

ARITA REGULATIONS 2022

1 Interpretation

- 1.1 These Regulations are the Australian Restructuring Insolvency and Turnaround Association Regulations 2022 prescribed under clause 22.3 of the Company's constitution.
- 1.2 The Regulations commenced on 24 May 2022.
- 1.3 Unless otherwise defined in these Regulations, all capitalised terms have the same meaning as in the Company's constitution.
- 1.4 To the extent that there is any inconsistency between the Company's constitution and these Regulations, the provisions of the constitution will prevail.

2 Membership

2.1 Professional Member - general requirements

- (a) A person may be admitted as a Professional Member if they:
- (i) submit an application for Membership in accordance with regulation 4;
 - (ii) are a fit and proper person of good fame and character; and
 - (iii) satisfy the requirements set out in either regulation 2.2 or regulation 2.3.
- (b) As a condition of Membership, the candidate may, at the discretion of the Board or the CEO, be required to:
- (i) attend an interview to be conducted by any of the local Divisional Committees, the Board or the CEO prior to acceptance of the candidate's application;
 - (ii) undertake certain specified education programs or courses within 12 months of admission to Membership;
 - (iii) satisfy any other condition which may be reasonably imposed.
- (c) Subject to regulation 2.1(d) and 2.1(e), to maintain Membership, a Professional Member must complete during each triennial from the anniversary of their joining ARITA:
- (i) a minimum 30 hours of verifiable Continuing Professional Education (CPE) which is defined as education in which the member can confirm meets all four of the following requirements:

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- (A) the learning activity was relevant to their current or future career
 - (B) was a structured learning activity in which there were clear learning objectives or outcomes when attending or completing the activity
 - (C) the learning activity assisted in the development of their professional competency
 - (D) they are able to provide proof of attendance or participation of the activity
- (ii) A minimum total of 120 hours of verifiable and non-verifiable **CPE**, where non-verifiable CPE is typically the reading of, watching or listening to subjects which are relevant to your career.

The Board may, at its absolute discretion, reduce or waive this CPE requirement on the application of the member if personal circumstances cause the member to be unable to meet their obligations but where the member can demonstrate the currency of their expertise and/or make a commitment to make up for their deficit in their next triennium.

- (d) If there are extenuating circumstances which prevent a Professional Member from completing the minimum amount of CPE hours prescribed under regulation 2.1(c), then they may make an application in writing to the CEO detailing those extenuating circumstances and the CEO may, in their absolute discretion, grant an exemption to regulation 2.1(c) for a maximum of one full Financial Year from the time the request is made and any further extensions as considered appropriate by the CEO.
- (e) A Professional Member who has been granted retired status does not need to complete CPE hours. A Professional Member is eligible to apply for retired status if they meet the following criteria:
- (i) has held Professional Membership in good standing with ARITA for at least 10 years;
 - (ii) is permanently retired from paid employment or practice;
 - (iii) has taxable income from industry related work of no more than \$15,000 gross per annum (income from superannuation, personal investment and nominal/token honorariums are excluded from this assessment); and
 - (iv) if they are still a Registered Liquidator, they must not accept new appointments.

Once granted retired status, it is the responsibility of the member to advise ARITA of any change in circumstances that may affect their eligibility for retired status. Retired members who have returned to work in the

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profession must contact ARITA to reinstate their full Professional Membership status. A Professional Member who has been granted retired status is not required to complete CPE hours.

- (f) A Professional Member is permitted to apply the post-nominal letters RITP (being an acronym for Restructuring Insolvency and Turnaround Professional) as a designation of their status of Professional Member.

2.2 Professional Member: Foundation pathway

A person may be admitted as a Professional Member if they:

- (a) subject to regulation 4.2, and other than for Associate Members applying to be a Professional Member, have been proposed for admission as a Professional Member by two Professional or Life Members to whom they personally known (but who are not relatives as defined in the Act);
- (b) are a member of good standing of at least one Foundation Organisation or are a Legal Practitioner or hold other similar or equivalent qualifications as resolved by the Board;
- (c) have:
 - (i) been a Legal Practitioner for at least 3 years and has satisfied the Board that in 3 of the preceding 5 years they have worked on sufficient insolvency assignments and that they have sufficient relevant insolvency experience to justify their admission as a Professional Member; or
 - (ii) worked for at least 3 of the preceding 5 years undertaking professional work with, and under the direct supervision of a Professional Member who is an Insolvency Practitioner; or
 - (iii) satisfied the Board that they have had sufficient relevant experience to justify admission as a Professional Member;
 - (iv) completed the insolvency education program prescribed by the Board (**Advanced Certification**, or the legacy Insolvency Education Program) or any approved alternative or substitute program, subject to 2.2(c)(v);
 - (v) completed the approved insolvency education program within the preceding 5 years, noting that applicants who have completed their insolvency education program outside this period may be approved from time to time at the absolute discretion of the Board, and that in this case their application may be approved subject to conditions recommended by the Board;
 - (vi) maintained suitable CPE since completing the qualification required in 2.2(a)(iv)

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- (vii) paid the annual membership fee; and
- (viii) the benefit of professional indemnity insurance (**PI Insurance**) which, in the Member's opinion, is either adequate or required (having regard to their role in the Profession, industry best practice and any relevant Professional Standards Scheme regulated by the Professional Standards Council) for the work undertaken either by themselves or their Firm.

2.3 Professional Member: Experience pathway

- (a) A person may be admitted as a Professional Member if they:
 - (i) subject to regulation 4.2, have been proposed for admission as a Professional Member by two Professional Members or Life Members to whom they are personally known (but who are not relatives as defined in the Act and only one of whom is from the Member's Firm);
 - (ii) in the case of an applicant:
 - (A) qualified in finance, accounting, commerce or business - have demonstrably practised for at least 10 years in any or all of those fields specialising in restructuring, turnaround or corporate renewal (in Australia or overseas); or
 - (B) qualified in law - have demonstrably practised in restructuring, turnaround, corporate renewal or insolvency law (in Australia or overseas) as a Legal Practitioner for a period of at least 10 years; or
 - (C) in any other case - have demonstrably practised in restructuring, turnaround or corporate renewal (in Australia or overseas) for at least the immediate past 10 years in a senior role; and
 - (D) have the benefit of PI Insurance which, in the Member's opinion, is either adequate or required (having regard to their role in the Profession, industry best practice and any relevant Professional Standards Scheme regulated by the Professional Standards Council) for the work undertaken either by themselves or their Firm.
 - (iii) satisfied the Board that they have had sufficient relevant experience to justify admission as a Professional Member;
 - (iv) submits:
 - (A) two references from Professional Members (who are not relatives (as defined in the Act)) which attest to the

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candidate's expertise as a restructuring, turnaround or corporate renewal specialist;

- (B) a detailed curriculum vitae including full details of educational and professional qualifications, continuing professional education (if any) for the 3 years prior to the date of application and other contributions to the restructuring, turnaround and corporate renewal profession; and
 - (v) has completed the ARITA Advanced Certification or legacy Insolvency Education Program or a restructuring and turnaround education program prescribed by the Board or any approved alternative or substitute program that the Board endorses, subject to 2.3(a)(vi).
 - (vi) completed the approved insolvency education program within the preceding 5 years, noting that applicants who have completed their insolvency education program outside this period may be approved from time to time at the absolute discretion of the Board, and that in this case their application may be approved subject to conditions prescribed by the Board;
 - (vii) paid the annual membership fee
- (b) A person appointed as a Professional Member in accordance with this regulation 2.3 must be committed to ARITA, its mission, values and purpose, as demonstrated in any or all of the following ways:
- (i) a commitment by the Member's Firm to encourage membership of ARITA;
 - (ii) a commitment to undertake relevant educational programmes which ARITA may offer from time to time which are focused upon insolvency, restructuring, turnaround and/or corporate renewal;
 - (iii) commitment of the principals or senior professionals of the Member's Firm to leading relevant workshops, participation in Divisional Committees or by otherwise providing support to ARITA;
 - (iv) regular attendance by the Member's Firm at ARITA courses and conferences; and
 - (v) a demonstrable track record of the Member's Firm in upholding the ethical standards and professional objectives equivalent to or higher than those set by ARITA.

2.4 Life Member

- (a) A person may be admitted as a Life Member if they:

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- (i) are a Professional Member or former Professional Member who has rendered outstanding service to ARITA as determined by the Board and;
 - (ii) have been granted Life Membership by a resolution of the Board supported by not less than 75% of the Board.
- (b) A Life Member is permitted to:
- (i) refer to themselves as a Life Member and Fellow of ARITA; and
 - (ii) apply the post-nominal letters RITF (being an acronym for Restructuring Insolvency and Turnaround Fellow) as a designation of their status of Life Member.

2.5 Academic Member

- (a) A person may be admitted as an Academic Member if they:
- (i) submit an application for Membership in accordance with regulation 4;
 - (ii) are a fit and proper person of good fame and character; and
 - (iii) work predominantly in a teaching or research capacity at a recognised tertiary education institution, which is determined by the Board to be a recognised tertiary education institution;
 - (iv) have been proposed for admission as an Academic Member by two Professional Members or two Academic Members, to whom they are personally known;
 - (v) are a person who, in the opinion of the Board, will make a contribution to the objectives and activities of ARITA; and
 - (vi) have paid the annual membership fee.
- (b) An Academic Member is permitted to apply the post-nominal letters of RITM (being an acronym for Restructuring Insolvency and Turnaround Member - Academic) as a designation of their status of Academic Member.

2.6 Associate Member

- (a) A person may be admitted as an Associate Member if they:
- (i) submit an application for Membership in accordance with regulation 4;
 - (ii) are a fit and proper person of good fame and character; and

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- (iii) are engaged in carrying on a profession or occupation which is associated or connected with Insolvency Practitioners, restructuring, turnaround or corporate renewal;
 - (iv) have been proposed for admission as an Associate Member by two Professional Members to whom they are personally known;
 - (v) are a person who, in the opinion of the Board, will make a contribution to the objectives and activities of ARITA; and
 - (vi) have paid the annual membership fee.
- (b) An Insolvency Practitioner or a person otherwise working in legal or Insolvency Practice is not permitted to make an application for Membership as an Associate Member to the intent that such persons will undertake the actions necessary to become eligible for Professional Membership.
- (c) An Associate Member is permitted to apply the post-nominal letters of RITA (being an acronym for Restructuring Insolvency and Turnaround - Associate) as a designation of their status of Associate Member.

2.7 **Honorary Member**

- (a) A person may be admitted as an Honorary Member of ARITA if, in the unanimous opinion of the Board having regard to the person's experience, status or other measure as determined by the Board from time to time, they are of sufficient seniority and standing in or for or connected to the Profession to justify admittance as an Honorary Member.
- (b) An Honorary Member will not be required to pay an annual membership fee, nor is required to submit an application for Membership, unless otherwise determined by the Board.
- (c) An Honorary Member is permitted to apply the post-nominal letters of RITM (being an acronym for Restructuring Insolvency and Turnaround Member - Honorary) as a designation of their status of Honorary Member.
- (d) In addition, in its absolute discretion and in recognition of particularly meritorious contribution to ARITA and the profession more broadly, the Board may choose to appoint an Honorary Member as a Fellow and the Honorary Member is then able to apply the post-nominal letters of RITF (being an acronym for Restructuring Insolvency and Turnaround Fellow - Honorary)

2.8 **Lender & Investor Member**

- (a) A person may be admitted as a Lender & Investor Member if they:
- (i) submit an application for Membership in accordance with regulation 4;

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- (ii) are a fit and proper person of good fame and character; and
 - (iii) are engaged in banking, finance, private equity, venture capital or other investment which involves insolvency, restructuring, turnaround, workouts or other informal or formal insolvency processes or matters;
 - (iv) have been proposed for admission as a Lender & Investor Member by two Professional Members or two Lender & Investor Members, to whom they are personally known;
 - (v) are a person who, in the opinion of the Board, will make a contribution to the objectives and activities of ARITA; and
 - (vi) have paid the annual membership fee.
- (b) A Lender & Investor Member is permitted to apply the post-nominal letters of RITM (being an acronym for Restructuring Insolvency and Turnaround Member - Lender & Investor) as a designation of their status of Lender & Investor Member.

2.9 Fellow Members

- (a) Fellow Members– Professional category

A Fellow Member is a sub-category of Professional Member. A person may be admitted as a Fellow Member by the Board, in the Board's absolute discretion, if they:

- (i) are a current Professional Member and have held continuous Professional Membership for at least 10 years;
 - (ii) are a Member in good standing;
 - (iii) are a fit and proper person to be admitting as a Fellow;
 - (iv) have never been subjected to a suspension of ARITA Membership as a result of conduct or concern process;
 - (v) have a demonstrable record of having contributed in service to both ARITA and the profession more broadly; and
 - (vi) have been informed by ARITA of their eligibility for, and have signified their willingness to accept, Fellow status
- (b) Fellow Members – Academic category

A Fellow Member is a sub-category of Academic Member. A person may be admitted as a Fellow Member by the Board, in the Board's absolute discretion, if they:

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- (i) are a current Academic Member and have held continuous Academic Membership for at least 10 years;
- (ii) are a Member in good standing;
- (iii) are a fit and proper person to be admitting as a Fellow;
- (iv) have never been subjected to a suspension of ARITA Membership as a result of conduct or concern process;
- (v) have a demonstrable record of having contributed in service to both ARITA and the profession more broadly; and
- (vi) have been informed by ARITA of their eligibility for, and have signified their willingness to accept, Fellow status

(c) Fellow Members – Associate category

A Fellow Member is a sub-category of Associate Member. A person may be admitted as a Fellow Member by the Board, in the Board's absolute discretion, if they:

- (i) are a current Associate Member and have held continuous Associate Membership for at least 10 years;
- (ii) are a Member in good standing;
- (iii) are a fit and proper person to be admitting as a Fellow;
- (iv) have never been subjected to a suspension of ARITA Membership as a result of conduct or concern process;
- (v) have a demonstrable record of having contributed in service to both ARITA and the profession more broadly; and
- (vi) have been informed by ARITA of their eligibility for, and have signified their willingness to accept, Fellow status

(d) Fellow Members – Lender & Investor category

A Fellow Member is a sub-category of Lender & Investor Member. A person may be admitted as a Fellow Member by the Board, in the Board's absolute discretion, if they:

- (i) are a current Lender & Investor Member and have held continuous Lender & Investor Membership for at least 10 years;
- (ii) are a Member in good standing;

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- (iii) are a fit and proper person to be admitting as a Fellow;
 - (iv) have never been subjected to a suspension of ARITA Membership as a result of conduct or concern process;
 - (v) have a demonstrable record of having contributed in service to both ARITA and the profession more broadly; and
 - (vi) have been informed by ARITA of their eligibility for, and have signified their willingness to accept, Fellow status
- (e) A Fellow Member is permitted to:
- (i) refer to themselves as a Fellow of ARITA; and
 - (ii) apply the post-nominal letters RITF (being an acronym for Restructuring Insolvency and Turnaround Fellow) as a designation of their status of Fellow Member.

3 Subscribers

3.1 Subscriptions allow eligible parties to receive a product, service, material or access to information. The benefits of each subscription will be specified when the subscriber pays the annual fee to renew their subscription.

3.2 Student

- (a) A person may be eligible to become a Student Subscriber if they have:
- (i) enrolled in, and attends, the Advanced Certification or the Introduction to Insolvency Program;
 - (ii) enrolled in and attends a tertiary level course or programme of study offered by a university, technical training college or accounting industry association at a recognised tertiary education institution; and
 - (iii) provided to the Board or CEO such further information as may be required by the Board or CEO.
- (b) A Student Subscriber who successfully completes the Advanced Certification will be upgraded (at the CEO's absolute discretion) to Graduate Subscriber upon payment of the relevant annual fee specified by ARITA.
- (c) ARITA Members, or former ARITA Members, cannot purchase a Student Subscription and must instead apply for ARITA Membership under the membership category for which they qualify.

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- (d) A graduate of the ARITA Advanced Certification or Insolvency Education Program cannot apply for Student Subscription
- (e) Student Subscriptions are not transferable and not refundable.

3.3 Graduate

- (a) A person may be eligible to become a Graduate Subscriber if they have:
 - (i) upgraded from Student Subscriber in accordance with regulation 3.2(c); or
 - (ii) successfully completed the Board approved education program (Advanced Certification and the legacy Insolvency Education Program) and submit a request to ARITA to become a Graduate Subscriber.

and in each instance has paid the annual fee applicable to Graduate Subscribers.

- (b) ARITA Members, or former ARITA Members, cannot purchase a Graduate Subscription and must instead apply for ARITA Membership under the membership category for which they qualify.
- (c) Graduate Subscriptions are not transferable and not refundable.

3.4 Subscribers may be removed or rejected at the absolute discretion of the CEO and/or the Board

4 Application for and renewal of Membership

- 4.1 Applications for and renewal of Membership must be in accordance with the application form made available on the Website or otherwise by ARITA from time to time.
- 4.2 In the case of applications for Professional Membership:
 - (a) both of the two current Professional Members proposing the application must have known the applicant professionally for at least 12 months (1 year);
 - (b) at least one of the two current Professional Members proposing the application must not be a principal of or employed at the same Firm (as defined in the Code of Professional Practice) as the applicant;
 - (c) the application is to be accompanied by a statutory declaration sworn by the applicant confirming that they:
 - (i) have no prior criminal convictions;

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- (ii) are not and have not been a bankrupt; and
 - (iii) are not and have not been the subject of disciplinary process or proceedings instigated by any professional association or regulatory body in Australia or elsewhere.
 - (d) if requested by ARITA, the applicant agrees to provide either a copy of the certificate of currency of any PI Insurance policy of which the applicant or the applicant's Firm has the benefit or otherwise provide written confirmation from the applicant's Firm that such a PI Insurance policy is current.
- 4.3 Where neither the applicant nor the proposing Professional Members are known to the members of the relevant Divisional Committee, the Divisional Secretary of the Division may request the nominating Professional Members to make inquiries that would enable the Divisional Committee and the Board to form a view that the applicant:
- (a) is a fit and proper person of good fame and character; and
 - (b) has adequate relevant and/or appropriate experience,
- to be admitted as a Professional Member.
- 4.4 Applications for Professional Membership may be approved at the discretion of the Board provided that the Divisional Committee representing the Division in which the applicant ordinarily resides has first or subsequently resolved in its discretion that the applicant:
- (a) is a fit and proper person of good fame and character; and
 - (b) has adequate relevant and/or appropriate experience,
- to be admitted as a Professional Member.
- 4.5 The Board may, from time to time and at its absolute discretion, resolve to appoint Members to any category of Membership in recognition of their current role, demonstrated experience, recognition of prior learning and/or recognition of current competency.
- 4.6 Upon annual renewal of Membership by a Professional Member, the Member, if requested by ARITA, agrees to provide either a copy of the certificate of currency of any PI Insurance policy of which the Member or the Member's Firm has the benefit or otherwise provide written confirmation from the Member's Firm that such a PI Insurance policy is current.

5 Fees

- 5.1 Entrance fees for Members may be determined by the Board and, for the present,

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shall be fixed at nil.

- 5.2 Annual membership fees for Members will be determined each Financial Year by the Board and published on the Website.
- 5.3 Annual membership fees will be payable in respect of the Financial Year except for Members admitted after 30 June in any Financial Year who will only be liable for 50% of the annual membership fee until that Member's next annual membership fee falls due.
- 5.4 Professional Members who:
- (a) have been a Professional Member for not less than 10 years; and
 - (b) have attained the age of 65 years; or
 - (c) are working part-time or less, are overseas or studying full-time; or
 - (d) have been granted a concessional membership fee by their Foundation Organisation,

may apply for a reduction in the annual membership fee equal to 50% of the annual membership fee otherwise prescribed.

Concessional memberships are granted on an annual basis and re-application is required each year at the renewal time.

- 5.5 Despite regulation 5.4, if a concessional fee is granted to Professional Members they will still be required to undertake CPE as set out in these Regulations subject to Clause 2.1(c) of these Regulations.
- 5.6 The Board may in its absolute discretion consider applications from Members who reside permanently, not temporarily, outside Australia, conducting no more than 50% of their business in Australia, for a concessional membership fee. Any concession will only be granted at the absolute discretion of the CEO and will not in any event be less than 50% of the annual membership fees otherwise prescribed.

6 Conduct and discipline

6.1 General process and procedure

- (a) Subject to the provisions of the Constitution and these Regulations, the Board and the PCC may each regulate its own procedures under this clause of the Regulations and clause 8 of the Constitution, as each may determine in their absolute discretion.
- (b) A quorum of at least 3 members of the PCC must meet to investigate and consider any matter brought before it. That meeting may be held by phone or by exchange of emails or other such means.

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- (c) The PCC may require a Member to produce relevant letters, emails and other documents. The PCC may decide that it only requires responses in writing or by phone, or it may, at its absolute discretion, invite the member to meet with the PCC.
- (d) The PCC will otherwise communicate with a Member through the CEO.

6.2 Determination and referrals

- (a) The CEO may, at their absolute discretion, dismiss any complaint or concern that appears to be without basis or which falls outside the accepted complaints or concerns framework. All other matters shall be referred to the PCC for its consideration.
- (b) The PCC shall review any initial complaint or concern placed before it to determine if the matter warrants commencement of a formal investigation.
- (c) If the PCC decides to commence an investigation, the Member shall be contacted to provide a formal response to allegations raised. The PCC shall then decide if Company Disciplinary Proceedings are to be commenced under Clause 8.1(d) of the Constitution.
- (d) The hearing of any Company Disciplinary Proceedings [PAS- matter or investigation?] shall normally be conducted using written submissions.
- (e) Following investigation and/or hearing, the PCC may determine that:
 - (i) the concern or complaint is unsubstantiated and no further action is appropriate. Advice to this effect must be provided to any complainant and the Member; or
 - (ii) some or all of the concern or complaint is substantiated but that the matter has already been addressed and/or it is not in the interests of the public, ARITA or the Profession that any penalty be applied and no further action is appropriate. Advice to this effect must be provided to any complainant, the Member and to the Board; or
 - (iii) If there has been a breach of professional conduct or standards or considers that a Member has brought ARITA or the Profession into disrepute, then it must give written reasons for its decision and any penalty it proposes to apply and arrange for those reasons to be given to the Member and allow the member the opportunity to make submissions on the proposed penalty.
- (f) The PCC must provide advice to the Board in relation to any adverse findings against a member.
- (g) The Board may, at its absolute discretion, review the PCC's investigation and findings, and either affirm or change those findings.

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- (h) The CEO or the PCC may also, at their absolute discretion, refer a matter to a Regulator, Foundation Organisation, appropriate law enforcement body or other relevant government agency should there appear to be serious misconduct or breach of the law alleged or if the investigation of the matter is beyond the scope or capacity of ARITA to properly address.

6.3 Penalties

- (a) The penalties that may be applied following Disciplinary or Legal Proceedings, including those commenced because a Member is the subject of other pending Disciplinary or Legal Proceedings are:
 - (i) termination of Membership, or suspension of Membership for a period;
 - (ii) a reprimand, which will also be recorded on the Member's disciplinary record and may be taken into account in considering penalties should the Member be subject to any future Company Disciplinary Proceedings;
 - (iii) a direction that the Member attend specified CPE or other courses;
 - (iv) a requirement that the Member source peer review by another Member nominated by the PCC or its delegate;
 - (v) limitations on the Member's professional practice;
 - (vi) attaching one or more conditions to the Member's Membership;
 - (vii) the payment of compensation, damages or reparations to any person or organisation;
 - (viii) forgoing payment of any future remuneration from the engagement or activity the subject of the Disciplinary or Legal Proceedings;
 - (ix) a requirement to reimburse remuneration paid to the Member or the Member's Firm as a consequence of the engagement the subject of the Disciplinary or Legal Proceedings; and
 - (x) the imposition of a financial penalty which requires the Member to pay a sum of money by way of fine, compensation or damages to ARITA or to another person or organisation.
- (b) In determining which if any penalties apply the Board may have regard to:
 - (i) the seriousness of the findings or determinations made in the Disciplinary or Legal Proceedings;
 - (ii) the seriousness of any pending Disciplinary or Legal Proceedings including any interim judicial orders or interim decisions of a court, Regulator or Foundation Organisation;

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- (iii) the Member's previous disciplinary record;
 - (iv) the impact on the reputation of ARITA and the Profession;
 - (v) the Member's submission as to Sanctions; and
 - (vi) any references in support of the Member.
- (c) Notwithstanding that a matter has been determined against a Member, the Board may, in its discretion, not impose any penalty.

7 Code of Professional Practice

The ARITA Code of Professional Practice (as amended from time to time) forms part of these regulations.