

ASSOCIATION OF ACCOUNTANCY BODIES IN WEST AFRICA

(ABWA)



**MONITORING AND ENFORCEMENT MECHANISM OF CODE OF ETHICS
FOR PROFESSIONAL ACCOUNTANTS**

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FOREWORD

The ABWA Council in order to actualize its desire to strengthen and consolidate the practice of Accountancy and Auditing in West Africa, thereby fostering and accelerating economic growth through regional integration and co-operation, saw the need to have a Uniform Code of Ethics for Accountants in the sub-region.

Whereas some member institutes already had Code of Ethics for their individual and organizational members, the ABWA Council in its determination to align its strategies with global best practices, resolved to adopt the universally accepted IFAC Code of Ethics with due regard to local dictates. This enables ABWA member institutes to comply with IFAC membership obligations.

Each member institute has responsibility for implementation with the Ethical Codes, while ABWA has the responsibility to monitor compliance with ethical standards as well as the regular review of implementation processes and strategies.

The training manual which covers the mechanism for enforcing uniform ethical code includes relevant documentation for training accountants in the sub- region on the subject of accounting Ethics. It also includes a composite presentation of the proceedings of the Ethics Workshop held in Lagos, in February 2009 and the Rapporteur's Report.

ABWA, through this training manual, aims at establishing uniform ethical standards and practices for compliance by professional accountants across the sub-region with the potential for encouraging cross border business, as well as attraction of foreign direct investments to the countries in the sub-region.

CHIEF (MRS) E. O. ADEGITE
PRESIDENT, ABWA

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ACKNOWLEDGEMENTS

The Association of Accountancy Bodies in West Africa (ABWA) Implementation Committee on the World Bank IDF Grant TF 56950, on the occasion of the publication of the first edition of the Manual on the Mechanism for Enforcing Uniform Ethical Code and training of accountants in ABWA member institutes, acknowledges the contributions of the following organizations and individuals:-

Firstly, the ABWA founding fathers for their vision and inspiration which gave birth to the Association, serving as a strong umbrella to accountants in the West African sub-region.

Secondly, the Association acknowledges the ABWA Presidents and Council members, past and present, who recognizing the need to strengthen the Standards and Practice of Accountancy and Auditing in the West Africa sub-region, with a view to enhancing the essential infrastructure for economic growth and development, sought financial assistance for the actualization of the project.

Thirdly, the Association appreciates the ABWA member institutes for organizing training workshops on Ethics at various times, for the benefit of their members and in the best public interest.

Fourthly, the Association appreciates the consultants who contributed immensely to the production of the Manual incorporating the International Federation of Accountants (IFAC) Code as well as inputs on local dictates of ABWA member institutes.

Lastly, but not the least, the Association extends its profound and sincere gratitude to the World Bank whose policy thrust and commitment to facilitate and improve global economic development, through regional integration and cooperation, made available the funding needed for this project.

CECILIA NYANN
Chairman, IDF Implementation Committee

MONITORING AND ENFORCEMENT MECHANISM OF CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS

Preamble

This monitoring and enforcement mechanism is the process to be followed by ABWA member bodies in response to a complaint being lodged against a member / member firm. It is intended that it serves as a guide for ABWA member bodies in their monitoring of members' compliance with IFAC Code of Professional Ethics ("the Code") which has been adapted by ABWA Council.

ABWA is not a law enforcement or judicial organization and will not attempt to prove the guilt or innocence of a member in a criminal or civil legal case.

Section 1 – Jurisdiction of ABWA Member Bodies

- 1.1 Members / Member firms **of Accountants** shall only be subject to the monitoring and enforcement **of ABWA** if they are members of any ABWA Member body.
- 1.2 A member / member firm is defined as a person or entity.
- 1.3 A member body of ABWA is deemed to be subject to the code.
- 1.4 Failure to pay membership dues in a timely manner shall not constitute immunity from the code or enforcement mechanism.
- 1.5 ABWA member bodies shall only have jurisdiction over complaints regarding provisions enumerated in the code.
- 1.6 **If a complaint presented to ABWA member body relates to a case currently subject to pending litigation, the ABWA member body shall**

carry on the enforcement mechanism where there is no restraining order from a court of competent jurisdiction.

- 1.7 Where there is a restraining order from the court, the ABWA member body shall suspend the enforcement mechanism pending the outcome of the legal proceedings or a successful contest or discharge of the court order.
- 1.8 At the pendency of such litigation, the Investigating Panel shall monitor the status of the litigation.
- 1.9 Suspension of the enforcement mechanism shall end upon a discharge of the court order or the conclusion of litigation.

Section 2 - Complaint

2.1 Any individual or entity is deemed to have standing to lodge a complaint against a member / member firm.

Duties of the Complainant

2.2 Complaints must be made in writing to the ABWA Member body. Verbal complaints shall not be accepted.

2.3 Complaints must be addressed to the Registrar / Chief Executive of the ABWA member body.

2.4 Complainants must state their full name and upon request, inter alia, their address, telephone number, and other relevant identifying information.

Duties of the Registrar / Chief Executive of ABWA member body

2.5 Upon receiving the complaint, the Registrar / Chief Executive shall file a “Receipt of Original Complaint” detailing:

- The identity of the complainant;
- The identity of the member / member firm that is subject to the complaint;
- The original text of the complaint;
- The date that the complaint was received;
- The case number which shall be assigned by the Registrar / Chief Executive of the ABWA member body.

2.6 The Registrar / Chief Executive of the ABWA member body shall notify the Chair of the Investigating Panel of the complaint within seven days of receiving the complaint.

2.7 If the Chair of the Investigating Panel is affiliated or related to the member subject to the complaint, the Registrar / Chief Executive of the

ABWA member body shall notify the Deputy Chair of the Investigation Panel as well as the Chair.

- 2.8 The Registrar / Chief Executive of the ABWA member body shall preserve the anonymity of the complainant if the complainant specifically requests protection of their identity.
- 2.9 The Registrar / Chief Executive of the ABWA member body shall notify the complainant of the receipt of the complaint.

Duties of the Chair (or Deputy Chair) of the Investigating Panel

- 2.10 The duties of the Chair shall be carried out by the Deputy Chair if the Chair is related or affiliated with the member subject to the complaint.
- 2.11 Upon receiving the complaint, the Chair shall notify all members of the investigating Panel and forward to them all relevant documentation within fourteen days from receiving a complaint from the Registrar / Chief Executive of the ABWA member body.
- 2.12 The Chair shall convene a meeting of the Investigating Panel to review the complaint within twenty eight days of receiving the complaint from the Registrar / Chief Executive of the ABWA member body.

Section 3 - Investigating Panel and Investigating Appeals Taskforce

3.1 The purpose of the Investigating Panel is to investigate complaints, consider if a matter is referable to the Disciplinary Tribunal/committee and to summarily reject complaints if deemed spurious or irrelevant to the code's provisions.

Composition of the Investigating Panel

3.2 The Investigating Panel shall be comprised of the Chair, the Deputy Chair (who must be members of Council of the ABWA member body and three other members of the ABWA member body.

3.3 No member of the Investigating Panel related or affiliated with the member subject to the complaint shall sit during the consideration of a matter before the Panel.

Duties of the Investigating Panel

3.4 The Investigating Panel shall complete its review within 60 days of convening in respect of a complaint.

3.5 If after 60 days, the investigating panel has not completed its review, extension of time may be sought from the Registrar/ Chief Executive of the ABWA member body

3.6 After investigating the complaint, the Investigating panel must either recommend the complaint to the Disciplinary tribunal/committee or reject the complaint.

Recommendation of Complaint

3.7 If the Investigating Panel deems the complaint to have merit, it shall refer the complaint to the Disciplinary Tribunal/committee.

- 3.8 The Chair of the Disciplinary Tribunal/committee shall convene a hearing session within thirty days of the recommendation of the Investigating Panel.
- 3.9 Recommendation of a complaint shall not be construed as a determination of guilt or innocence, rather, a recommendation of a complaint shall be construed as a determination on the reasonability of a complaint.

Rejection of a Complaint

- 3.10 If the Investigating Panel deems the complaint to lack merit, the Investigating panel shall notify the Disciplinary Tribunal/committee of its decision.
- 3.11 Upon rejection of a complaint, the Registrar / Chief Executive of the ABWA member body shall contact the complainant to notify them of the decision.

Appeals of the Investigating Panel

- 3.12 A member / Member firm may not appeal the decision of the Investigating Panel.
- 3.13 Complainants may appeal the decision of the Investigating Panel.
- 3.14 Appeals regarding the decision of the Investigating Panel must be submitted to the Registrar / Chief Executive of the ABWA member body within thirty days of the decision.
- 3.15 The Registrar / Chief Executive of the ABWA member body shall refer the appeal to the Chair of the Investigation Appeals Panel
- 3.16 Upon receiving the appeal, the Chair of the Investigation Appeals Panel shall notify the members and forward to them all relevant documentation within fourteen days of receiving the appeal from the Registrar / Chief Executive of the ABWA member body.

3.17 The Chair of the Investigation Appeals Panel shall convene a meeting of the 3-man Panel to review the appeal within fourteen days of receiving the appeal from the Registrar / Chief Executive of the ABWA member body.

Composition of the Investigation Appeals Panel

3.18 The Investigation Appeals Panel shall be comprised of the Chair, a Deputy Chair both of whom shall be serving Council Members of the ABWA member body and one other non council member.

3.19 No member of the Investigation Appeals Panel may be related or affiliated with the member subject to the complaint.

3.20 No member of the Investigating panel may be eligible to serve on the Investigation Appeals Panel in the same complaint process.

Duties of the Investigation Appeals Panel

3.21 The Investigation Appeal Panel must complete its review within thirty days of convening.

3.22 After reviewing the complaint, the Investigation Appeals Panel must either recommend the complaint to the Disciplinary Tribunal or reject the complaint.

Secondary Appeals of the Investigation Appeals Panel

3.23 A Member / member Firm may not appeal the decision of the Investigation Appeals Taskforce.

3.24 Complainants may not appeal the decisions of the Investigation Appeals Taskforce.

3.25 Complainants may not resubmit complaints that have been rejected by the Investigation Appeals Taskforce.

Section 4 – Full Disciplinary Tribunal Hearing

- 4.1 If the Investigating Panel or the Investigation Appeals Panel recommends a complaint, it shall be heard by a full session of the Disciplinary Tribunal.
- 4.2 A quorum of the delegates to the Disciplinary Tribunal shall be deemed a full session of the Tribunal.

Composition of the Disciplinary Tribunal

- 4.2.1 The Disciplinary Tribunal shall be composed of a Chair who shall be the President of the ABWA member body and four other Council Members.
- 4.2.2 A Member / Member Firm or any representative of the Member / Member Firm subject to the complaint shall be invited to attend hearings held by the Disciplinary Tribunal.

Duties of the Disciplinary Tribunal

- 4.2.3 The Disciplinary Tribunal must complete its hearing within thirty days of convening.
- 4.2.4 After hearing the complaint, the Disciplinary Tribunal must either impose corrective measures and sanctions or reject the complaint.
- 4.2.5 The decision made by the Disciplinary Tribunal must be supported by a majority of the Disciplinary Tribunal.
- 4.2.6 In the event of a tie, the Chair shall exercise the casting vote.

Imposition of Corrective Measures and Sanctions

- 4.3 If the Disciplinary Tribunal accepts the merit of the complaint, it may impose corrective measures or sanctions on the Member / Member Firm subject to the complaint.

Rejection of Complaint

4.4 If the Disciplinary Tribunal deems the complaint to lack merit, the Chair shall notify the Registrar / Chief Executive of the ABWA member body of its decision.

4.5 Upon rejection of a complaint, the Registrar / Chief Executive of the ABWA member body shall contact the complainant to notify them of the decision.

Appeals

4.6 A Member / Member Firm may not appeal the decisions of the Disciplinary Tribunal.

4.7 Complainants may not appeal the decisions of the Disciplinary Tribunal.

4.8 Complainants may not resubmit complaints that have already previously been submitted and ruled upon.

Section 5 – Corrective Measures and Sanctions

5.1 If the Disciplinary Tribunal accepts the merit of the complaint, it may vote to sanction the Member subject to the complaint.

5.2 Sanctions require a sixty percent (60%) majority of the Disciplinary Tribunal to be enacted.

5.3 At the conclusion of a hearing, a statement of the Disciplinary Tribunal decision will be prepared by the Chair and made available to the public.

Types of Corrective Measures

5.4 Corrective measures may include ameliorative actions prescribed by the Disciplinary Tribunal/committee.

5.5 Corrective measures may not be punitive in nature.

Types of Sanctions

5.6 Sanctions may include probation, suspension, expulsion, or such other disciplinary actions as decided by the Disciplinary Tribunal/committee.

5.7 Probation will lead to increased scrutiny of the member / member firm's activities, and may be grounds for expulsion at a later date. Members / Member Firms on probation may also lose voting rights for the duration of the probationary period, at the discretion of the Disciplinary Tribunal/committee.

5.8 If the Disciplinary Tribunal/committee votes to expel a member, the Council of the ABWA member body must convene within sixty days of the decision to review the recommendation of expulsion.

5.9 A decision by the Disciplinary Tribunal/committee to expel the Member subject to the complaint must be ratified by a two-thirds majority of the Council of the ABWA member body.

5.10 If the Council of the ABWA member body ratifies the Disciplinary Tribunal/committee recommendation to expel the Member subject to the

complaint, the penalty takes effect immediately, and annual dues are forfeited to the ABWA member body.

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Section 6 – Compliance and Monitoring

6.1 If the Disciplinary Tribunal/committee imposes sanctions upon the Member subject to the complaint, the Chair shall appoint a three-member Compliance and Monitoring Committee (CMC) to oversee the compliance of the Member.

6.2 The CMC shall issue a report to the full Disciplinary Tribunal/committee ninety days after convening.

6.3 If the CMC adjudges the Member subject to the complaint to be in compliance with the decision of the Disciplinary Tribunal/committee, the CMC shall recommend that no further action be taken on the complaint.

6.3.1 If the CMC recommends that no further action be taken on the complaint, the Chair shall notify the Chair of the Council of the ABWA member body of its decision.

6.3.2 Upon closure of the complaint, the Registrar / Chief Executive of the ABWA member body shall contact the complainant to notify them of the decision.

6.4 If the CMC adjudges the Member subject to the complaint to not be in compliance with the decision of the Disciplinary Tribunal, the CMC shall refer the complaint back to the Disciplinary tribunal/committee.

6.4.1 If the CMC refers the complaint back to the Disciplinary Tribunal/committee, the Chair shall convene a secondary hearing within thirty days.

6.5 If the CMC is unable to adjudge the Member subject to the complaint to be in compliance or not in compliance with the decision of the Disciplinary tribunal/committee, the CMC may request an extension of ninety days.

6.5.1 The Chair may authorize one extension of ninety days of the CMC.

6.6 If the CMC is unable to adjudge the Member subject to the complaint to be in compliance or not in compliance with the decision of the Disciplinary Tribunal/committee after an extension of ninety days of the CMC, the complaint shall automatically be referred back to the full Disciplinary Tribunal/committee.

6.7 Pursuant to 6.6, the Disciplinary Tribunal/committee shall convene a hearing within thirty days of the conclusion of the mandate of the CMC.

6.8 Pursuant to 6.6 and 6.7, the Disciplinary Tribunal/committee shall review the status of the complaint and the compliance or non-compliance of the Member subject to the complaint, and shall vote to sanction the Member subject to the complaint.

6.9 Sanctions pursuant to 6.8 require a simple majority of the Disciplinary Tribunal/committee to be enacted. 6.10 At the conclusion of a hearing, a statement of the Disciplinary Tribunal/committee's decision will be prepared by the Chair and made available to the public.

Types of Sanctions

6.11 Sanctions may include expulsion or such other disciplinary actions as decided by the Disciplinary Tribunal/committee..

6.12 Probation will lead to increased scrutiny of the members' / member firms' activities, and may be grounds for expulsion at a later date. A member on probation may also lose voting rights for the duration of the probationary period, at the discretion of the Disciplinary Tribunal/committee.

6.13 If the Disciplinary Tribunal/committee votes to expel a member, the Council of the ABWA member body must convene within sixty days of the decision to review the recommendation of expulsion.

6.14 A decision by the Disciplinary Tribunal/committee to expel the Member subject to the complaint must be ratified by a two-thirds majority of the Council.

6.15 If the Council of the ABWA member body ratifies the Disciplinary Tribunal/committee's recommendation to expel the Member subject to the complaint, the penalty takes effect immediately, and annual dues are forfeited to the ABWA member body.

Appeals

6.16 A Member/ Member Firm may not appeal the decisions of the Disciplinary Tribunal/committee.

6.17 Complainants may not appeal the decisions of the Disciplinary Tribunal/committee.

6.18 Complainants may not resubmit complaints that have already previously been submitted and ruled upon.

Section 8 – Confidentiality

8.1 All delegates to the Disciplinary Tribunal/committee must sign a Non-Disclosure Agreement (NDA) prior to participation in the Enforcement Mechanism.

8.2 All delegates to the Investigating Panel and the Investigation Appeals Panel must sign a NDA prior to participation in the Enforcement Mechanism.

8.3 All staff members of the ABWA member body must sign a NDA prior to participation in the Enforcement Mechanism.

8.4 Submissions by complainants shall be deemed public unless a specific request for confidentiality is received and granted by the Registrar / Chief Executive of the ABWA member body.

8.5 Submissions by a Member / Member Firm shall be deemed public unless a specific request for confidentiality is received by the Registrar / Chief Executive of the ABWA member body.

Section 9 - Execution and Application

9.1 This Enforcement Mechanism was adopted on September 16, 2009 without reservation.

9.2 This Enforcement Mechanism shall become applicable by all ABWA member bodies by January 1, 2010.