

# DISCIPLINARY FRAMEWORK AND PROCEDURES

## Section 1 – Introduction

APSCA has adopted a Code and Standards of Professional Conduct (*Code*) which establishes the expected level of professional conduct by APSCA Members. Consistent with its mission of *increasing the value and effectiveness of independent social compliance audits by enhancing their professionalism and consistency, and the credibility of individuals and organizations performing them*, APSCA has the authority to enforce the *Code*. This includes disciplining *Member Auditors* and *Member Firms* who violate the provision of the *Code*. This Disciplinary Framework and Procedures (Disciplinary Procedures) describes the processes for enforcing the *Code* with respect to *Member Auditors* and *Member Firms*, and the bodies authorized to do so.

This document should be read in conjunction with the *Code, Competency Framework and Glossary of Terms*.

## Section 2 – Definitions

- A. **Director of Code and Compliance** means the APSCA employee/s or representative responsible for administering the disciplinary process.
- B. **Member** means a *Member Auditor* or a *Member Firm*.
- C. **Member Auditor** means an auditor who is enrolled and in good standing with APSCA in either an *ASCA*, or *CSCA* capacity.
- D. **Member Firm** means an audit firm that is a member of APSCA and provides social compliance audit services.

## Section 3 – Disciplinary Boards

These Disciplinary Procedures describe the jurisdiction of the bodies authorized to enforce the *Code*, and their membership, rules, and procedures. These bodies are:

- A. **The Disciplinary Board for Member Auditors (DBMA)** reviews alleged violations of the *Code* by *Member Auditors*, and where appropriate, imposes disciplinary sanctions on a *Member Auditor*.
- B. **The Disciplinary Board for Member Firms (DBMF)** reviews alleged violations of the *Code* by *Member Firms*, and where appropriate, imposes disciplinary sanctions on a *Member Firm*.
- C. **The Appeals Board** for *Member Auditors* hears and decides appeals of decisions by the DBMA.
- D. **The Executive Board** of APSCA operates as the appeals board for *Member Firms* and hears and decides appeals of decisions by the DBMF.

## Section 4 – Disciplinary Board for Member Auditors (DBMA)

### 4.1 Jurisdiction

The DBMA oversees the disciplinary process for *Member Auditors*. It is authorized to:

- A. Make rules for the handling of *complaints* against *Member Auditors* and the discipline of *Member Auditors*.
- B. Hear and decide cases involving alleged acts or omissions that violate the *Code*.

- C. Discipline *Member Auditors* when it determines there has been a violation of the *Code*.
- D. Take other such actions as is reasonably necessary to ensure an efficient and effective disciplinary system for APSCA.

#### 4.2 Membership of DBMA

- A. Membership of the DBMA shall consist of five representatives, one of which shall be the Chair, as follows:
  - i. Two independents member with a legal, ethics or other relevant background, one of who shall be the Chair.
  - ii. One representative of the Stakeholder Board.
  - iii. Two *Member Firm* representatives.
- B. The independent members of the DBMA and the *Member Firm* representatives shall be appointed by the Executive Board.
- C. The representative from the Stakeholder Board shall be nominated by the Stakeholder Board and ratified by the Executive Board.
- D. The Executive Board shall designate one of the two independent members to serve as Chair of the DBMA.
- E. DBMA members shall be appointed for a term of one-year. They may be re-appointed for additional terms of one-year each.
- F. In the event of a vacancy on the DBMA, the Executive Board shall appoint a new representative for the category, who shall serve for the remainder of the term.

#### 4.3 Forms of Action

When the DBMA has reviewed an allegation that a *Member Auditor* has violated the *Code*, it may take any of the following types of actions.

- A. No Action.
- B. Written Warning: A written warning to the Member Auditor found to have violated the *Code*. Unless otherwise specified by the DBMA, a Written Warning will remain in a Member Auditor's APSCA file for two years, and then be removed.
- C. Demotion: A demotion in the Member Auditor's level and permitted authority. The Member Auditor demoted will be required to re-sit any or all exams specified by APSCA and will do so on Pathway 4.
- D. Suspension: A suspension of the Member Auditor's APSCA membership and/ or certification, for a period of up to and including two years. A Member Auditor who has been suspended may apply for reinstatement of membership at the end of suspension period. The Member Auditor will be required to re-sign and upload the *Code* and may be assigned additional requirements for reinstatement of membership, as specified by APSCA. The DBMA reserves the right to require the suspended *Member Auditor* to re-sit specified APSCA Exams.
- E. Revocation of APSCA Certification and/ or Membership: An Auditor whose APSCA Membership has been revoked is not able to conduct any Social Compliance Audit associated with an APSCA *Member Firm*. There is no reapplication process for a *Member Auditor* whose Membership has been revoked.

#### 4.4. **Procedures for Handling Allegations Regarding Member Auditors That May be Referred to the DBMA**

4.4.1. *Administrative Matters.* The Director of Code and Compliance shall be responsible for receiving and preparing case(s) for consideration by the DBMA, for circulating an agenda and supporting materials prior to each DBMA meeting and recording and implementing decisions made at each meeting. The Director of Code and Compliance shall present all case reports to the DBMA in an anonymous format, without disclosing the name of the *Member Auditor* or *Member Firm* involved, or the identity of the person who made the allegation.

#### 4.4.2. *Matters Referred to APSCA by a Member Firm Pursuant to 5.3.2 of APSCA's Code*

In the event that a *Member Firm* informs APSCA that a *Member Auditor* has been disciplined for conduct that constitutes a violation of the *Code*, through the filing of a Disciplinary Action Form, or otherwise, the Director of Code & Compliance shall:

- A. Review the *Member Firm's* investigation and the grounds for disciplinary action of the *Member Auditor*.
- B. Notify the *Member Auditor* that APSCA is considering disciplinary proceedings, which in some cases may include suspension or revocation of their certification and/ or membership.
- C. Provide the *Member Auditor* with at least 14-days to respond in writing and to submit relevant supporting documentation and evidence.
- D. Conduct an independent investigation, if necessary, to collect additional information relevant to the proceeding before the DBMA.

#### 4.4.3. *Matters Received Directly by APSCA*

When APSCA receives an allegation that a *Member Auditor* has violated the *Code*, other than through the *Member Firm* referral process described above, the Director Code and Compliance shall:

- A. Review the allegation to assess if it raises a credible claim. A credible claim is one that appears to have been made in good faith, and, if proven, would constitute a violation of the *Code*. If appropriate, the Director Code and Compliance may request additional information from the person presenting the allegation before making this assessment.
- B. Dismiss a matter if the allegation does not raise a credible claim, or if insufficient information is given to pursue an investigation.
- C. If an investigation is warranted, refer the allegation to the relevant *Member Firm* to conduct the investigation and take appropriate action.
- D. If the Director Code and Compliance determines that it is not appropriate to refer an allegation to a *Member Firm*, the Director Code and Compliance may request authorization from the President and CEO to conduct an independent investigation. If the projected cost of the investigation is not covered by the budgets approved by the Executive Committee, the President and CEO shall consult with the Chair of the Executive Board, who may in turn consult with the Stakeholder Board representatives on the Executive Board.

#### 4.4.4. Temporary Suspension

The Director of Code and Compliance, with the concurrence of the Chair of the Disciplinary Board, has the authority to temporarily suspend a Membership before the completion of an investigation and consideration by the DBMA if the following conditions have been met:

- A. A *Member Auditor* has admitted to the allegation or based on evidence available to APSCA there is clear and convincing evidence to substantiate the violation, and
- B. The violation is one that is likely to lead to suspension or revocation of membership by the DBMA.

The *Member Auditor* and any *Member Firm/s* employing the *Member Auditor* shall be notified in writing of the temporary suspension.

#### 4.5 DBMA Procedures and Meetings

- A. The DBMA shall meet at least quarterly at the call of the Chair. In the event there are no pending cases to be considered by the DBMA, the Chair may decide not to hold a quarterly meeting.
- B. The Director Code and Compliance shall keep a record of decisions reached at all meetings of the DBMA.
- C. Attendance at DBMA meetings may be in person, by video or by conference call.
- D. Three members of the DBMA shall constitute a quorum of the DBMA, provided that at least three of the members are not representatives of *Member Firms*.
- E. Any *Member Auditor* subject to a recommendation of discipline shall have the right to appear before the DBMA with or without a proxy, provided they confirm their participation at least 5 calendar days prior to the DBMA meeting.
- F. No *Member Auditor* shall be found to have violated the *Code* unless at least three voting members vote to establish the violation, one of which may not be a representative of a *Member Firm*.
- G. The Director Code and Compliance shall notify the relevant *Member Auditor* in writing of the decision of the DBMA. The notice shall inform the *Member Auditor* of the right to appeal the decision to the Appeals Board.
- H. The Director of Code and Compliance shall notify *Member Firms* currently associated with the sanctioned *Member Auditor* of the decision of the DBMA. The notification will include the description of the relevant *Code* violation and decision reached by the DBMA. Details of the investigation will not be disclosed. If the sanctioned Auditor Appeals the decision of the DBMA and the sanction is changed, applicable *Member Firms* will be notified.

### Section 5 - Disciplinary Board for Member Firms (DBMF)

#### 5.1 Jurisdiction

The DBMF oversees the disciplinary process for *Member Firms*. It is authorized to:

- A. Make rules for the handling of *complaints* against *Member Firms* and the discipline of *Member Firms*.

- B. Hear and decide cases involving alleged acts or omissions that violate the obligations of Members Firms under the *Code*, including Section 2.3 on Integrity Management, which requires a *Member Firm* to "have a system in place to identify risks and manage compliance relating to ethics and integrity."
- C. Discipline *Member Firms* when it determines there has been a violation of the *Code*.
- D. Take other such actions as is reasonably necessary to ensure an efficient and effective disciplinary system for APSCA.

### **5.2 Membership of DBMF**

- A. Membership of the DBMF shall consist of five representatives, one of which shall be the Chair.
- B. None of the members may be officers or employees of any APSCA *Member Firm*.
- C. The members of the DBMF shall be appointed by the Executive Board which shall designate one of the members to serve as Chair.
- D. DBMF members shall be appointed for a term of one-year. They may be reappointed for additional terms of one-year each.
- E. In the event of a vacancy on the DBMF, the Executive Board shall appoint a new member, who shall serve for the remainder of the term.

### **5.3 Forms of Action**

When the DBMF has reviewed an allegation that a *Member Firm* has violated the *Code*, it may take any of the following types of actions.

- A. No Action.
- B. Written Warning: A written warning to the *Member Firm* found to have violated the *Code*. Unless otherwise specified by the DBMF, a Written Warning will remain in a *Member Firm's* APSCA file for two years, and then be removed.
- C. Suspension: A suspension of a portion of a *Member Firm* membership, such as operations in a specific country or region, for a period of up to and including one year. A *Member Firm* whose membership has been suspended for a portion of its operations may apply for reinstatement of membership for those operations at the end of suspension period. The *Member Firm* will be required to meet reinstatement criteria specified by APSCA.
- D. Revocation: A revocation of the *Member Firm's* APSCA membership for a period of up to and including one year. A *Member Firm* whose membership has been revoked may apply for reinstatement of membership at the end of revocation period. The *Member Firm* will be required to meet reinstatement criteria specified by APSCA.

### **5.4 Procedures for Handling Member Firm Allegations That May be Referred to the DBMF**

#### *5.4.1 Administrative Matters*

The Director of Code and Compliance shall be responsible for receiving and preparing case(s) for consideration by the DBMF, and for circulating an agenda and supporting materials prior to each DBMF meeting, and for recording and implementing decisions made at each meeting.

#### 5.4.2. Handling of Matters Received by APSCA

When APSCA receives an allegation that a *Member Firm* has violated the *Code*, the Director of Code and Compliance shall:

- A. Review the allegation to assess if it raises a credible claim. A credible claim is one that appears to have been made in good faith, and, if proven, would constitute a violation of the *Code*. If appropriate, the Director of Code and Compliance may request additional information from the person making the allegation before making this assessment.
- B. Dismiss a matter if the allegation does not raise a credible claim, or if insufficient information is given to pursue an investigation.
- C. If the Director of Code and Compliance determines that a detailed investigation is warranted, the Director of Code and Compliance may request authorization from the President and CEO, who may consult the Chair of the Executive Board if applicable, to conduct an independent investigation. The Chair of the Executive Board shall consult on any such request with the Chair of the DBMF and the Stakeholder Board representatives on the Executive Board.

#### 5.4.3. DBMF Procedures and Meetings

- A. The DBMF shall meet at the call of the Chair. In the event that there are no pending cases to be considered by the DBMF, the Chair may decide not to hold a quarterly meeting.
- B. The Director Code and Compliance Manager shall keep a record of decisions reached at all meetings of the DBMF.
- C. Attendance at DBMF meetings may be in person, by video or by conference call.
- D. The Chair and two other voting members will constitute a quorum of the Disciplinary Board
- E. Any *Member Firm* subject to a recommendation of discipline shall have the right to designate a representative to appear with or without a proxy in person or remotely, e.g., by video or by conference call, before the DBMF, provided that such request is received by APSCA at least ten days prior to the date of the DBMF meeting.
- F. The Director of Code and Compliance shall notify the relevant *Member Firm* in writing of the decision of the DBMF. The notice shall inform the *Member Firm* of the right to appeal the decision to the Executive Board.  
If the DBMF revokes the Membership of a *Member Firm*, *Member Auditors* associated with that *Member Firm* will also be notified.

## Section 6 - Appeals Board – Member Auditor Cases

### 6.1 Jurisdiction

The Appeals Board is authorized to:

- A. Set the procedures for appeals of decisions by the DBMA.
- B. Hear and decide cases involving appeals of decisions by the DBMA.
- C. Take such other actions as are reasonably necessary to ensure an efficient and effective system of appeal.



## **6.2 Membership of the Appeals Board**

- A. Membership of the Appeals Board shall consist of a Chair and two other members, as follows:
  - i. The Chair of the Executive Board shall be the Chair.
  - ii. The Executive Board shall appoint two Stakeholder Board representatives who serve on the Executive Board, provided that if there are not two representatives in this category available to become members of the Appeals Board, the Executive Board may appoint any representative of the Stakeholder Board.
- B. No member may serve as a voting member on both the DBMA and the Appeals Board.
- C. In the event of a vacancy in the Stakeholder Board representatives, the Executive Board, in consultation with the Stakeholder Board, shall appoint a new representative who shall serve for the remainder of the term.

## **6.3 Procedures for Handling Member Auditor Requests for Appeal**

- A. Any *Member Auditor* subject to discipline by the DBMA shall have the right to submit a written petition for appeal to the Appeals Board. This petition must be submitted within 30 days of the date the written notice of the DBMA decision is sent to the *Member Auditor*.
- B. Petitions for appeal shall specify the party filing the appeal, the DBMA decision, and shall state clearly the grounds on which review of the decision is being sought. The contents of the appeal shall be limited to the evidence submitted to the DBMA.
- C. The Director Code and Compliance shall prepare an agenda for Appeals Board meetings. The agenda should include the description of the case prepared for the DBMA review, the decision of the DBMA, and any materials provided by the *Member Auditor* to support the appeal.
- D. To the extent feasible, the Director Code and Compliance Manager shall present all matters to the Appeals Board in an anonymous format, without disclosing the name of the *Member Auditor* or the *Member Firm* involved.

## **6.4 Appeals Board Procedures and Meetings**

- A. The Appeals Board shall meet at the call of the Chair.
- B. The Director Code and Compliance and the Chair of the DBMF may attend the Appeals Board meeting but shall not have voting rights.
- C. The Director Code and Compliance shall keep records of decisions reached at all meetings of the Appeals Board.
- D. Attendance at Appeals Board meetings may be in person, by video, or by conference call.
- E. The Chair and one other voting member shall constitute a quorum of the Appeals Board.
- F. No decision of the DBMA shall be overturned without the votes of at least two voting members of the Appeals Board.
- G. The decision of the Appeals Board is final and cannot be appealed further.

## Section 7 - Executive Board

### 7.1 *Jurisdiction*

The Executive Board is authorized to:

- A. Set the procedures for appeals of decisions by the DBMF.
- B. Hear and decide cases involving appeals of decisions by the DBMF.
- C. Take such other actions as are reasonably necessary to ensure an efficient and effective system of appeal.

### 7.2 *Procedures for Handling Member Firm Requests for Appeal*

- A. Any *Member Firm* subject to discipline by the DBMF shall have the right to submit a written petition for appeal to the Executive Board. This petition must be submitted within 45 days of the date the written notice of the DBMF decision is sent to the *Member Firm*.
- B. Petitions for appeal shall specify the *Member Firm* filing the appeal and the DBMF decision and shall state clearly the grounds on which review of the decision is being sought. The contents of the appeal shall be limited to the evidence submitted to the DBMF.
- C. The Director Code and Compliance shall prepare for the Executive Board a description of the case prepared for the DBMF review, the decision of the DBMF, and any materials provided by the *Member Firm* to support the appeal.
- D. The decision of the Executive Board is final and cannot be appealed further.

## Section 8 – Referral of Matters by Disciplinary Bodies

- A. Either the DBMA or the Appeals Board may refer a matter to the DBMF for consideration. Situations where such a referral may be appropriate include where (i) the *Member Firm* may have played a significant role in allegations involving a *Member Auditor* or (ii) a violation of the *Code* by a *Member Auditor* may have involved a pattern of broader misconduct by a *Member Firm*.
- B. The DBMF or the Executive Board may refer a matter to the DBMA for consideration. A situation where such a referral may be appropriate is where a *Member Auditor* in a *Member Firm* subject to review by the DBMF or the Executive Board may have engaged in conduct that may violate the APSCA *Code*.

## Section 9 – Standard of Review

- A. The standard of review for the DMBA and the DBMF shall be a preponderance of the evidence, which generally means "more probable than not."
- B. The standard of review for the Appeals Board and the Executive Board shall be:
  - i. For findings of fact, "clear error."
  - ii. For findings that, based on the facts, a violation of the *Code* has been substantiated, *de novo* review.
  - iii. For determination of the appropriate sanction, "abuse of discretion."



## Section 10 – Conflict of Interest

Members of the DBMA, the DBMF and the Appeals Board shall recuse themselves from participating in the consideration of any matter where such participation would result in, or give the appearance of, a conflict of interest.

## Section 11 – Disciplinary Action Relating to Misconduct During APSCA Exams

Guidelines for investigations and sanctions of suspected misconduct in connection with APSCA certifications exams are set out in a separate document. Actions of the Director Code and Compliance under these guidelines are not subject to review by the DBMA unless the Director Code and Compliance specifically refers the case to the DBMA for its review and action.

## Section 12 – Confidentiality

Unless disclosure is required by a court order or other applicable legal requirements, disciplinary decisions by the APSCA boards shall be confidential **to APSCA**, provided that APSCA may share actions by the DBMA or the Appeals Board with the relevant *Member Firm*, and may publish on its website and elsewhere information on cases individually and collectively, provided that the name of the *Member Auditor* or *Member Firm* involved is not revealed.