

minutes



Meeting: Regulatory Board

Location: Reading Room, 29 Lincoln's Inn Fields, London

Date: 21 November 2012, 09.30 – 12.30

PRESENT:

The Chairman (Katrina Wingfield), Steve Barrow, Peter Cadman, Christine Fraser, Raphael Joseph, Robert Stenhouse, Anthony Tyen, Frances Walker and Rosalind Wright.

IN ATTENDANCE:

Executive Director – Governance (Peter Large), Director – Professional Conduct (Nicole Ziman), Director – Regulation (Sundeep Takwani), Case Presenter (Adrianna McDonnell, present for items 1 – 9 and 12), Committee Manager (Angela Stephens, present for items 1 – 9 and 12), Compliance Manager (Andrew Teague, present for items 1–9 and 12), and Regulation Officer (Catriona Spedding).

APOLOGIES:

Apologies were received from Barbara Duffner.

1. MINUTES

The Board approved the minutes of the meeting held on 18 September 2012, subject to the inclusion under 'In Attendance' of Anthony Tyen's name as an observer.

2. ACTIONS NOTE

The Board noted a report on follow-up to actions from the last meeting.

3. PRESENTATION FROM THE EXECUTIVE DIRECTOR

The Board noted a presentation from the Executive Director – Governance on recent developments.

4. REGULATORY BOARD WORK PLAN FOR THE COUNCIL YEAR 2012-2013

The Board approved the work plan for the 2012-2013 Council year (as amended), set out at Appendix 1.

5. REGULATORY BOARD'S TERMS OF REFERENCE

The Board agreed that:

- paragraph 6.3 of the Board's Term's of Reference should be further amended to introduce some flexibility into the appointment of chairmen of Sub-committees

and
- the amended terms of reference should be presented to the Board at its meeting on 13 February 2013 for approval.

6. TERMS OF REFERENCE AND MEMBERSHIP OF THE APPOINTMENTS AND REGULATIONS REVIEW SUB-COMMITTEES

The Board agreed:

- to endorse the Appointments Sub-committee's Terms of Reference (as amended), set out at Appendix 2
- to appoint the following members to Appointments Sub-committee: Steve Barrow, Peter Cadman, Barbara Duffner, Christine Fraser, Frances Walker, Katrina Wingfield and Rosalind Wright.
- to endorse the Regulations Review Sub-committee's Terms of Reference, as set out at Appendix 3

and
- to appoint the following members to the Regulations Review Sub-committee: Peter Cadman, Christine Fraser, Raphael Joseph, Robert Stenhouse, Anthony Tyen, Frances Walker, Katrina Wingfield and Rosalind Wright.

7. UPDATE OF THE GUIDANCE FOR REGULATORY ORDERS

The Board agreed:

- to endorse the updates to the 'Eligibility for certificates or licences and unsatisfactory outcomes to monitoring visits' section of the Guidance for Regulatory Orders (GROs), subject to the implementation of the amendments identified at the meeting
 - that the navigational aids should be included in the completed GROs
- and
- that amendments should be made to the other sections of the GROs ('Application for waivers' and 'Admissions, re-admissions and bankruptcy') and presented to the Board for approval at its meeting on 13 February 2013.

[Post meeting note: the other sections of the GROs will be circulated by email, with a view to being commented on before they are included in the papers for the Board meeting on 13 February 2013.]

8. UPDATE OF THE GUIDELINE DISCIPLINARY SANCTIONS

The Board considered the revised Guideline Disciplinary Sanctions (GDS) document and agreed:

- to endorse the proposed approach in principle
 - that the suggested amendments identified at the meeting should be incorporated into the revised GDS document
 - that a small working party (comprising of Peter Cadman, Christine Fraser, Robert Stenhouse and Frances Walker) should be set up to review the revised GDS documents by email
- and
- that the final draft document should be presented to the Board at its meeting on 13 February 2013 for approval.

9. ANNUAL REPORT OF THE REGULATORY BOARD TO ACCA'S COUNCIL

The Board agreed that the outline content and format of the 2012 annual report of the Regulatory Board to ACCA's Council should follow that of the 2011 report.

10. ACCA'S ANNUAL PUBLIC REPORT ON REGULATION

The Board agreed that:

- the outline content and format of the 2013 annual public report on Regulation should follow that of the 2012 report
- and
- the theme of this year's report should be 'proportionality'.

11. PUBLICATION OF REASONS POLICY

The Board agreed that:

- the full reasons should be published
- the reasons be anonymised in respect of third parties
- and
- the regulations in relation to the publication of reasons should be aligned with the regulations in respect of publishing the findings and orders, which are due to be amended with effect from 1 January 2014.

12. LEAD REGULATOR UPDATE

The Board noted an updated on ACCA's interactions with its lead regulators.

13. REPORT FROM THE APPOINTMENTS SUB-COMMITTEE

The Board noted:

- a report from the Chairman of the Appointments Sub-committee following its meeting on 15 November 2012
- and
- the minutes of the Sub-committee meeting held on 6 September 2012.

The Board also noted that, at the legal advisers training day on 8 November 2012, concerns were raised regarding whether it would be feasible to hold more than one case a day when the reasons are required to be drafted on the day of the hearing and agreed that:

- the Board should give a robust statement on its expectation that two cases will be heard each day but that this will be kept under review
- that this statement be reinforced at the new chairmen's training day on 11 January 2013
- and
- at the new chairmen's training day, attendees should be asked to consider ways in which the committee hearings could run more efficiently.

14. REPORT FROM THE REGULATIONS REVIEW SUB-COMMITTEE

The Board noted:

- a report from the Chairman of the Regulations Review Sub-committee following its meeting on 20 November 2012
- and
- the minutes of the Sub-committee meetings held on 17 September 2012.

15. REGULATORY BOARD EVENT

The Board agreed that the Regulatory Event Working Party should comprise of the following:

Robert Stenhouse (Chairman)
Peter Cadman
Barbara Duffner
Rosalind Wright.

16. BREAKDOWN ON THE NUMBER OF CASES UNDER INVESTIGATION BY AGE OF COMPLAINT

The Board noted an up to date breakdown of the number of cases under investigation by age of complaint.

17. AGGREGATED SUMMARY OF COMMITTEE DECISIONS OF DISCIPLINARY AND REGULATORY HEARINGS AND REPORTS OF OTHER MEETINGS

The Board noted:

- an aggregated summary of decisions of disciplinary and regulatory hearings covering the period between 16 August 2012 and 11 October 2012
 - the minutes of the Meeting of Chairmen and Deputy Chairmen held on 24 September 2012
- and
- that an Assessors' training day is scheduled to take place on 29 November 2012.

18. DATES OF FUTURE MEETINGS

The Board noted the dates of Regulatory Board meetings in the 2012 – 2013 Council year.

Chairman

A handwritten signature in blue ink, appearing to read 'Peter Cadman', is written over the printed name 'Chairman'.

REGULATORY BOARD WORK PLAN FOR THE 2012-2013 COUNCIL YEAR

1. The following provides a general narrative schedule for the items of business to be addressed by the Committee at its meetings during the Council year. The work plan is ordered to reflect the Council, not calendar year, and each bulleted item is cross-referenced to the Board's Terms of Reference. It is noted that the list is not exhaustive and that agenda items might be introduced at any time, within the overall Terms of Reference.

November

- approve work plan for 2012-2013 year [2.1]
- review and endorse the Board's Terms of Reference [1.2]
- review and endorse the Terms of Reference and Membership for the Appointments and Regulations Review Sub-committees [6.6, 6.2, 6.7]
- agree content and format of the 2012 annual report of the Regulatory Board to ACCA's Council [3.2]
- agree content and format of the 2013 public report on regulation [3.2]
- endorse updates to the Guideline Disciplinary Sanctions [2.7]
- endorse updates to the Guidance for Regulatory Orders [2.7]
- review of the publication of reasons policy [2.6, 2.7]
- agree membership of new Regulatory Event Working Party [Not within Board's Terms of Reference 6.9]

February

- review and endorse the Board's Terms of Reference [1.2]
- note geographical statistics for the last five years [2.1]
- approve 2012 annual report to Council [3.2]
- endorse updates to the Guideline Disciplinary Sanctions [2.7]
- endorse updates to the remaining sections of the Guidance for Regulatory Orders [2.7]

May

- approve 2013 public Report on Regulation [3.2]
- approve 2013 annual report to Governance Design Committee [3.2]
- Consider a paper on the checks made by ACCA students who are applying for membership
[Not within the Board's terms of reference]

September

- receive a report from the Regulations Review Sub-committee on proposed changes to the 2014 Rulebook [2.3]

Appointments Sub-committee

Terms of Reference



1. Status

- 1.1 The Appointments Sub-committee ('the Sub-committee') is established by the Regulatory Board in accordance with the Chartered Certified Accountants' Regulatory Board and Committee Regulations 2008.

2 Objective of the Sub-committee

- 2.1 The objective of the Sub-committee is to safeguard the integrity of the disciplinary and regulatory processes by:

- ensuring there is an appropriate number of experienced panel members, including ~~chairmen and deputy chairmen~~, disciplinary assessors, ~~and regulatory assessors and legal advisers~~ available at all times, providing an appropriate type and level of experience and being as diverse as possible
- monitoring the performance of panel members, including chairmen ~~and deputy chairmen~~, disciplinary assessors, ~~and regulatory assessors and legal advisers~~
- promoting consistency in the performance of panel members, including chairmen ~~and deputy chairmen~~, disciplinary assessors, ~~and regulatory assessors and legal advisers,~~
- identifying training and support needs of all panel members, including chairmen ~~and deputy chairmen~~, disciplinary assessors, ~~and regulatory assessors and legal advisers~~
- developing and keeping under review a code of conduct for panel members, including chairmen ~~and deputy chairmen~~, disciplinary assessors, ~~and regulatory assessors and legal advisers,~~ and ensuring that appropriate procedures are in place to support the application of that code
- encouraging and promoting best practice.

3. Role of the Sub-committee

- 3.1 The functions of the Sub-committee shall include the following.

- 3.2 Appointment of panel members, including chairmen and deputy chairmen, disciplinary assessors, and regulatory assessors and legal advisers

To appoint panel members, including chairmen and deputy chairmen, as and when required, so that there is an appropriate number of experienced panel members, including chairmen and deputy chairmen, available to sit on committees at all times.

To appoint disciplinary assessors, and regulatory assessors and legal advisers, as and when required, ensuring that there is an appropriate number of experienced disciplinary assessors, and regulatory assessors and legal advisers available at all times.

3.3 Appraisal of the performance of chairmen, and deputy chairmen and panel members and legal advisers at committee hearings

To observe the performance of panel members, including chairmen and deputy chairmen and legal advisers, at committee hearings in line with the observation policy and to subsequently prepare a report of the observation. A formal review should be conducted on the performance of each panel member, chairman and legal adviser one year before the end of their five year term.

3.4 Review of reasons produced by the committees chairmen and deputy chairmen

To review a selection of reasons for decisions in line with the review of reasons policy and to subsequently prepare a report of the review.

3.5 Appraisal of disciplinary and regulatory assessors

To review a selection of cases referred to disciplinary and regulatory assessors in line with the review policy and to subsequently provide a report of the review.

3.6 Renewal of panel member, chairmen and deputy chairmen, disciplinary assessor, and regulatory assessor and legal adviser contracts

To decide on the renewal of contracts of panel members (including chairmen and deputy chairmen), and disciplinary and regulatory assessors and legal advisers.

Appointments for panel members (including chairmen) and disciplinary and regulatory assessors are made for an initial term of up to five years, renewable for a further term of up to five years if both the appointee and the Sub-committee so agree. Appointments can be made for a

further term of three years at the Sub-committee's sole discretion.

Appointments for legal advisers are made for a initial term of up to five years, renewable for further terms of up to five years if both the appointee and the Sub-committee so agree, subject to a maximum of fifteen years.

3.7 Review of standing information

To review standing information provided by ACCA and to address any issues raised.

3.8 Alleged Breaches of Code of Conduct

To deal with referrals concerning alleged breaches of code of conduct for panel members, ~~and~~ disciplinary and regulatory assessors and legal advisers and to make appropriate decisions.

3.9 Production of ad-hoc reports, memoranda and notes

To issue reports, memoranda and notes to the chairmen ~~and deputy chairmen~~, panel members, disciplinary assessors, ~~and/or~~ regulatory assessors and/or legal advisers on ad-hoc issues that have arisen such as:

- changes to the appraisal process
- panel member conduct at committee hearings
- the responsibilities of chairmen and deputy chairmen
- the responsibilities of legal advisers.

3.10 To issue reports, as appropriate, to panel members, including chairmen ~~and deputy chairmen~~, disciplinary assessors, ~~and~~ regulatory assessors and legal advisers, concerning the work of the Sub-committee, such as:

- summarising the performance of panel members, ~~and~~ disciplinary and regulatory assessors and legal advisers
- identifying areas of particularly good practice
- highlighting issues which should be addressed.

3.11 Decisions between meetings

To ratify decisions made by the Chairman of the Sub-committee, in



consultation with the Executive Director – Governance, between meetings which cannot reasonably or safely be held over to the next following meeting.

3.12 Reports to the Regulatory Board

To provide a report of Sub-Committee meetings and its activities to the Regulatory Board at its next meeting.

3.13 Review of terms of reference

To review, at least annually, the Sub-committee's terms of reference to ensure they remain fit for purpose.



Regulations Review Sub-committee

Terms of Reference

1. Status

- 1.1 The Regulations Review Sub-committee ('the Sub-committee') is established by the Regulatory Board in accordance with the Chartered Certified Accountants' Regulatory Board and Committee Regulations 2008.

2 Objective of the Sub-committee

- 2.1 The objective of the Sub-committee is to ensure that ACCA's *Rulebook* is compliant with ACCA's statutory obligations, Privy Council and rule-change decisions by Council.

3. Role of the Sub-committee

- 3.1 The Sub-committee shall have the following terms of reference.

3.2 Review of regulation changes

To provide detailed scrutiny and due diligence to the proposed changes to ACCA's rules, regulations and code of ethics and conduct necessitated by:

- policy decisions by Council
- legislation and requirements of lead regulators, in particular the ~~Professional Oversight Board~~ Financial Reporting Council
- considerations of public interest, public policy and best practice
- court judgments and interpretations
- the requirements to eliminate uncertainties, conflicts and other drafting issues.

3.3 Recommendations to the Regulatory Board

To make recommendations to the Regulatory Board for changes to ACCA's *Rulebook* concerning ACCA's rules, regulations and code of ethics and conduct.

3.4 Decisions between meetings

To ratify decisions made by the Chairman of the Sub-committee, in consultation with the Executive Director – Governance, between



meetings which cannot reasonably or safely be held over to the next following meeting.

3.5 Review of terms of reference

To review, at least annually, the Sub-committee's terms of reference to ensure they remain fit for purpose.