

Disciplinary Measures for Non-compliance Activities Conducted by Members of CICPA

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Chapter I General Provisions

Article 1 For the purpose of strengthening integrity building and regulating the punishment for non-compliance activities conducted by members, these Measures are formulated in accordance with the Law of the People's Republic of China on Certified Public Accountants (hereinafter referred to as the CPA Law) and the Charter of the Chinese Institute of Certified Public Accountants.

Article 2 These Measures shall apply when the Chinese Institute of Certified Public Accountants (hereinafter referred to as the CICPA) imposes punishment on its members for their non-compliance activities.

Article 3 The "members" as mentioned in these Measures refers to the group members and individual practicing members, namely, accounting firms and certified public accountants (CPAs).

When imposing punishment, the CICPA shall follow the principles of objectiveness and Equality and persist in combining punishment with education, so as to ensure the implementation of laws, regulations and professional rules.

Punishment shall be imposed based on facts and in line with the nature, circumstances and social impact of the non-compliance activities.

Article 4 Members have the right to make statements about and defend themselves against the punishment imposed by the CICPA. They also have the right to appeal if they refuse to accept the punishment.

Chapter II Categories and Application of Punishment

Article 5 The categories of punishment given by the CICPA to members' non-compliance activities include:

1. Reprimand;
2. Criticism by circulating a notice; and
3. Public condemnation.

Article 6 When the CICPA believes that a member's non-compliance activity may constitute a crime, it shall submit the related facts to the judicial authorities for investigation.

Article 7 A member, who has conducted any of the following non-compliance activities, shall be given punishment

accordingly:

1. Violating the provisions of the CPA Law and other relevant laws and regulations;
2. Violating the code of ethics for Chinese CPAs;
3. Violating the engagement standards for Chinese CPAs;
4. Violating the quality control standards for accounting firms; or
5. Other violations under which punishment shall be given.

Article 8 When members violate the provisions of Article 20, 21 or 22 of the CPA Law, the CICPA shall, in view of the circumstances, criticize them by circulating a notice, or making a public condemnation.

When members violate the provisions of other relevant laws and regulations in practice, the CICPA shall, in view of the circumstances, reprimand them or criticize them by circulating a notice, or making a public condemnation.

Article 9 When members violate the code of ethics for Chinese CPAs by conducting any of the following acts, the CICPA shall, in view of the circumstances, reprimand them or criticize them by circulating a notice, or make a public condemnation:

1. Violating the principle of integrity in professional activities;
2. Violating the requirement of independence in the code of ethics when performing audit and review engagements, as well as other assurance engagements;
3. Violating the principle of objectivity when exercising professional judgment and expressing professional opinion;
4. Failing to attain and maintain professional competence as required and lacking proper competence when accepting engagements and providing professional services;
5. Failing to maintain due care and act diligently in practice;
6. Violating the principle of confidentiality and disclosing confidential information acquired from professional activities;
7. Violating relevant laws and regulations in the result of compromising professional reputation;
8. When offering information to the public and promoting themselves and their work, making exaggerated claims for the services they are able to offer and the qualifications they possess, making disparaging references or unsubstantiated comparisons to the work of other CPAs, failing to be honest and truthful and damaging the professional image.
9. Violating the provisions of fees in the code of ethics; or

10. Other behaviors violating the code of ethics.

Article 10 When members violate the engagement standards for Chinese CPAs by conducting any of the following acts, the CICPA shall, in view of the circumstances, reprimand them, criticize them by circulating a notice, or make a public condemnation:

1. Failing to follow relevant regulations to plan or execute auditing engagements;
2. Failing to acquire adequate evidences to support an auditing conclusion;
3. Issuing an inappropriate auditing report due to negligence;
4. Failing to prepare, archive and keep the audit documentation as required;
5. Concealing the problems found in the auditing work and issuing untrue auditing reports;
6. Issuing false auditing reports intentionally by colluding with clients; or
7. Other behaviors violating the code of ethics.

When members, in performing reviews, other assurance engagements and related services, fail to abide by the review standards, the standards for other assurance engagements or the related services standards for Chinese CPAs, punishment shall be given to them with reference to the preceding paragraph.

Article 11 When members violate the quality control standards for accounting firms by conducting any of the following acts, the CICPA shall, in view of the circumstances, reprimand them, criticize them by circulating a notice, or make a public condemnation:

1. Failing to establish the quality control system as required;
2. Failing to establish policies and procedures as required to make reasonable efforts to ensure that the accounting firm and the staff thereof abide by the code of ethics;
3. Failing to make reasonable efforts to ensure that the accounting firm properly accepts or maintains clients and the specific engagement;
4. Failing to make reasonable efforts to ensure that the accounting firm and CPAs perform the engagement and issue proper reports in accordance with professional standards and applicable laws and regulations;
5. Failing to perform quality control reviews on the auditing engagement of listed companies and other prescribed engagements as required;
6. Failing to make reasonable efforts to ensure that the project team completes the filing of final engagement archives in time and keeps working papers for a prescribed time period after issuing the engagement report;

7. Failing to establish monitoring policies and procedures to reasonably ensure that the policies and procedures related to quality control system is relevant and appropriate and operate effectively;
or
8. Other behaviors violating the quality control standards.

Article 12 When members impede or refuse the quality review and investigation conducted by the CICPA, do not provide investigation related documents on time, refuse to accept investigation conclusions, or other non-cooperative circumstances arise, the CICPA shall condemn them publicly.

Article 13 Under any of the following circumstances, members shall be given heavier punishment:

1. Simultaneously have two or more disciplinable violations;
2. Commit violations the same nature for time times or more within two years;
3. Take revenge against any complainer, whistleblower, witness or other relevant personnel; or
4. Falsify, conceal or destroy evidences after conducting a non-compliance activity.

Article 14 Under any of the following circumstances, members may be given lighter or mitigated punishment:

1. Conduct the non-compliance activity for the first time, and the circumstances are minor;
2. Voluntarily report the non-compliance activity;
3. Voluntarily provide assistance in the investigation of non-compliance activity; or
4. Consciously correct the non-compliance activity and take effective measures in a timely manner to prevent or mitigate adverse consequences.

Chapter III Enforcement Body of Punishment and the Withdrawal in Enforcing Punishment

Article 15 A Disciplinary Committee is established under the CICPA Council.

The Disciplinary Committee is responsible for enforcing the punishment on non-compliance activities investigated by the CICPA.

Article 16 The Secretariat of the CICPA acts as the permanent executive office of the Disciplinary Committee responsible for the routine affairs of the Committee, and the office's responsibilities are:

1. Accepting complaints and member-related cases transferred from relevant departments;
2. Reviewing and investigating non-compliance activities of members;

3. Proposing to the Chair of Disciplinary Committee to convene a Committee meeting;
4. Preparing, serving and archiving the relevant documents of the Disciplinary Committee; and
5. Handling other affairs entrusted by the Disciplinary Committee.

Article 17 If members of the Disciplinary Committee fall under any of the following circumstances, they shall voluntarily withdraw from the case. Otherwise, the party concerned or the complainant has the right to request for the withdrawal of the members:

1. Their close relative has a direct interested relationship with the case;
2. They work in the same accounting firm with the party concerned to the case; or
3. Other circumstances that may affect the impartiality of handling the case.

The preceding paragraph applies to the staff working in the permanent executive office of the Disciplinary Committee.

Chapter IV Disciplinary Procedure and Disciplinary Decision

Article 18 For any non-compliance activity that falls into the responsibility of the CICPA, the permanent executive office of the Disciplinary Committee shall organize a review or investigation and then submit a review or investigation report to the Disciplinary Committee.

Article 19 Before making a disciplinary decision, the Disciplinary Committee shall send a notification of punishment to the party concerned, notifying the party of the preliminarily verified facts of non-compliance activity, the categories of punishment that will be given, the reasons and the basis thereof, and the fact that the party concerned has the right to present and defend.

The party concerned may submit the written statement and appeal to the Disciplinary Committee within eight working days upon the receipt of the notification of punishment. If the party concerned does not do so, it shall be deemed as waiving the right to appeal, and the absence of the appeal does not affect the making of the disciplinary decision.

After submitting the written statement and appeal, the party concerned can make a request to the Disciplinary Committee for making an oral statement.

The Disciplinary Committee shall sufficiently hear the opinion of the party concerned. It can request the party concerned to come to the Committee meeting and accept inquiries by committee members. Any fact, reason, or evidence presented by the party concerned, as long as it is tenable, shall be upheld by the Disciplinary Committee.

Article 20 The Disciplinary Committee shall make any of the following decisions depending on the actual circumstances:

1. If it is affirmed that the member has conducted a non-compliance activity prescribed by these Measures, the Committee shall make a decision of reprimanding the member, circulating a notice of criticism, or condemning the member publicly; or
2. If it is affirmed that the facts of non-compliance activity are not tenable, or the circumstances are minor, or these Measures are not applicable to the non-compliance activities, the Committee shall make a decision of dismissing the case or giving no punishment.

Article 21 A disciplinary decision shall be made at a meeting convened by the Disciplinary Committee, where at least two-thirds of the committee members shall be present, and the decision shall be agreed by at least two-thirds of the committee members present at the meeting.

Article 22 After a disciplinary decision is adopted, the Disciplinary Committee shall prepare a disciplinary decision letter in the name of the CICPA. The disciplinary decision letter shall carry the following items:

1. If the punished member is an individual member, his/her name, gender, date of birth, CPA certificate number and the name of the accounting firm where he/she works; if the punished member is an institutional member, the name and business address of the accounting firm and the name of its chief accountant;
2. The relevant facts and evidences;
3. The disciplinary conclusion and the basis thereof;
4. A description about the right to make an appeal and the time limit of making the appeal; and
5. The date of the disciplinary decision being made.

Article 23 A disciplinary decision can be delivered directly upon the party concerned or by post. It shall come into effect once it is delivered to the party concerned.

Chapter V Appeal Body of Punishment and the Withdrawal in Handling Appeals

Article 24 The CICPA has established an Appeal and Member Rights Committee under its Council.

The Appeal and Member Rights Committee is responsible for accepting the appeals made by members who refuse to accept the disciplinary decisions made by the Disciplinary Committee of the CICPA.

Members of the Appeal and Member Rights Committee shall not concurrently serve on the Disciplinary Committee.

Article 25 The Secretariat of the CICPA is the permanent executive office for handling the routine affairs of the Appeal and Member Rights Committee, and its responsibilities are:

1. Accepting the appeals made by members;

2. Reviewing and verifying the relevant facts and evidences of appeal cases;
3. Proposing to the Chair of Appeal and Member Rights Committee to convene a Committee meeting;
4. Preparing, serving and archiving the relevant documents of the Appeal and Member Rights Committee; and
5. Handling other affairs entrusted by the Appeal and Member Rights Committee.

Article 26 If a member of the Appeal and Member Rights Committee falls under any of the following circumstances, he/she shall voluntarily withdraw from the case. Otherwise, the party concerned has the right to apply for his/her withdrawal:

1. He/she or his/her close relative has a direct interested relationship with the case;
2. He/she works in the same accounting firm as the party concerned; or
3. Other circumstances that may affect the impartiality of handling the case.

The preceding paragraph applies to the staff working in the permanent executive office of the Appeal and Member Rights Committee.

Chapter VI Appeal Procedures and Review Decision

Article 27 When a party concerned refuses to accept a disciplinary decision made by the Disciplinary Committee of the CICPA, it/he may submit written materials to make an appeal to the Appeal and Member Rights Committee within eight working days upon the date of the receipt of the disciplinary decision letter. The appeal does not affect the implementation of the disciplinary decision.

After its/his appeal is accepted, the party concerned can make a request to the Appeal and Member Rights Committee for making an oral statement. The Appeal and Member Rights Committee shall sufficiently hear the opinion of the party concerned. It can request the party concerned to come to the Committee meeting and respond to inquiries by committee members. Any fact, reason, or evidence presented by the party concerned, as long as it is tenable, shall be upheld by the Appeal and Member Rights Committee.

Article 28 The Appeal and Member Rights Committee shall make any of the following decisions depending on the actual circumstances:

1. If it believes that the facts verified in the original disciplinary decision are clear, the applied basis is right and the procedure is appropriate, it shall sustain the original disciplinary decision;
2. If it believes that the principal facts verified in the original disciplinary decision are clear but the secondary facts are unclear or untenable, it shall supplement or correct the original disciplinary decision; or

3. If it believes that the facts verified in the original disciplinary decision are not clear, or the applied basis is wrong, or the procedure is severely inappropriate, it shall reverse the original disciplinary decision and make a new one after reviewing and verifying the relevant facts and evidences; or if it believes that the facts verified in the original disciplinary decision are not tenable, it shall reverse the original disciplinary decision and make a decision of giving no punishment.

Article 29 A review decision shall be made at a meeting convened by the Appeal and Member Rights Committee, where at least two-thirds of the committee members shall be present, and the decision shall be agreed at least two-thirds the committee members present at the meeting.

Article 30 After a review decision is adopted, the Appeal and Member Rights Committee shall prepare a review decision letter in the name of the CICPA. The review decision letter shall carry the following items:

1. If the appellant is an individual member, his/her name, gender, date of birth, CPA certificate number and the name of the accounting firm where he/she works; if the appellant is a group member, the name and business address of the accounting firm and the name of its chief accountant;
2. The claim made in the appeal and the reasons;
3. The facts verified by the Appeal and Member Rights Committee and the reasons;
4. The review conclusion and the basis; and
5. The date when the review decision is made.

Article 31 The Appeal and Member Rights Committee shall make a review decision within two months after accepting an appeal.

Article 32 The review decision made by the Appeal and Member Rights Committee shall be the final disciplinary decision. When the original disciplinary decision is modified, the new one shall come into effect once the review decision is delivered to the party concerned; when the original disciplinary decision is sustained, its effective date remains unchanged.

Article 33 A review decision can be delivered directly to the party concerned or by post.

Chapter VII Supplementary Provisions

Article 34 The non-compliance activities members have conducted and the final disciplinary decisions thereon shall be recorded into the Professional Integrity Information Monitory System of the CICPA. Institutes of CPAs shall put the review files and disciplinary decision letter together into archives and keep them in accordance with the relevant provisions of national archives management.

Article 35 The Institute of CPAs in each province, autonomous region, and municipality directly under the Central Government may directly adopt these Measures. It may otherwise formulate its own disciplinary measures according to these Measures and report to the CICPA for record.

Article 36 The “party concerned” as mentioned in these Measures refers to a member who is complained against, or against whom a case is placed and filed for investigation, or punishment is given.

Article 37 These Measures shall come into effect on July 16, 2011.

(CICPA organized translation of the Measures into English. The Chinese text is the official version and this English text is for reference only.)