



BOTSWANA ACCOUNTANCY OVERSIGHT AUTHORITY

ENFORCEMENT COMMITTEE TERMS OF REFERENCE

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ENFORCEMENT COMMITTEE TERMS OF REFERENCE

1. INTRODUCTION

Section 16(1) of the Financial Reporting Act, 2010 (the Act) stipulates that the Board of the Botswana Accountancy Oversight Authority (the Authority) may, for the purposes of performing its functions, establish such committees as it considers appropriate; and may delegate, to any such committee, any of its functions as it considers necessary. Pursuant to this provision, the Board has established the Enforcement Committee with the following Terms of Reference.

2. PURPOSE

- 2.1 This Committee is responsible for the sanctioning of individuals and entities that do not meet the expected standards as contained in reports from the Audit Practice Review and the Financial Reporting Monitoring Committees. The Committee also sanctions violations of the Code of Ethics for Professional Accountants.
- 2.2 The purpose of this Committee is, therefore, to enforce:
- a) the recommendations of the Audit Practice Review Committee following audit quality reviews conducted by the Technical Department of the Authority;
 - b) the recommendations of the Financial Reporting Monitoring Committee following reviews conducted by the Technical Department of the Authority;
 - c) the outcomes of reviews carried out on the “Fit and Proper” tests carried out on certified auditors; and
 - d) any violations of ethical codes and independence requirements by certified auditors identified by the Technical Department of the Authority during Audit Practice Reviews and Financial Reporting Monitoring reviews.
- 2.3 The Committee may also refer other issues identified by the Authority to the relevant authorities such as Government, BICA, BSE, BoB, and NBFIRA and other regulators with whom the Authority has entered into a Memorandum of Agreement (MoU), for appropriate sanctions.
- 2.4 The Committee will also be responsible for handling, as delegated to it by the Board, all breaches or suspected breaches constituting professional misconduct or other violations of the Act by Professional Accountants but

which are not directly related to audit practice reviews and financial reporting monitoring.

3. COMPOSITION

- 3.1 The Committee shall comprise three Board members appointed to the Committee by the Board as voting members.
- 3.2 The Board may also appoint to the Committee other persons with specialised skills, not being members of the Board.

4. STRUCTURE AND OPERATIONS

4.1 The Chairperson and Vice Chairperson

The Chairperson and Vice Chairperson shall be appointed by the Board.

4.2 Meetings

The Committee shall meet a minimum of three (3) times a year; and at such time and place as the Chairperson may determine, or as the Board may direct.

4.3 Minutes

The Chairperson of the Committee shall cause a record to be kept of all meetings by the Director, Technical Department or his/her nominee, who shall be the Secretary of the Enforcement Committee. An entry in a book containing the minutes of the Committee, signed by the Chairperson, shall be prima facie evidence of resolutions taken by the Committee.

4.4 Quorum

A simple majority of the voting members of the Committee constitutes a quorum for a meeting of the Committee.

4.5 Conflicts of Interest

Whenever a matter arises which might cause a conflict of interest to any Committee member, the potential conflict must be disclosed and that member must recuse him or herself from discussing the matter and leave the meeting while the matter is discussed. Such disclosure shall be recorded in the minutes of the meeting at which it is made.

4.6 Voting Rights

Committee members who are not Board Members may take part in proceedings of the Committee but shall not have the right to vote.

4.7 Decisions

The decision of the majority of the voting members present at a duly constituted meeting of the Committee is the decision of the Committee.

4.8 Resources

4.8.1 The Committee shall be provided with sufficient resources to undertake its duties.

4.8.2 The Committee shall have access to the services of the Authority's Secretariat on all Committee matters including assisting the Chairperson in planning the Committee's work, drawing up meeting agendas, maintenance of minutes, drafting of material about its activities for the Annual Report, collection and distribution of information and provision of any necessary practical support.

4.8.3 The Secretariat shall ensure that the Committee receives information and papers at least seven calendar days before a meeting of the Committee to enable full and proper consideration to be given to the issues; except that in the case of an emergency meeting of the Committee, the information and papers may be sent to the Committee members less than seven calendar days before the meeting.

4.8.4 The Authority shall make funds available to the Committee to enable it to take independent legal or other advice when the Committee reasonably believes it necessary to do so.

5. RESPONSIBILITIES AND AUTHORITY

5.1 Based on the purpose stated in Paragraph 2, the Committee shall on receipt of the recommendations from the Technical Department and routed through the Audit Practice Review Committee and the Financial Reporting Monitoring Committee of the Authority:

- a) establish irrefutable evidence or proof of non-compliance by an alleged offender and accord him/her a chance to be heard in a disciplinary hearing in accordance with the Act, the Regulations and the Rules;

- b) impose sanctions based on the guidance given in the Act, the Regulations and the Rules;
- c) enforce recommendations on process of remediation where voluntary measures have not succeeded;
- d) report to the relevant stakeholders any irregularities that are reportable in accordance with the Act, the Regulations and the Rules;
- e) to hear any cases relating to acts or omissions constituting professional misconduct in as far as they relate to audit practice reviews and financial reporting monitoring; and
- f) where appropriate, publicly disclose information on the enforcement matter after a decision on the sanction has been taken in accordance with the Act, the Regulations and the Rules.

5.2 The Committee shall, as delegated by the Board, attend to all cases involving breaches or suspected breaches constituting professional misconduct or other violations of the Act by Professional Accountants but which are not directly related to audit practice reviews and financial reporting monitoring.

6. TERM OF OFFICE

The term of office for the Committee members shall be an initial period of three years with the option to renew for one further term of three years.

7. TERMINATION OF MEMBERSHIP

The Board may at any time dissolve or reconstitute the Committee; or terminate the membership of a Committee member if, in the opinion of the Board, the performance of the member is unsatisfactory or the member is unable, due to illness or any other reason, to perform the functions of a member effectively.

8. REMUNERATION

The Board will determine on an annual basis the fee to be paid to members of the Committee.

9. CONFIDENTIALITY

All members of the Committee shall sign a confidentiality undertaking not to disclose any of the proceedings of the Committee, including outcomes of the Committee's work, to any third parties.

10. COMMITTEE REPORTS

- 10.1 The Committee shall report to the Board on how it has discharged its responsibilities, including any other issues on which the Board has requested the Committee's opinion.
- 10.2 The Committee shall periodically review its terms of reference and its own effectiveness and recommend any necessary changes to the Board. The Board shall also review the Committee's effectiveness as and when it is necessary.

ADOPTED BY THE BOTSWANA ACCOUNTANCY OVERSIGHT AUTHORITY BOARD

ON _____ **AND WILL BE DUE FOR REVIEW**

ON _____

**CHAIRPERSON,
ENFORCEMENT COMMITTEE**