

**Fiji Institute of Chartered Accountants Bill 2021 (Bill No. 35 of 2021) – Submission template**

Name of Submission: \_Reserve Bank of Fiji

Part	Clause	Sub-Clause	Suggested changes (if any)	Explanation
2	4.—(1) The Fiji Institute of Accountants established under the Fiji Institute of Accountants Act 1971 continues in existence under this Act as the “Fiji Institute of Chartered Accountants”.	2) The Institute is a body corporate with perpetual succession and a common seal and may—  (a) enter into contracts; (b) sue and be sued; (c) acquire and dispose of property, both real and personal; and (d) perform such other acts that bodies corporate may by law perform		<p>It is understood that if FIA is to sue or if it is sued, it would be the Council members who would be responsible for this.</p> <p>Section 13 (d) also imposes the requirement on the Council to institute, conduct, defend, compound or abandon any legal proceedings by or against the Institute, as applicable, or its officers or otherwise concerning the affairs of the Institute and to compound and allow time for payment or satisfaction of any debt due or of any claim or demand made by or against the Institute;</p> <p>We note, the Bill does not have a “<b>limitation of liability clause</b>” to protect the members of the Council for actions taken in good faith. The clause for protection only applies to the disciplinary committee in Section 31(7).</p> <p>We also note that the name is changing to “Chartered Accountants” (CA) but the Institute is for all not just Chartered Accountants. There are other categories of membership e.g. associate or accounting technician. A member who is not a CA but refers to being a member of FICA might give indications that the person is a “CA”.</p>
	<p><b>16.</b>—(1) The Council must keep a register of members under the following categories—</p> <p>(a) Chartered Accountants;</p> <p>(b) Associate Accountants; and</p>	<p>(2) The Register must be—</p> <p>(a) kept at the office of the Institute; and</p> <p>(b) made available for inspection by the public at all reasonable hours without charge.</p>		<p>As per this section, a physical register is suggested.</p> <p>We recommend to allow registers in soft copies in line with the digitalisation agenda and for easy access the requirement should outline to make it available on FIA’s website for access to the public</p>

	(c) Accounting Technicians.			
	<p>17 A person applying for membership to the Institute must submit—</p> <p>(a) a written application to the Council in the approved form;</p> <p>(b) a statutory declaration verifying the contents of the application; and</p> <p>(c) the approved fee.</p>			<p>There is no mention of documentation to be provided with the application.</p> <p>Suggesting to include wordings “<i>and the relevant documents as required by the FIA</i>”</p>
	<p><b>44.</b> Any person who—</p> <p>(a) procures or attempts to procure registration or a certificate of registration under this Act by knowingly making, producing or causing to be made any false or fraudulent declaration, certificate, application or representation, whether in writing or otherwise;</p> <p>(b) wilfully makes or causes to be made any falsification in the Register;</p> <p>(c) <b>forges, alters or counterfeits any certificate of</b></p>			<p>The fine and imprisonment may need to be consistent with the <i>Crimes Act 2009</i> provision for fraud/forgery so there is no issue of person being convicted under the relevant Act - the <i>Crimes Act 2009</i> term of imprisonment is higher.</p>

	<p>registration issued under this Act;</p> <p>(d) uses any forged, altered or counterfeited certificate of registration under this Act knowing the same to have been forged, altered or counterfeited; or</p> <p>(e) impersonates a member of the Institute or buys, sells or fraudulently obtains a certificate of registration issued under this Act,</p> <p>commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.</p>			
	<p><b>31.</b> (2) A committee appointed under subsection (1) is called a disciplinary committee and comprises—</p> <p>(a) a member of the Disciplinary Panel appointed under section 30(1)(a) as the chairperson; and</p> <p>(b) 4 other members of the Disciplinary Panel, 2 being members appointed</p>		<p>(3) The quorum for any meeting of a disciplinary committee is 3 and must include at least one member appointed under subsection (2)(a) and “<i>one member appointed under 2(b) who is appointed as per Section 30 (1) (b).</i>”</p>	<p>While in appointing the committee, it is compulsory to have people who are not members of the institute or accounting profession, <b>the quorum for a meeting however does not make it compulsory for at least 1 member to be a person who is not an institute member</b> or in the accounting profession. Thus, it defeats the purpose of having members from outside of profession. The clauses needs to link back to Section 30 (1)(b).</p> <p><b>30.</b>—(1) There is to be a Disciplinary Panel consisting of not less than 20 members, appointed by the Council where—</p>

	<p>under section 30(1)(a) and the other 2 being members appointed under section 30(1)(b).</p> <p><b>(3) The quorum for any meeting of a disciplinary committee is 3 and must include at least one member appointed under subsection (2)(a) and (b).</b></p>			<p>(a) 10 are Chartered Accountant members of the Institute who have been members for not less than 5 years; and</p> <p>(b) 10 who are neither members of the Institute or employed in the accounting profession.</p>
	<p><b>32.—(1)</b> A member may be found guilty by a disciplinary committee of—</p> <p>(a) impropriety;</p> <p>(b) unsatisfactory professional conduct;</p> <p>(c) professional misconduct;</p> <p>(d) gross carelessness;</p> <p>(e) <b>gross neglect;</b></p> <p>(f) gross incapability in the performance of his or her professional duties; or</p> <p>(g) any act or omission that is discreditable to an accountant.</p>	32 (1) (e) Suggest to change it to “gross negligence”		32 (1) (e) Suggest to change this phrase to “gross negligence” to align with the terminology currently used.
	<p><b>32. 5)</b> For the purposes of this section, “professional misconduct” or “unsatisfactory professional conduct” includes—</p>			<p>There is no definition of the word “<i>Disqualification</i>”. The provision 32 (5) (h) seems to rely on the definitions used by different employers. There may be implementation issues due to inconsistent definition/ application by different employers. Please note that this term is not defined in <i>Employment Relations Act 2007</i> (“ERA”) as well.</p>

	<p>(h) disqualification from managing or being involved in the management of a company.</p>		<p>As per the wordings of this section, it only includes disqualification from a “company” – what about members of the institute employed in other areas – partnerships and Government offices? In addition, this disqualification clause does not extend to members of boards and is limited to management of company.</p> <p>In the current situation, where staff/management may have been terminated or summarily dismissed from employment due to non-vaccination, employers may have used clauses of the ERA when taking this action. Would that action also impact on the person’s status with FIA? Employers may have considered non-vaccination as a conduct issue.</p> <p>ERA has clauses like 33 (1) (b) “<b>for wilful disobedience to lawful orders given by the employer.</b>”</p>
	<p><b>43.</b>—(1) Any act done by a body corporate or any director or officer of the body corporate which implies that the body corporate is a Chartered Accountant in Public Practice or Chartered Accountant in Limited Public Practice is an offence and the body corporate is liable on conviction to a fine not exceeding \$10,000 and, where the act is done by the director or officer, the director or officer is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.</p>		<p>The words “officer” and “member” are used inconsistently and may need to be aligned.</p>

	(2) Where any firm does any act which in the case of a person would be an offence under any provision of this Act, every member of the firm is deemed to have committed such office.			
	<b>32. (6)</b> Every monetary penalty imposed and all costs and expenses payable under this section are recoverable as a debt due to the <b>Council</b> .			Debt due is to the Council and not the Institute which is the body corporate.