Annual Report on Professional Conduct
For the year ended 30 June 2009
The Institute of Chartered Accountants in Australia (the Institute) is the professional body representing Chartered Accountants in Australia. The Institute is a founding member of the Global Accounting Alliance (GAA), an international accounting coalition formed by the world’s premier accounting bodies.

The GAA has a membership of 775,000, and promotes quality professional services, shares information and collaborates on international accounting issues. In Australia, the Institute’s reach extends to more than 60,000 of today’s and tomorrow’s business leaders, representing some 51,000 Chartered Accountants and 12,000 of Australia’s best graduates who are currently enrolled in our world-class postgraduate Chartered Accountants Program.

Chartered Accountants are highly trained business advisers who offer a wide range of services including business management, financial planning, tax, auditing, forensic accounting, and other areas. Through a combination of precise, insightful and ethical thinking, Chartered Accountants are without equal in powering the right business decisions and serving as a financial conscience within the business community.

The Institute was constituted by Royal Charter in 1928, and is focused on leadership, protecting the standards and reputation of the accounting profession and influencing the policies and regulations that affect the industry.

For further information about the Institute of Chartered Accountants in Australia visit charteredaccountants.com.au
A message from the President

The professionalism and expertise of Australian Chartered Accountants has been recognised for over 80 years. The Institute of Chartered Accountants in Australia has an obligation to ensure all members uphold the highest standards of conduct. This is a responsibility we take very seriously, and we are pleased to say we are leading the profession in our drive to enhance the professional quality of our current and future members.

To ensure we are providing the highest level of service, our members adhere to the Institute’s Quality Review Program, and undertake continuing education throughout their career. Alongside this, the Professional Conduct function rigorously enforces ethical, technical and professional standards through investigation of complaints and other issues, as well as the use of disciplinary sanctions where appropriate. Our Professional Conduct processes are transparent and independent, with both senior members and non-members serving on the Professional Conduct and Appeal Tribunals.

This report outlines the top-line results of the Institute’s Professional Conduct investigations during the financial year ending 30 June 2009. It also draws year-on-year comparisons since we began Professional Conduct reporting in 2006, and outlines the steps we have taken to ensure the process continues to meet the expectations of regulators and the community.

The current economic environment poses challenges for the profession in our drive to enhance the professional quality of Chartered Accountants and is likely to have significant impact on the Institute’s ability to achieve its mission.

Professional Conduct: background and context

Why have a Professional Conduct function? The Institute is committed to enhancing andpromoting the reputation and role of Chartered Accountants in Australia. To do so, it sets the highest ethical, technical and professional standards of conduct and performance for current and future members.

The Professional Conduct section is the Institute’s disciplinary arm that enforces those standards. It protects the integrity of the Chartered Accountant designation by investigating complaints and other issues relating to members’ conduct, and, where appropriate, imposing sanctions against those who breach the standards.

The Institute is not a regulator or a court. Its role is to set and maintain high standards among members to ensure that holders of the Chartered Accountant designation conduct themselves properly at all times and do not bring the Institute and thereby its other members into disrepute.

It is necessary for the Institute to call its members to account when issues of concern arise, in order to protect its own reputation and those of its members.

Regulatory framework

There is no single body responsible for regulating the accounting profession in Australia. Those bodies that are involved in the regulation of the various arms of the profession and other activities in which accountants may be engaged appear in the table below.

<table>
<thead>
<tr>
<th>Regulatory body</th>
<th>Who they regulate</th>
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<tbody>
<tr>
<td>Australian Securities and Investments Commission (ASIC)</td>
<td>Auditors and liquidators through the Companies Auditors and Liquidators Disciplinary Board (CALDIB)</td>
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<tr>
<td>Financial planners</td>
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<td>Company directors</td>
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<tr>
<td>Tax Agents Boards</td>
<td>Tax practitioners</td>
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<tr>
<td>Australian Prudential Regulation Authority (APRA)</td>
<td>Auditors/trustees of superannuation funds</td>
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<tr>
<td>Directors and senior managers of insurance companies</td>
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<tr>
<td>Insolvency Trustee Service Australia (IFSA)</td>
<td>Trustees in bankruptcy</td>
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</tbody>
</table>

The Institute expects that the recent corporate collapses which occurred over the last year will continue to work their way through the regulatory and legal system. This may ultimately lead to referrals or complaints being lodged with the Institute’s Professional Conduct function over the coming year.

Despite the challenges faced by Chartered Accountants in the current economic environment, the Institute will continue to enforce high professional, technical and ethical standards. While acknowledging its position as a membership body, separate and independent from statutory regulators and other like bodies, the Institute will increasingly focus on working closely with key stakeholders to ensure that public interest is being served.

The Institute will continue to leverage off its membership with the GAA, by forging closer relationships with overseas accounting bodies and sharing intelligence and ideas. International benchmarking of the Institute’s disciplinary process will ensure that the Institute leads the accounting profession in Australia and that its members will operate effectively in a dynamic global environment.
Recent events
The current economic environment has been characterised by a number of high profile corporate collapses including Babcock and Brown, Allco Finance, Storm, ABC Learning, Timbercorp and Great Southern, as well as an increasing rate of personal insolvencies. This will inevitably lead to the role of accountants, some of whom may be Institute members, being called into question.

The Institute closely watches any accredited organisation or member who has been the subject of media speculation. Any members who breach the Institute by-laws and/or ethical standards will be referred to a disciplinary hearing, after the regulatory investigations and any court hearings are determined. It is important that pending a hearing, despite any community anger or concerns about financial loss, members are accorded due process and the Institute must abide by the principles of natural justice.

The Accounting Professional and Ethical Standards Board (APESB), a body which is independent from the Institute, is responsible for setting and reviewing all ethical and professional standards which members are required to observe. The Institute regularly engages with the APESB and provides feedback on the implementation of standards, to ensure that they are clear and effective.

Compliance with Institute by-laws, ethical standards and other standards is extremely important for all members. Even in periods of high pressure it is imperative that members comply with their ethical obligations. The courts, the Companies Auditors and Liquidators Disciplinary Board (CALDB) and the Institute all play a role in securing the enforcement of the spirit and the letter of the Code of Ethics issued by the APESB.

A recent development this year has been the referral of several matters by the ATO to the Institute for assessment. All of these referrals relate to the audit of self-managed superannuation funds. The Institute is currently evaluating these referrals and, where appropriate, these will be referred to the Professional Conduct Tribunal. The Institute looks forward to continuing its relationship with the ATO.

How does the Professional Conduct function work?
The following diagram shows both the Institute’s process and where it fits within the overall legal and regulatory framework.

Types of sanctions
Sanctions are designed to reflect the impact of the member’s actions on the reputation of the Institute and its members rather than to punish the individual member. The Professional Conduct Tribunal can impose one or more of a range of sanctions, including:

- Exclusion from membership of the Institute (removing the right to be a Chartered Accountant), which is the ultimate sanction. This is appropriate if the member has demonstrated that he/she is no longer fit and proper to be a Chartered Accountant and that continued membership would bring discredit on all other members and the Institute
- Cancellation of membership for a period of up to five years
- Withdrawal of the member’s right to engage in public practice
- Imposition of fines of up to $100,000
- Reprimands and severe reprimands
- Imposition of other sanctions, such as remedial training or an additional quality review of the member’s practice.

The Institute’s role
Under the Australian professional and regulatory framework any individual can provide accountancy services. A licence is required from a regulatory body to provide certain specific services, such as company audits or acting as a tax agent, but a professional membership is not mandatory.

If a member is excluded from membership of the Institute, that individual can no longer use the Chartered Accountant designation but can continue to provide accountancy services. Only action by ASIC or the Tax Agents Board which cancels their registration will prevent members from practicing as company auditors, liquidators, or tax agents.

Given the limited powers of the Institute, its policy – based on legal advice – is to await the completion of an investigation by the statutory body and any subsequent disciplinary or legal action before taking disciplinary action itself.

The Institute’s Professional Conduct process

Alleged breach or wrongdoing

Legal process

Non-legal process

Complaint instigated in three ways:
- Complaint lodged with the Institute
- The Institute identifies improper behaviour
- Adverse findings from court or regulator.

Regulators and the court system have wide statutory powers including:
- Power to subpoena
- Take evidence under oath
- Initiate court proceedings

Adverse findings from proceedings may include:
- Criminal sentence
- Ban on engaging in a profession
- Fine.

Investigation commences

Determination of whether matter is referred to the Professional Conduct Tribunal

Professional Conduct Tribunal hearing in which tribunal considers if case established.

Appeal lodged (optional)

Appeal tribunal hearing

Sanctions imposed by the Institute include:
- Exclusion from membership, thereby preventing members from calling themselves Chartered Accountants
- Issuing fines, reprimands and imposing remedial sanctions such as training.
Results and achievements

2008 – 2009 results
During the year ended 30 June 2009, the Professional Conduct team initiated investigations into 290 formal complaints or other issues concerning the conduct of members which came to the Institute’s attention, for example, as a result of action by regulators or the courts. As a result of these investigations, 13 members were called to appear before the Professional Conduct Tribunal. The numbers of investigations rose from 259 the previous year and were down from 317 in 2006 – 07. The number of cases heard by the Tribunal varies each year because of the timing of individual hearings, but has averaged around 20 cases each year over the last five years.

These figures are very small when compared with the current Institute membership of 51,000, and the countless number of engagements and tasks undertaken each year by Chartered Accountants on behalf of their clients and employers. Where the Tribunal finds a case established against a member, a report is published in the Institute’s monthly magazine, Charter, and on the Institute website. This report includes the member’s name regardless of the severity of the sanctions imposed. As well as being a mark of the transparency of the Professional Conduct function, these reports serve as a warning to other members about the importance of complying with both the letter and spirit of the Institute’s standards, including the Code of Ethics.

Cases heard

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<td>Total</td>
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<td>New South Wales (includes ACT and overseas)</td>
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<td>Queensland</td>
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<td>South Australia and Northern Territory</td>
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<td>Tasmania</td>
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<td>Victoria</td>
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<td>Western Australia</td>
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Appeal Tribunal
During the year the Appeal Tribunal heard two appeals against decisions of the Professional Conduct Tribunal. In both cases the Appeal Tribunal confirmed the finding by the Professional Conduct Tribunal that the cases had been established, but made some variations to the sanctions imposed.

Financial
In the financial year ending 30 June 2009, the Institute’s expenditure on Professional Conduct activities, net of cost recoveries imposed by the Tribunals was $247,109. This included all personnel, professional and general office expenses. A considerable part of this expenditure relates to the investigation of those matters which are not referred to the Professional Conduct Tribunal.

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<tr>
<td>Failure to observe proper standard of professional care, skill and competence</td>
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<td>Criminal conviction</td>
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<tr>
<td>Adverse finding in relation to professional or business conduct by Court, statutory, regulatory or professional body</td>
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<tr>
<td>Breach of Charter, By-laws or Regulations (including ethical and professional standards)</td>
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<tr>
<td>Failure to comply with direction by Institute (including failure to respond to correspondence)</td>
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<tr>
<td>Member’s insolvency</td>
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<tr>
<td>Conduct bringing discredit on member, Institute or profession</td>
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Sanctions imposed

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<tr>
<td>Exclusion from membership</td>
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<tr>
<td>Cancellation of membership for up to five years</td>
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<tr>
<td>Cancellation of Certificate of Public Practice and/or declared ineligible to hold a Certificate of Public Practice</td>
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<tr>
<td>Fine</td>
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<tr>
<td>Severe reprimand</td>
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<td>Reprimand</td>
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<td>Practice Review</td>
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<tr>
<td>Attending specified Training &amp; Development</td>
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<td></td>
<td></td>
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<tr>
<td>No sanctions imposed</td>
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Moving into 2009 – 2010

In 2009 – 2010, the Institute will continue its focus in the following areas:

> Quality of presentations to the Tribunals, particularly on increased engagement in debate in an effort to foster better outcomes in Tribunal decisions
> Improved complaints handling, through registration and tracking of all complaints, as well as helping members identify situations where they may find themselves subject to an investigation by the Institute
> Closer communication and liaison with major stakeholders and regulators including ASIC, CALDB, ATO, APRA, IPA and other professional accounting bodies, to promote a more integrated investigative and disciplinary framework
> Member education regarding compliance with the spirit and the letter of the Institute’s Code of Ethics. Increased emphasis on the importance of members keeping up-to-date with standards
> Continued promotion of the dispute resolution toolkit in order to facilitate early resolution of client difficulties or problems wherever possible
> Monitoring the effectiveness and transparency of its disciplinary procedures, including:
  - Sharing relevant information on disciplinary processes, issues and trends with its counterparts in the Global Accounting Alliance (GAA)
  - Ensuring that it meets its obligations under the IFAC Statement of Membership SMO 6: Investigation and Discipline
  - Working with a variety of regulators and stakeholders to ensure that the overall regulatory and professional framework continues to meet the needs of business and the broader community.

Appointments

Both the Professional Conduct and Appeal Tribunals comprise members from around Australia and also lay representatives (non-accountants). The inclusion of lay representatives demonstrates the Institute’s commitment to the broader public interest by providing an external and independent perspective to the deliberations of the Tribunals.

During the year ending 30 June 2009, one Institute member was promoted from the Professional Conduct Tribunal to the Appeal Tribunal.

Leadership

The Institute is pleased to report that cooperation and communication with other professional accounting bodies in Australia continues to improve. The Institute regularly attends meetings with the CALDB and other industry associations in relation to improving the co-regulatory framework around professional conduct, and facilitating understanding of the inter-depency between the CALDB and the Institute’s disciplinary processes.

The Financial Reporting Council (FRC) continues to review the accounting bodies’ Professional Conduct processes, especially as they relate to the audit function. In the most recent report (2007 – 2008), the FRC concluded the Institute’s processes were effective and appropriate to meet the bodies’ role and responsibilities in this area.

In 2009 – 2010 the Institute will continue to strive to be forward looking and to lead the accounting profession in Australia. The Institute will work to enhance the Professional Conduct and complaints process, particularly to deal with situations where a client’s expectations of Chartered Accountants have not been met, or where the matter has escalated into a dispute with a member.

The recent corporate collapses are likely to lead to increased complaints about members and challenge the efficacy of the Institute’s disciplinary process. The Institute’s Professional Conduct function is a robust, transparent and integrated process, which delivers appropriate practical solutions, or disciplinary sanctions, for the benefit of the general public and key stakeholders. Retaining respect and relevance in the eyes of Chartered Accountants is imperative to the Professional Conduct process.

As always, the Institute strives to adhere strictly to the principles of natural justice, the Institute by-laws and the law itself.

Global Accounting Alliance

In 2005, the Institute became a founding member of the Global Accounting Alliance (GAA), an international coalition formed by nine of the world’s premier accounting bodies. The GAA fits the Institute’s vision to lead the profession, and promotes quality professional services, supports the global membership, shares information, and collaborates on international issues. The GAA represents more than 775,000 members worldwide, making it a significant voice in the global accounting profession. Moving forward, the Institute will continue to develop initiatives that support its members and the accounting profession, both here and overseas.

Glossary of abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Name</th>
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<tbody>
<tr>
<td>APRA</td>
<td>Australian Prudential Regulation Authority</td>
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<tr>
<td>APESB</td>
<td>Accounting Professional and Ethical Standards Board</td>
</tr>
<tr>
<td>ASIC</td>
<td>Australian Securities and Investments Commission</td>
</tr>
<tr>
<td>ATO</td>
<td>Australian Tax Office</td>
</tr>
<tr>
<td>CALDB</td>
<td>Companies Auditors and Liquidators Disciplinary Board</td>
</tr>
<tr>
<td>FRC</td>
<td>Financial Reporting Council</td>
</tr>
<tr>
<td>GAA</td>
<td>Global Accounting Alliance</td>
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<tr>
<td>IFAC</td>
<td>International Federation of Accountants</td>
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<td>IPA</td>
<td>Insolvency Practitioners’ Association</td>
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<tr>
<td>ITSA</td>
<td>Insolvency and Trustee Service Australia</td>
</tr>
<tr>
<td>SMO</td>
<td>Statement of Membership Obligations</td>
</tr>
</tbody>
</table>
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