writing together with reasons for the decision.

12.10 Orders of the Appeal Panel

- (a) The Appeal Panel may:
 - (i) affirm, vary or rescind any Order made by the Disciplinary Panel in respect of the Complaint or in respect of the Member and may substitute any other Order or Orders (on such terms and conditions, if any, as it considers appropriate) that the Disciplinary Panel made in respect of the Complaint; or
 - (ii) affirm or rescind the Revocation Notice made by the Institute or may substitute the Revocation Notice with another Revocation Notice (on such terms and conditions, if any, as it considers appropriate),

each, an **Order**.

- (b) In making an Order under this clause 12.10, the Appeal Panel may have regard to the status of the Member and the Appeal Panel's views as to the nature and seriousness of the Complaint and any other circumstances that the Appeal Panel considers relevant.
- (c) Any Order of the Appeal Panel will take effect as from the date it is made by the Appeal Panel unless the Appeal Panel, in its absolute discretion, directs that it will take effect from some other date (not being earlier than the date of the Order appealed against), as specified in the Order of the Appeal Panel.
- (d) If, notwithstanding a Finding that a Complaint has been proven, the Appeal Panel is of the opinion that, in the circumstances of the matter, no sanction is appropriate, it may make an Order that no further action be taken in respect of the Complaint.
- (e) The Appeal Panel must advise the Complaints Officer in writing of its Finding(s) and Order(s) and reasons as soon as possible.
- (f) The Complaints Officer must:
 - (i) maintain a register of all Findings and Orders made by the Appeal Panel; and
 - (ii) subject to clause 12.10(h) advise the Complainant in writing of the Finding(s) and Order(s) of the Appeal Panel as soon as possible.
- (g) The Institute will report any relevant aspect of the Finding(s) and Order(s) as required by law to any relevant regulatory body including, but not limited to, the TPB.
- (h) Whenever the Appeal Panel makes an Order under this By-Law, the Appeal Panel may cause its Order to be published in such manner as it considers fit, provided that, if the Appeal Panel has ordered that no further action be taken on the Complaint, the Order will not be published unless the Member so requests.
- (i) Any Order of the Appeal Panel made under this By-Law may be made on such terms and conditions (if any) as the Appeal Panel may consider appropriate, including, in the case of an Order terminating a Member's Membership, a recommendation that no application for admission or readmission to Membership will be entertained for such period as the Appeal Panel, in its Order, determines.
- (j) No further appeal is allowed and any Finding or Order of an Appeal Panel is final.

12.11 Costs

- (a) The Institute is not liable to the Member or any other person in respect of any and all of the costs incurred by the Member in relation to the Member appealing a Finding or Order or Revocation Notice, including costs associated with another person representing the Member.
- (b) To the extent a Finding or Order is affirmed by the Appeal Panel, the Institute reserves its rights to seek reimbursement from the Member, for the Institute's costs incurred in relation to the Complaint and appeal. The Institute may issue enforcement and recovery proceedings against the relevant Member under this clause in any court of competent jurisdiction at any time.

13 Code of Professional Conduct

13.1 Purpose of the Code of Professional Conduct

- (a) The Code of Professional Conduct sets out the minimum standards of professional conduct that is required from all Members in their dealings with stakeholders including their clients, government bodies and the Institute. The Code of Professional Conduct sets out the behaviours and expectations that meet the Institute's core values as set out in clause 13.2 below.
- (b) A failure to comply with the Code of Professional Conduct or any part thereof constitutes a Disciplinary Event and will be subject to the Complaints procedure contained in By-Law 8.

13.2 Core values

- (a) Tax professionals play a central role in the administration, operation and stewardship of Australia's taxation and superannuation legislation. It is imperative that Members' conduct reflects the importance of this role. For this reason, the Institute requires Members to meet a high standard of professional and ethical responsibility in their conduct as tax professionals.
- (b) The Code of Professional Conduct reflects the Institute's values of:
 - (i) undertaking all professional and personal dealings with integrity and honesty;
 - (ii) providing services, whether paid and voluntary, with competency and to the highest ethical standards;
 - (iii) engaging with stakeholders including the Government, tax administrators, other government bodies, clients and other tax professionals, in a timely and professional manner;
 - (iv) acting in the best interest of the administration and development of, and compliance with, the taxation and superannuation systems overall;
 - (v) promoting diversity and safety in the workplace; and
 - (vi) ensuring that any conduct does not bring the Institute or the tax profession into disrepute.

13.3 Code of Professional Conduct

- (a) Members must act with integrity and honesty in all of their professional and personal dealings.
- (b) Members must comply with all Taxation Laws in relation to their personal tax affairs.
- (c) Members must act lawfully and ethically, including:
 - (i) accurately accounting for, and handling with due care and diligence, all monies and other property received from, or on behalf of, a client;
 - (ii) acting in the best interest of the client;

- (iii) acting without bias when providing services to clients;
- (iv) not exerting actual or perceived undue influence on the client's decision and decision-making process;
- (v) charging fairly for the work undertaken at the request of, or on behalf of, clients;
- (vi) identifying and addressing actual, potential or perceived conflicts of interests that may arise in their professional capacity; and
- (vii) in the case of use of or other dealings involving confidential information, maintaining confidentiality, unless:
 - (A) there is a legal obligation to disclose the information;
 - (B) the client or other stakeholder providing the confidential information provides express consent to disclose the information; or
 - (C) the disclosure of such information would qualify for protection under the Taxation Laws.
- (d) Members must provide their services with competency, including:
 - (i) providing their professional services to their clients with due care, skill and diligence;
 - (ii) taking reasonable care to ensure that the Taxation Laws are applied correctly to the circumstances in relation to which they are providing advice to a client;
 - (iii) taking reasonable steps to ascertain their clients' state of affairs before making statements or undertaking work on behalf of, that client;
 - (iv) ensuring they advise their clients of their rights and responsibilities under the Taxation Laws;
 - (v) maintaining their knowledge and skills as required by the Taxation Laws, the Institute's CPE requirements, and the CPE requirements of any other RTAA of which the Member is a member;
 - (vi) maintaining adequate professional indemnity insurance as required by the TPB or other relevant regulatory body;
 - (vii) taking reasonable steps to ensure that client information is stored and transmitted in secure environments, including information that is stored digitally;
 - (viii) taking reasonable steps to minimise the risks of information or data breaches or losses.
- (e) Members must ensure they provide and foster a safe working environment for their colleagues, employees and other staff including contractors, and clients, including:
 - (i) encouraging and promoting diversity in the workplace;

- (ii) not undertaking actions, including through omissions, that constitutes unlawful discrimination, sexual or other harassment, bullying, vilification or victimisation; and
 - (iii) calling out and addressing actions, including omissions, that may constitute unlawful discrimination, sexual or other harassment, bullying, vilification and victimisation.
- (f) Members must act in the best interests of the taxation and superannuation systems, including:
 - (i) not knowingly obstructing the proper administration of the Taxation Laws;
 - (ii) responding to the Institute, the TPB, the ATO, and other government bodies in a reasonable and timely manner, especially if the matter concerns activity that potentially breaches the Code of Professional Conduct; and
 - (iii) not undertaking actions, including through omission, that may bring the Institute or the tax profession into disrepute.
- (g) Members must respond to requests for information from the Complaints Officer, the Professional Standards and Disciplinary Committee, a Disciplinary Panel, or Appeals Panel, to the best of their ability within the designated timeframes.

13.4 Inclusion of other requirements

- (a) The Code of Professional Conduct applies in addition to any requirements, obligations, rights or responsibilities that are set out by the TPB, in the Taxation Laws, or any other professional association of which the Member is also a member.

14 Glossary and Interpretation

- 14.1 In this By-Law and each of the other By-Laws of the Institute, unless a contrary intention appears, a reference to a word or phrase will have the same meaning as in the Constitution and:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* and where any provision of the *Australian Charities and Not-for-profits Commission Act 2012* is referred to, the reference is to such provision as amended, modified or reenacted from time to time.

Additional National Councillor means an individual appointed in accordance with clause 2.2.2(b) of By-Law 2.

Adverse Third Party Decision has the meaning given in clause 8.10 of By-Law 8.

Affiliate means a person admitted as a Member in accordance with clause 4.6 of By-Law 4.

Annual Meeting means an Annual Meeting called by a State in accordance with clause 3.5 of By-Law 3.

Appeal Hearing means a hearing by the Appeal Panel in respect of an appeal against the Findings or Orders of a Disciplinary Panel in respect of a Complaint.

Appeal Panel means the appeal panel constituted in accordance with clause 12.3 of By-Law 12.

Appeal Period has the meaning given in paragraph 11.3(a) of By-Law 11.

Appeal Presenter has the meaning given in paragraph 12.4(g) of By-Law 12.

Associate means a person admitted as a Member in accordance with clause 4.5 of By-Law 4.

ATO means the Australian Taxation Office.

CEO means the person appointed as the Chief Executive Officer of the Institute from time to time.

Chair means the person appointed to chair a State Council, the Professional Standards and Disciplinary Committee, a Disciplinary Panel or an Appeal Panel, as the context requires.

Chartered Tax Adviser means a person who is a Recognised Chartered Tax Adviser or has been admitted as a Member in accordance with clause 4.3 of By-Law 4.

Chartered Tax Adviser Examination means the examination for admission as a Chartered Tax Adviser.

Chartered Tax Adviser Qualification means the program of study offered by the Institute which, when completed in full, enables a person to undertake the Chartered Tax Adviser Examination and become eligible to be admitted as a Chartered Tax Adviser.

Code of Professional Conduct means the Institute's Code of Professional Conduct as set out in By-Law 13.

Complainant means a means a person who has lodged a Complaint.

Complaint means a complaint made to the Institute in accordance with clause 8.3 of By-Law 8.

Complaint Number means the identification number allocated to identify a Complaint in accordance with By-Law 8.

Complaints Officer means the CEO of the Institute or, if another person has been appointed by the CEO of the Institute as the Complaints Officer, that person.

Constitution means the constitution of The Tax Institute as amended from time to time.

Corporations Act means the *Corporations Act 2001* and where any provision of the *Corporations Act 2001* is referred to, the reference is to such provision as amended, modified or reenacted from time to time.

CPE means Continuing Professional Education.

CTA1 means the CTA1 Foundations course, or equivalent, provided by the Institute as part of the Chartered Tax Adviser Qualification.

CTA2A means the CTA2A Advanced course, or equivalent, provided by the Institute as part of the Chartered Tax Adviser Qualification.

CTA2B means the CTA2B Advanced course, or equivalent, provided by the Institute as part of the Chartered Tax Adviser Qualification.

CTA3 means the CTA3 Advisory course, or equivalent, provided by the Institute as part of the Chartered Tax Adviser Qualification.

Deputy Chair means a person appointed as the deputy chair of a State Council or the Professional Standards and Disciplinary Committee, as the context requires.

Director or **Directors** means a director or directors of the Institute.

Disciplinary Event means an event or action specified in clause 8.2 of By-Law 8.

Disciplinary Panel means the disciplinary panel appointed by the Chair of the Professional Standards and Disciplinary Committee in accordance with By-Law 10.

Equivalent Institution means an institution listed below:

- (a) an Australian tertiary institution;
- (b) an Australian Registered Training Organisation;
- (c) a Registered Higher Education Provider;
- (d) a TPB approved course provider; and
- (e) an overseas Institution subject to the regulatory activities and quality assurance mechanisms similar to those undertaken by the Tertiary Education Quality and Standards Agency (**TEQSA**) or by the Australian Skills Quality Authority (**ASQA**). (See also National Office of Overseas Skills Recognition (**NOOSR**)).

Existing National Councillor means an individual holding the position of National Councillor immediate prior to the date of adoption of these By-Laws.

Existing State Councillor means an individual holding the position of State Councillor immediate prior to the date of adoption of these By-Laws.

Finding means a finding made by the Disciplinary Panel under By-Law 10, or a finding made by the Appeal Panel under By-Law 12, as the context requires.

Fellow means a person admitted as a Member in accordance with clause 4.4 of By-Law 4.

Graduate Diploma of Applied Tax Law means the qualification in applied tax law awarded by the Institute.

Guarantee has the same meaning as given to it in the Constitution.

Hearing means a hearing by a Disciplinary Panel in respect of a Complaint.

Immediate Past President means a person holding a position on the National Council for a period immediately following the cessation of their role as President in accordance with clause 2.2.2(d) or as extended by 2.2.5(e).

Investigation File means the file compiled by the Complaints Officer in respect of a Complaint in accordance with clause 9.5 of By-Law 9.

Institute means The Tax Institute and its wholly owned subsidiaries.

Investigator has the meaning as given to it in clause 8.1(c) of By-Law 8.

Member means a person admitted as a member of the Institute in accordance with the Constitution and these By-Laws.

Membership Fees includes any Membership application fees, annual subscriptions and other Membership levies payable by Members in respect of their Membership, in the amounts and at such times and in such manner as determined by the Directors from time to time.

Member Logo means any logo or badge issued by the Institute designating a class of Membership.

Member Logo Guidelines means guidelines published by the Institute containing terms, conditions and instructions on the use of Member Logos.

Membership means membership of the Institute.

National Council has the same meaning as given to it in the Constitution.

National Councillor means an individual appointed to the National Council in accordance with clause 2.2 of By-Law 2.

Notice of Annual Meeting has the meaning given in clause 3.5(c) of By-Law 3.

Order means an order made by the Disciplinary Panel under By-Law 10, or an order made by the Appeal Panel under By-Law 12, as the context requires.

Person means an entity including a natural person, corporation or a body corporate, and, for the avoidance of doubt, includes the Institute.

Presenter has the meaning given in paragraph 10.6(g) of By-Law 10.

President means a person appointed to that position in accordance with clause 2.2.5 of By-Law 2.

Professional Standards and Disciplinary Committee means the professional standards and disciplinary committee appointed by the National Council in accordance with By-Law 10.

Recognised Chartered Tax Adviser means a person who was recognised in September 2012 by the Institute as a Chartered Tax Adviser or has been recognised as a Chartered Tax Adviser by special resolution of the National Council by reference to the eligibility criteria applying at the date of that resolution.

Recognised Tax Agent Association or RTAA means a professional association included in the list of recognised professional associations on the TPB website from time to time as a recognised tax agent association.

Recognised Tax (Financial) Adviser Association or **RTFAA** means a professional association approved by the TPB as a recognised tax (financial) adviser association from time to time.

Register of Complaints means the register of Complaints received in respect of Members (including, for the avoidance of doubt, former Members), maintained by the Institute.

Register of Members has the same meaning as given to it in the Constitution.

Register of The Tax Institute Approved Providers/Subjects means the register of providers and subjects published by the Institute that recognises prior learning.

Relevant Experience may include practice as a solicitor or barrister or as an employee or principal in an accounting firm, employment in a government revenue office, performing in-house legal, accounting or other relevant functions in a corporate organisation. Where a person's experience is on a part-time basis that will be pro-rated to a full-time basis with the purpose of satisfying the minimum year requirement. The period does not have to be a continuous period but the Directors may place restrictions on gaps between periods of relevant experience and require additional time in such cases.

Revocation Notice has the meaning given to it in paragraph 10.14(a) of By-Law 10.

Serious Offence means:

- (f) an offence against the laws of a State, a Territory or the Commonwealth of Australia or against the laws of a foreign country that:
 - (i) is punishable by imprisonment for a period greater than 12 months; or
 - (ii) involves fraud or dishonesty and is punishable by imprisonment for at least 3 months; and
- (g) an offence that involves a breach of a Taxation Law and is punishable by imprisonment for at least 3 months.

State Council has the same meaning as given to it in the Constitution.

State Councillor means an individual appointed to the State Council in accordance with clause 3.2 of By-Law 3.

Student Member means a person admitted as a Member in accordance with clause 4.7 of By-Law 4.

TASA means the *Tax Agent Services Act 2009* and where any provision of the *Tax Agent Services Act 2009* is referred to, the reference is to such provision as amended, modified or reenacted from time to time.

Tax Agent Service has the meaning given in section 90-5 of the TASA but does not include a service specified in the regulations for the purposes of subsection 90-5(2) of the TASA.

Taxation Laws means laws relating to, and includes laws regarding the administration of, taxation including income tax, goods and services tax, capital gains tax, payroll tax, customs and excise duties, stamp duty, land and other property taxes, death, estate and gift duties and taxes and duties of any other kind whatsoever and taxation laws of any foreign country or place

which affect in any way residents or citizens of Australia or persons carrying on business either in Australia or with residents or citizens of Australia.

TPB means Tax Practitioners Board.

Vice President means a person appointed to that position in accordance with clause 2.2.5 of By-Law 2.

Voting Member means a person admitted as a Member in the class of Chartered Tax Adviser, Fellow or Associate and who has paid all relevant Membership Fees in accordance with By-Law 5 and clause 7.9 of the Constitution.

Voting Membership Criteria means the Member or applicant is of good fame, integrity and character, has not been sanctioned by a Disciplinary Panel preventing the member from being a voting member, and any one of the following criteria:

- (a) the Member or applicant has been awarded a degree or a post-graduate award from:
 - (i) an Australian tertiary institution; or
 - (ii) an Equivalent Institution; in the discipline of accountancy; or
- (b) the Member or applicant has been awarded a diploma or higher award from:
 - (i) a registered training organisation; or
 - (ii) an Equivalent Institution; in the discipline of accountancy; or
- (c) the Member or applicant has the academic qualifications required to be an Australian legal practitioner; or
- (d) the Member or applicant is a registered tax agent; or
- (e) the Member or applicant was:
 - (i) registered as a tax agent, or as a nominee, for the purposes of Part VIIA of the *Income Tax Assessment Act 1936* as in force immediately before 1 March 2010; and
 - (ii) a member of, and entitled to vote at meetings of, a recognised professional association within the meaning of section 251LA of the *Income Tax Assessment Act 1936* as in force immediately before 1 March 2010; or
- (f) the Member or applicant has the equivalent of 8 years of full-time experience in providing Tax Agent Services in the past 10 years; or
- (g) the Member or applicant has been awarded a Graduate Diploma of Applied Tax Law by the Institute; or
- (h) the Member or applicant has been awarded the post-nominals 'CTA' by an organisation entitled to award such recognition as permitted by the Chartered Institute of Taxation in the United Kingdom other than the Institute and:

- (i) the Member or applicant has completed at a minimum the CTA1 Foundations subject (or equivalent) as required by the Institute; and
- (i) has 12 months Relevant Experience in Australian tax; or
- (ii) is a member of a Recognised Tax Agent Association or a member of a Recognised Tax (Financial) Adviser Association.

14.2 Interpretation

- (a) In the event of any inconsistency between any By-Law and the Constitution, the Constitution prevails.
- (b) Words and phrases which are given a special meaning by the ACNC Act or Corporations Act have the same meaning in these By-Laws, unless the contrary intention appears.
- (c) Words in the singular include the plural and vice versa.
- (d) Words importing a gender include all other genders.
- (e) A reference to any statute or regulation is to be read as though the words 'as modified or substituted or reenacted from time to time' were added to the reference.
- (f) Headings are inserted for convenience and do not affect the interpretation of this or any By-Laws of the Institute.
- (g) 'Including' and other similar words are not words of limitation.
- (h) General words following words describing a particular class or category are not restricted to that class or category.
- (i) A duty, obligation, covenant or agreement on the part of two or more persons binds them jointly and severally.