

Chartered Accountants Regulatory Board

The Independent Regulator of Irish Chartered Accountants

March 2011

The Chartered Accountants Regulatory Board is a body established by the Institute of Chartered Accountants in Ireland to regulate its members, in accordance with the provisions of the Institute's Bye Laws, independently, openly and in the public interest.

**Published by
Chartered Accountants Regulatory Board
The Linenhall
32-38 Linenhall Street
Belfast
BT1 5JE**

© The Institute of Chartered Accountants in Ireland

No responsibility for loss occasioned by any person acting, or refraining from action, as a result of the material in this publication can be accepted by the authors or publisher. No part of this publication may be reproduced or transmitted in any form or by any means electric or mechanical, including photocopying, recording, or any information storage or retrieval system, without permission in writing from the publisher.

The Board

What are we?

The Chartered Accountants Regulatory Board (the Board) was established to regulate Irish Chartered Accountants, in accordance with the provisions of the Bye-laws of Chartered Accountants Ireland (the Institute), independently, openly and in the public interest.

The objective of the Board is to win, instil and sustain public confidence in the quality, transparency and independence of its regulatory functions thereby enhancing public confidence in the integrity and quality of professional services provided by chartered accountants.

The functions of the Board include developing and approving Standards of Professional Conduct for adoption by the Council of the Institute and supervising the compliance of members, member firms, affiliates and students of the Institute of Chartered Accountants in Ireland with the Standards. The Board has a majority of members who are not accountants and has full operational autonomy in delivering its mandate.

The Chartered Accountants Regulatory Board is subject to independent oversight from the statutorily established Irish and UK oversight bodies.

Who are we?

The Board may have up to 12 members, the majority of whom must be persons who are not members of any recognised accountancy body. Chris Gibson is the Chairman with Don Thornhill as Deputy Chairman. Full details of the Board members including biographies can be obtained by visiting www.carb.ie.

The Board is served by a full time executive staff. The executive team is headed by Heather Briers. Full details of the executive team can be obtained by visiting www.carb.ie.

What do we do?

The Chartered Accountants Regulatory Board's functions can be summarised under four main areas of activity.

- **Policy:** Developing Standards of Professional Conduct, including standards relating to practice rights, ethics and discipline for adoption by the Council of the Institute, which are fair, proportionate and in the public interest;
- **Professional Authorisations:** Ensuring that members, member firms and affiliates providing services to the public are eligible to do so by granting and renewing licences to practice, to act as an auditor, to provide Investment Business advice and to accept insolvency appointments and removing those licences when it is deemed necessary;
- **Quality Assurance:** Ensuring professional services provided by members and member firms are of the highest possible standard by monitoring compliance with the Standards of Professional Conduct through a system of returns and inspections and taking regulatory action when necessary;
- **Professional Conduct:** Investigating complaints against members, member firms, affiliates and students and taking disciplinary action when there is evidence that their professional performance has fallen short of the reasonable expectations of the public and other stakeholders.

In delivering all of the above, the Board participates in national and international development of regulatory policy and professional standards for accountants and in doing so liaises with government, supervisory bodies, regulators, other bodies of which the Institute is a member and any other third party to ensure that it remains at the forefront of the regulation of accountants.

The Functions

Policy

Policy: Developing Standards of Professional Conduct, including standards relating to practice rights, ethics and discipline for adoption by the Council of the Institute, which are fair, proportionate and in the public interest;

The Board is responsible for developing and issuing Standards of Professional Conduct with which members of the Institute must comply, this includes rules setting out the system of licensing for members and firms and for supervision of members and member firms through a proactive system of monitoring and a robust complaints handling and disciplinary system.

The Standards include regulations on the professional conduct and behaviour of members, the procedures of supervising member compliance with the regulations and the procedures for investigating complaints relating to misconduct and the taking of disciplinary action.

The Standards at present include:

- Audit Regulations & Guidance
- Code of Ethics
- Clients Money Regulations & Guidance
- Continuing Professional Development Regulations
- Designated Professional Body Regulations & Guidance (UK)
- Disciplinary Bye-Laws
- General Affiliate Regulations
- Insolvency Licensing Regulations & Guidance (GB/NI)
- Investment Business Regulations & Guidance (ROI)
- Practising Certificate Regulations & Guidance
- Professional Indemnity Insurance Regulations & Guidance
- Quality Review Regulations & Guidance
- Rules of Professional Conduct

Professional Authorisations

Professional Authorisations: Ensuring that members, member firms and affiliates providing services to the public are eligible to do so by granting and renewing licences to practice, to act as an auditor, to provide Investment Business advice and to accept insolvency appointments and removing those licences when it is deemed necessary.

Before engaging in public practice members of the Institute of Chartered Accountants in Ireland need to hold a Practising Certificate (PC) and comply with the Practising Certificate Regulations and Guidance which set out the procedures for granting and where necessary withdrawing a PC. A member engages in public practice when he personally and directly provides or holds himself out to provide, either personally or through a firm, accounting and related services to persons other than his employer.

All members who hold a PC are required:

- to be covered by a valid Professional Indemnity Insurance policy
- to be subject to the Institute's Quality Review regime
- to be able to demonstrate compliance with the Continuing Professional development requirements

Members wishing to engage in the reserved areas must, in addition to a PC, have the appropriate registration or authorisation for the firm through which they practice. Reserved areas of practice are those where an additional statutory provision exists requiring an additional licence to be held. The reserved areas presently are Audit, Investment Business and Insolvency (in the UK).

Quality Assurance

Quality Assurance: Ensuring professional services provided by members and member firms are of the highest possible standard by monitoring compliance with the Standards of Professional Conduct through a system of returns and inspections and taking regulatory action when necessary.

All members who hold a Practising Certificate (PC) and their firms are included within the Boards programme of Quality Review which is the term used to describe the programme by which the Board assures itself as the quality of services provided by PC holders and their firms.

The Quality Review regime includes:

- the assessment of an Annual Return submitted by all firms;
- a Quality Review visit.

Annual Return

All member firms are required to complete and submit an Annual Return using an online Annual Return facility. This an extremely detailed form containing information about the firm and its activities and which is subject to an extensive desk top review to determine if there are any matters which need to be addressed by the firm either by way of correspondence or through a quality review (inspection) visit.

Quality Review Visit

All firms will, at some time, receive a Quality Review visit. The cycle for these visits varies depending on the nature of the activities provided by the firm and based on the assessment of their Annual Return. The Quality Review visit can cover the all the professional services provided by the firm including accounting, auditing, investment business advice, consultancy, taxation etc.

One of the most important objectives of the visit is to determine the extent of the firm's compliance with the standards of professional conduct, to identify any weaknesses and agree with the firm any remedial action to improve the compliance within the firm.

Professional Conduct

Professional Conduct: Investigating complaints against members, member firms, affiliates and students and taking disciplinary action when there is evidence that their professional performance has fallen short of the reasonable expectations of the public and other stakeholders.

Members and member firms become liable for disciplinary action if they:

- are guilty of misconduct;
- fail to satisfy a judgment debt or an insolvency event occurs in relation to them;
- breach a Bye-Law or regulation;
- fail to comply with standards of professional conduct;
- bring discredit on themselves, the Institute or accountancy profession.

Where members and member firms do not meet the reasonable expectations of the public, the Board is responsible for disciplining them. However a simple mistake, error in judgment or a minor example of negligence may not make the member or member firm liable for disciplinary action.

Anyone can make a complaint, clients, other accountants, regulators, oversight bodies, members of the public, and the internal committees.

Members and members firms have a duty to investigate complaints as many problems relate to lack of communication and misunderstanding and it may be possible to resolve the matter before it is referred to the Board. However if the problem cannot be resolved or the issues are serious a complaint should be made to the Board.

On receiving a complaint the first stage in the process is to assess the nature and content of the complaint to determine whether the committees responsible for the investigation of complaints can legitimately act. The Board is not able to become involved in all cases. For example the Board cannot become involved in commercial disputes, particularly fee disputes, as the level of fee charged is a matter of contract law.

Once the assessment is completed the complaint is investigated on behalf of the Complaints Committee by a member of the executive (a case officer); this involves detailed and thorough enquiries, usually in writing.

After this process the following options arise:

- The case may be closed following conciliation.
- The complainant may be satisfied with action taken and the case closed.
- The Head of Professional Conduct may require the complainant to go through the firm's internal complaints handling process
- The Head of Professional Conduct may decide that the complaint does not give rise to a prima facie case of liability to disciplinary action and may close the case.
- The case may be placed before the Complaints Committee.

The role of the Complaints Committee, where a case is referred to it, is to determine if a prima facie case of misconduct has been established. If the Complaints Committee decides there is no prima facie case, the complainant has the right to have the complaint reviewed by an Independent Reviewer, otherwise the case is dismissed.

A decision by the Head of Professional Conduct that there is no prima facie case may also be referred to an Independent Reviewer.

If the Complaints Committee decides there is a prima facie case of misconduct it may:

- Decide in minor cases to take no further action;
- Allow the matter to rest on file for a period of two years;
- Offer a 'consent order' (a disciplinary penalty agreed by the member);
- In more serious cases or where the consent order is not accepted, refer the complaint to the Disciplinary Committee.

On receipt of a formal complaint from the Complaints Committee, the Chairman of the Disciplinary Panel will appoint a Disciplinary Tribunal to hear the case in full and generally in public.

Where the Disciplinary Tribunal finds a case has been proved its decisions are subject to a right of appeal by the member to the Appeal Panel. On receipt of an appeal the Chairman of the Appeal Panel will appoint an Appeal Tribunal to hear the case in full and generally in public.

The Committees

In order to work efficiently and effectively many of the functions of the Board are delegated to committees which report to the Board.

The work of the Committees is diverse and falls into three main groups, shown on appendix 1.

Policy

There are currently two standing policy committees, the Regulatory Policy Committee and the Ethics Committee. These committees are responsible for the initial development of Standards of Professional Conduct for the approval of the Board and adoption by Council.

The Policy Committees are appointed by the Board and comprise persons with the detailed technical knowledge and expertise necessary to perform this exacting function.

The policy committees participate fully in the activities of the Co-ordinating Committees.

Co-ordinating Committees

It is essential when developing policy relating to professional standards and the regulation of the accountants that the Board and its Committees keep themselves informed of wider regulatory developments through liaising with other standard setters, governments, and professional bodies of accountants.

In developing regulatory policy the Board will continue to work closely with the other professional bodies, in particular, our sister chartered bodies, the Institute of Chartered Accountants in England & Wales and the Institute of Chartered Accountants of Scotland, through a number of established co-ordinating committees.

These include joint committees on Audit, Investment Business, Insolvency and Professional indemnity Insurance.

Compliance Committees

The compliance committees deal with ongoing regulatory compliance including the licensing and monitoring functions and with the investigation of complaints where professional misconduct has been alleged.

The Quality Assurance Committee and the Insolvency Licensing Committee are responsible for the granting of professional authorisations including practicing certificates, audit registration, insolvency licences, etc; and for the supervision of the Quality Review programme. The committees have extensive powers, as set out in the respective Regulations, which can include the withdrawal of a licence to practice held by an individual or a firm. The committees are required to have a least 25% of persons who are not members of the Institute as members. Members and firms can ask for a review of the any decision made by the committees; this will be heard by a Review Committee which will comprise at least three persons one or whom will be a person who is not a member of the institute.

The Complaints Committee investigates complaints made against members and/or member firms where professional misconduct is alleged. The Complaints Committee has 12 members the majority of whom must not be members of the Institute. It is the responsibility of the Committee to determine if a prima facie case exists. The Committee can, in certain circumstances, offer a consent order to the member and/or member firm or in more serious cases refer the matter to the Disciplinary Panel.

The Disciplinary Panel must consist of no fewer than nine members and has no upper limit. A majority of its members must not be members of the Institute. When a case is referred to it by the Complaints Committee the Chairman of the Disciplinary Panel will appoint a Disciplinary Tribunal to hear the case in full and generally in public. The Tribunal will be chaired by a lawyer and have two further members one of whom will be a member of the Institute and one who will not.

All members and firms can appeal against the decision of the Review Committee or the Disciplinary Tribunal to the Appeal Panel. The Appeal Panel must consist of no fewer than nine members and has no upper limit. A majority of its members must not be members of the Institute. The Tribunal will be chaired by a lawyer and have two further members one of whom will be a member of the Institute and one who will not.

Further details on all of the Committees and their functions including information on Quality Review visits and the Guide to Complaints Procedures can be obtained by visiting www.carb.ie