

TAXATION DISCIPLINARY SCHEME (2008)

(As amended on 29 November 2016)

General

1. The Taxation Disciplinary Board Limited ("the TDB") has been formed by the Chartered Institute of Taxation ("the Institute") and the Association of Taxation Technicians ("the Association") to deal on an independent basis with disciplinary matters affecting their Members and has been granted appropriate powers and duties to enable it to do this.
 - 1.1 It is financed jointly by the Institute, the Association and such other bodies as may from time to time enter into agreements with the Councils of the Institute and the Association to pay a proportion of the TDB's costs and to have cases of alleged misconduct by their members dealt with by the TDB.
 - 1.2 It is managed by a Board of Directors ("the Board"). From the above date the Board in accordance with the Articles of Association of the TDB shall consist of the following:
 - 1.2.1 one person appointed by the Chartered Institute of Taxation ("CIOT");
 - 1.2.2 one person appointed by the Association of Taxation Technicians ("ATT");
 - 1.2.3 one person, who is not a member of CIOT or ATT, who shall be the Chairman jointly appointed by the CIOT and ATT

(together the three Directors referred to above shall collectively be known as the "Member Appointed Directors"); and
 - 1.2.4 two persons, who are not members of CIOT or ATT, jointly appointed by the Member Appointed Directors.
 - 1.3 In accordance with article 7.3 of the Articles of Association of the TDB, and subject to such provisions as may be made from time to time in the Scheme, and article 7.3.1, the Chairman shall serve for a term of not less than two years nor more than four years and not more than two terms and the other Board members shall serve for a term of three years and not more than two terms.
 - 1.4 The Chairman in office in 2017 may, exceptionally, be appointed to serve for a further term of not less than two years nor more than four years, irrespective of his previous terms.
 - 1.5 This Scheme, to be known as the "Taxation Disciplinary Scheme" ("the Scheme") is established for the purpose of dealing on an independent and impartial basis with complaints against Members regulated by the participants. The TDB will have jurisdiction over allegations of breaches of professional standards and guidance, provision of inadequate professional service, or conduct unbecoming a Member.
2. The Scheme as set out herein shall replace all previous Taxation Disciplinary Schemes.

Jurisdiction of the TDB

3. The following bodies shall be constituted for the purposes of this Scheme: the Investigation Committee, the Interim Orders Panel, the Disciplinary Tribunal and the Appeal Tribunal. The constitutions, powers and functions of these bodies shall be determined by the TDB under Regulations made pursuant to paragraphs 4 and 5.
- 3.1 Under the Scheme, the TDB shall arrange for the fair and expeditious handling, investigation and adjudication of complaints.
- 3.2 The TDB shall arrange for the introduction of a system of fixed penalties to deal with breaches of the participants' administrative requirements, rules or procedures.
- 3.3 Subject to the Regulations made pursuant to paragraphs 4 and 5, the bodies set up under paragraph 3 shall be empowered to:
 - (a) make no order
 - (b) order the complaint to rest on file
 - (c) require the Member to apologise to the complainant or another party
 - (d) warn the Member as to his future conduct
 - (e) censure the Member
 - (f) fine the Member
 - (g) suspend the Member from membership of any participant for a maximum period of 2 years.
 - (h) expel the Member from membership of any participant
 - (i) order the Member to pay a sum by way of costs
 - (j) order the Member to pay a sum or sums as compensation
 - (k) impose conditions on the Member
 - (l) recommend the suspension or removal of the Member from any money laundering register or other register maintained by the participants.
 - (m) impose such other sanctions as are appropriate to students, associates or any other persons or bodies subject to the jurisdiction of the participants
- 3.4 Under the Regulations the TDB shall arrange for such rights of appeal as the TDB sees fit.

Powers and duties of the Board

4. For the purposes of the Scheme, the Board shall have the following powers and duties:

- (a) to appoint individuals to and to remove individuals from the Investigation and Disciplinary Panels
- (b) to recommend from time to time to the participants amendments to the Scheme
- (c) to make or amend such Regulations as may be considered necessary or expedient for the proper operation of the Scheme
- (d) to issue policies and guidance on matters covered by the Scheme and Regulations
- (e) to report annually to the participants on the operation of the Scheme
- (f) to agree funding of the Scheme with the participants and to keep proper accounting records
- (g) to do all other lawful things as are considered necessary for the fair and efficient operation of the Scheme

Power to make Regulations

5. Regulations may be made by the Board pursuant to the Scheme and these may cover, but are not limited to, the following:
- (a) the terms and conditions relating to individuals serving on the Investigation and Disciplinary Panels
 - (b) the selection of individuals from the Investigation Panel to sit as an Investigation Committee
 - (c) the selection of individuals from the Disciplinary Panel to sit as an Interim Orders Panel, a Disciplinary Tribunal or an Appeal Tribunal
 - (d) the granting of such powers and the establishment of such procedures as will enable the Investigation Committee, Interim Orders Panel, Disciplinary Tribunal and Appeal Tribunal to fulfil their roles
 - (e) the establishment of a system of fixed penalties to deal with breaches of the participants' administrative requirements, rules or procedures
 - (f) the introduction of rights of appeal at appropriate stages
 - (g) the selection of Assessors from the Investigation and Disciplinary Panels
 - (h) the imposition of such sanctions as are considered appropriate in cases where a complaint or charge has been proved or upheld
 - (i) the collection and retention of monies received as fines and costs
 - (j) the collection and distribution of any sums awarded as compensation
 - (k) the making of arrangements for the publication of information about cases or complaints

Transitional provisions

6. Complaints already subject to consideration on 9th January 2008 when the Scheme originally came into force shall be determined under the procedures contained in this Scheme (and associated Regulations) unless the TDB is satisfied that it would be unfair or unjust to the defendant for the case to be dealt with on the basis of these procedures. If the TDB concludes that it would be unfair or unjust to the defendant, the complaint will be determined on the basis of the rules and procedures which were in force at the time of the activity which is the subject of the complaint.

Amendments to the Scheme

7. The Scheme may be amended from time to time, with the agreement of each participant, on the initiative of the Board or of a participant.

Suspension or termination of the operation of the Scheme

8. The operation of this Scheme may be suspended or terminated by agreement of the participants at any time, subject to giving six months' notice to the Board, provided that all proceedings in train at the date of the suspension or termination shall be completed under the terms of this Scheme.
 - 8.1 In the event that the number of participants falls below two, this Scheme shall lapse, provided that all proceedings in train at the date of the lapse shall be completed under the terms of this Scheme and the participants shall continue to finance the Scheme until all outstanding proceedings are completed.
 - 8.2 A lapse of the Scheme under this provision shall not prevent the enforcement of fines or costs charged which will be disposed of by agreement between the participants or, if appropriate, former participants.
 - 8.3 A participant may withdraw from the Scheme, subject to giving six months' notice to the Board, provided that all proceedings involving a Member of that participant which are in train at the date of the withdrawal shall be completed under the terms of this Scheme and the participant continues to pay an appropriate share of the costs of the Scheme until all outstanding proceedings involving its Members are completed.
 - 8.4 The membership of any member of the Board which derives from that person's appointment by a withdrawing participant shall continue until all proceedings concerning any Member of the withdrawing participant have been completed.

Definitions

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| "Appeal Tribunal" | means the Appeal Tribunal established by the Scheme to hear appeals from decisions of the Disciplinary Tribunal |
| "Assessor" | means an assessor appointed by the Board to determine issues in accordance with the Scheme and Regulations |

“Board”	means the Board of Directors of the Taxation Disciplinary Board Limited
“charge”	means a charge framed following the referral of a complaint by the Investigation Committee to the Disciplinary Tribunal
“complainant”	means a person or body who has made a complaint against a Member to the TDB or the TDB itself when investigating matters of its own volition
“complaint”	means an allegation of a breach or a series of breaches of: <ul style="list-style-type: none"> (a) in relation to the Institute, the Charter, the Byelaws and/or the Regulations and/or any other provisions regulating the activities of Members, or their conduct, including any disciplinary scheme established by the Institute alone or in co-operation with other bodies; (b) in relation to the Association, any regulations, rules and bye-laws for the time being in force promulgated by the Council and/or any other provisions regulating the activities of Members, or their conduct, including any disciplinary scheme established by the Association alone or in co-operation with other bodies; (c) in relation to any other participant, the terms of the governing or regulatory instruments or published guidance, professional standards or codes of conduct of that participant
“defendant”	means a Member against whom a complaint has been made
“Disciplinary Panel”	means the panel appointed by the Board from which members of the Interim Orders Panel, Disciplinary Tribunal or Appeal Tribunal shall be selected
“Disciplinary Tribunal”	means the Disciplinary Tribunal established by the Scheme to adjudicate on matters referred to it by the Investigation Committee
“Interim Orders Panel”	means the Interim Orders Panel established by the Scheme to adjudicate on matters referred to it by the Investigation Committee
“Investigation Committee”	means an Investigation Committee established by the Scheme to consider whether to refer a complaint to a Disciplinary Tribunal
“Investigation Panel”	means the panel appointed by the Board from which members of the Investigation Committee shall be selected
“Member”	means a firm, member, student, associate or any other person or body subject to the jurisdiction of any one or more of the participants

- “money laundering register” means any anti-money laundering register kept by any participant in accordance with the Anti-Money Laundering (AML) Compliance Scheme
- “participant” means the Institute or Association or any other body from time to time paying part of the costs of the TDB and whose Members come within the jurisdiction of the Scheme
- “proceedings” means any action taken by the TDB or any person or body established by the Scheme in dealing with a complaint or charge
- “Regulations” means the Regulations made by the Board under paragraphs 4(c) and 5 of the Scheme

Words importing a singular include the plural and vice-versa. Words importing the masculine gender include the feminine.