



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

Compliance

Operations Report 2016



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Abbreviations used

CPA	Certified Public Accountant
FRC	Financial Reporting Council
HKICPA/Institute	Hong Kong Institute of Certified Public Accountants
HKSA	Hong Kong Standard on Auditing
HKSQC	Hong Kong Standard on Quality Control
Members	CPAs, CPA firms, corporate practices and registered students
PAO	Professional Accountants Ordinance
PCC	Professional Conduct Committee
RAB	Regulatory Accountability Board
RBA	Resolution by Agreement

Introduction

Regulating CPAs

The Hong Kong Institute of Certified Public Accountants is the licensing body for professional accountants in Hong Kong and is responsible for regulating the conduct of certified public accountants. As part of its regulatory function, the Institute addresses complaints concerning ethical and professional conduct of its members, member practices and registered students.

Compliance with the Institute’s professional standards is a requirement of membership. Complaint and disciplinary processes are key mechanisms by which the Institute regulates the conduct of its members with sanctions being imposed for serious breaches of professional standards.

Compliance Department

The Compliance Department carries out the Institute’s function of regulating the ethical and professional conduct of CPAs. Integrated within its function are systems for continuous process monitoring supported by independent process review. The core activities of the department are:

Enforcement	Promote professional conduct
<ul style="list-style-type: none">▪ Case assessment and investigation▪ Disciplinary/regulatory action▪ Reporting section 42 offences	<ul style="list-style-type: none">▪ Promote good practice▪ Raise awareness of current issues

This report sets out the Compliance Department’s key activities and statistics for 2015 and 2016.



Complaints

What is a complaint?

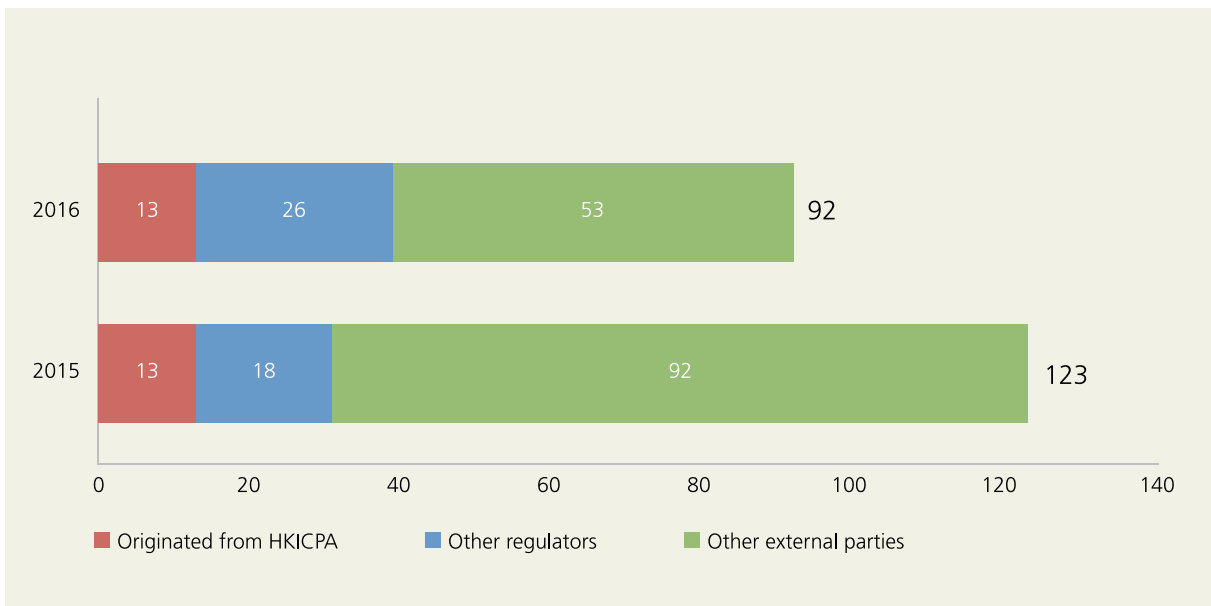


The Institute's power to regulate its members, under the Professional Accountants Ordinance, Cap. 50, allows the organization to pursue complaints against members.

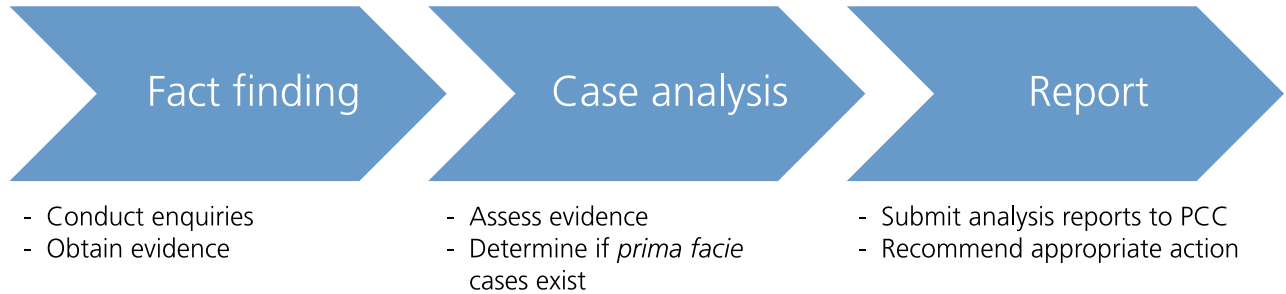
A complaint must be in writing, supported by adequate evidence indicating that the member failed to follow professional standards issued by the Institute or committed other improper acts.

Fee disputes and employment matters are civil issues that are outside the Institute's jurisdiction.

Sources of complaints



Process



Complaints are objectively analyzed by the Compliance Department to determine if there is reasonable suspicion that a *prima facie* case exists. Before conducting enquiries of our members, the department will ensure that the subject matter is:

- within the jurisdiction of the Institute; and
- supported by sufficient evidence.

If representations on the matter are needed, members will be notified by the Compliance Department.

Information gathered by the Compliance Department together with the analysis and recommended action thereof are reported to the Professional Conduct Committee for consideration of appropriate action.

For details on complaint process, visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/complaints/>.

Professional Conduct Committee



The PCC comprises CPAs in practising and in business. The PCC evaluates each complaint independently, based on the information gathered by the Compliance Department.

When deliberating cases, the PCC:

- Evaluates each case in light of the circumstances and expected conduct of the member under the relevant professional standards; and
- Makes decisions in the context of the Institute's commitment to uphold the quality of professional standards and the positive public perception of the profession in Hong Kong.

Types of actions under PCC's terms of reference

Dismissal

- Insufficient evidence to show a *prima facie* case.
- Outside jurisdiction.
- Issue advisory letters.

Adjudicate minor complaints

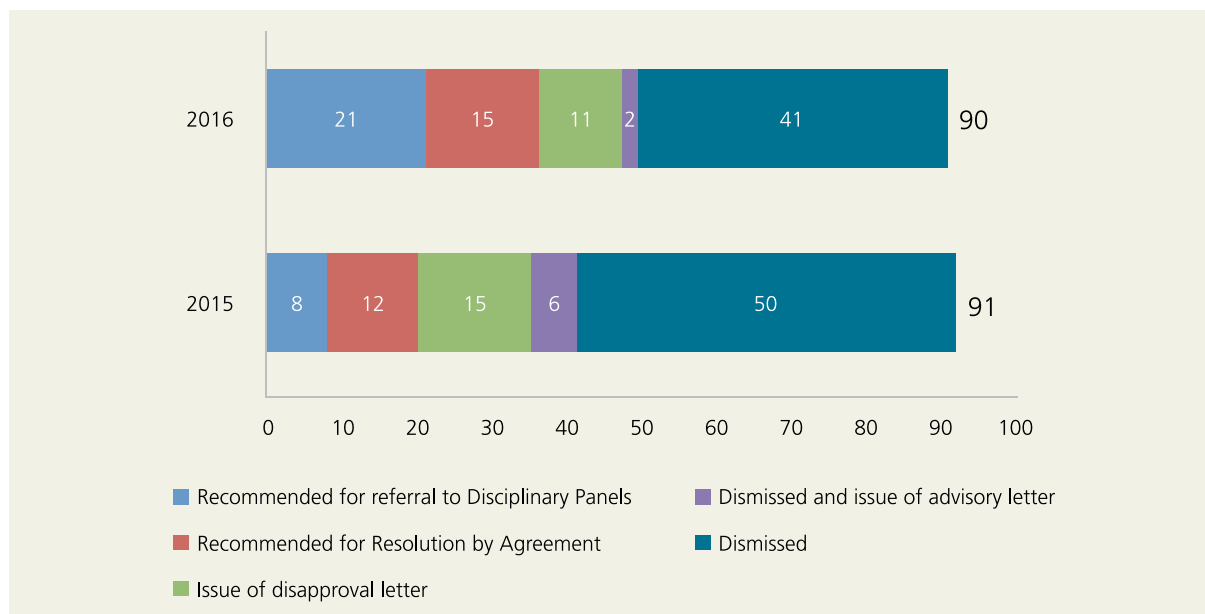
- Issue disapproval letters for minor *prima facie* cases.
- Direct other course of action as appropriate.

Recommend actions for serious complaints

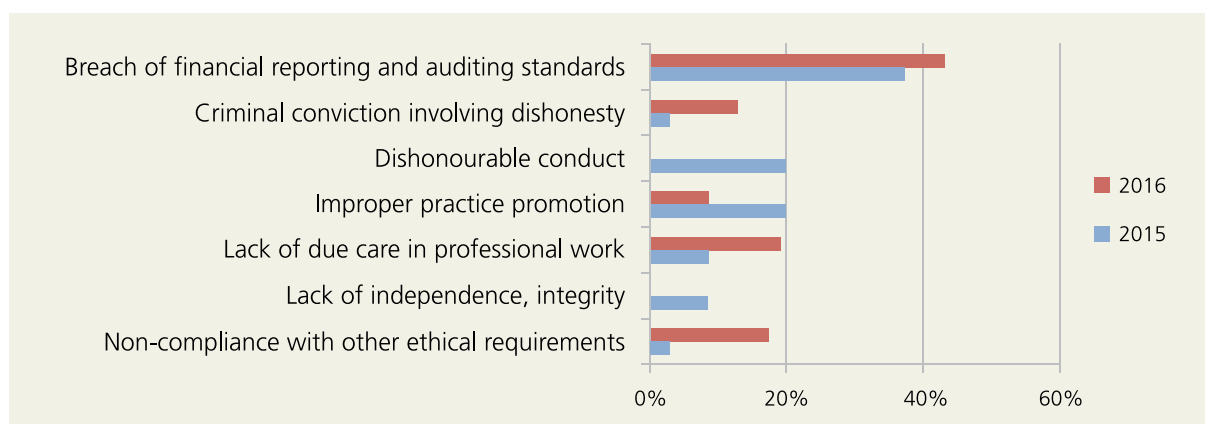
- Recommend Resolution by Agreement for *prima facie* cases of moderate severity.
- Recommend referral of serious *prima facie* cases to the Disciplinary Panels.

Statistics

Complaints resolved by PCC



Nature of *prima facie* cases



Resolution by Agreement

The RBA mechanism was established to conclude potential disciplinary cases of moderate severity in lieu of disciplinary proceedings. This allows an efficient, effective alternative for potential disciplinary cases which meet the pre-determined criteria.

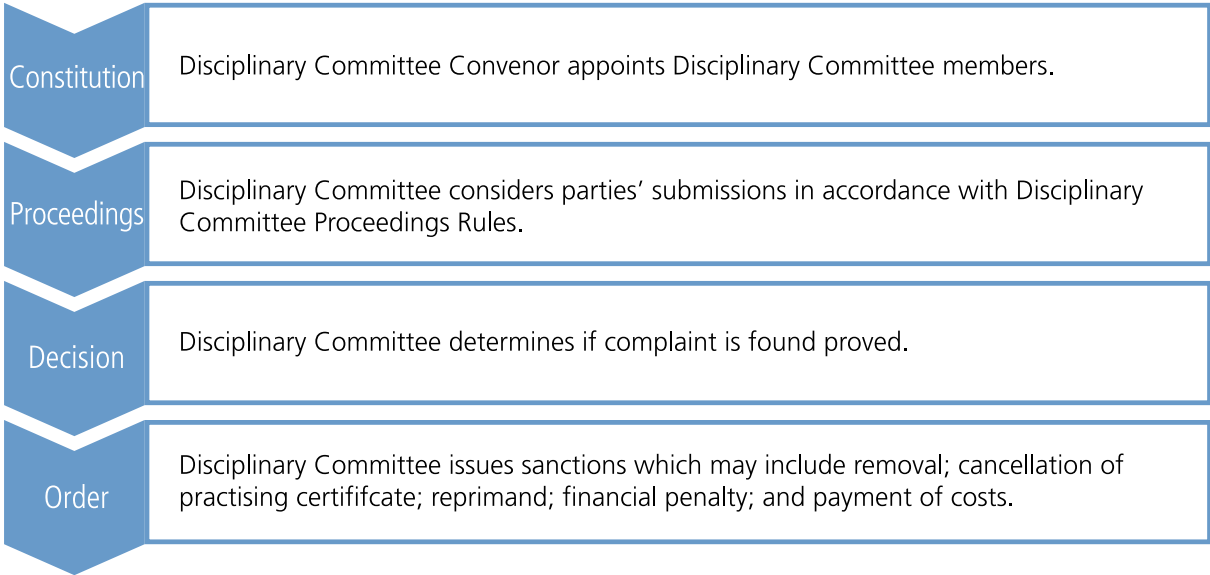
	2016	2015
No. of completed RBAs	14	5

For details of RBAs, visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/resolution-agreement/>.

Disciplinary proceedings

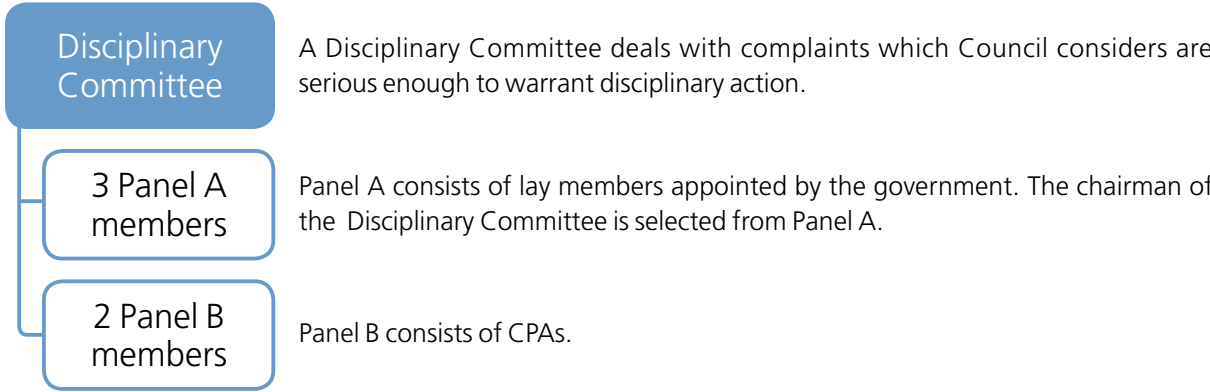
What is a disciplinary proceeding?

When Council concludes that a complaint is sufficiently serious to warrant referral to the Disciplinary Panels, a Disciplinary Committee will be constituted to adjudicate the complaint according to the following process:



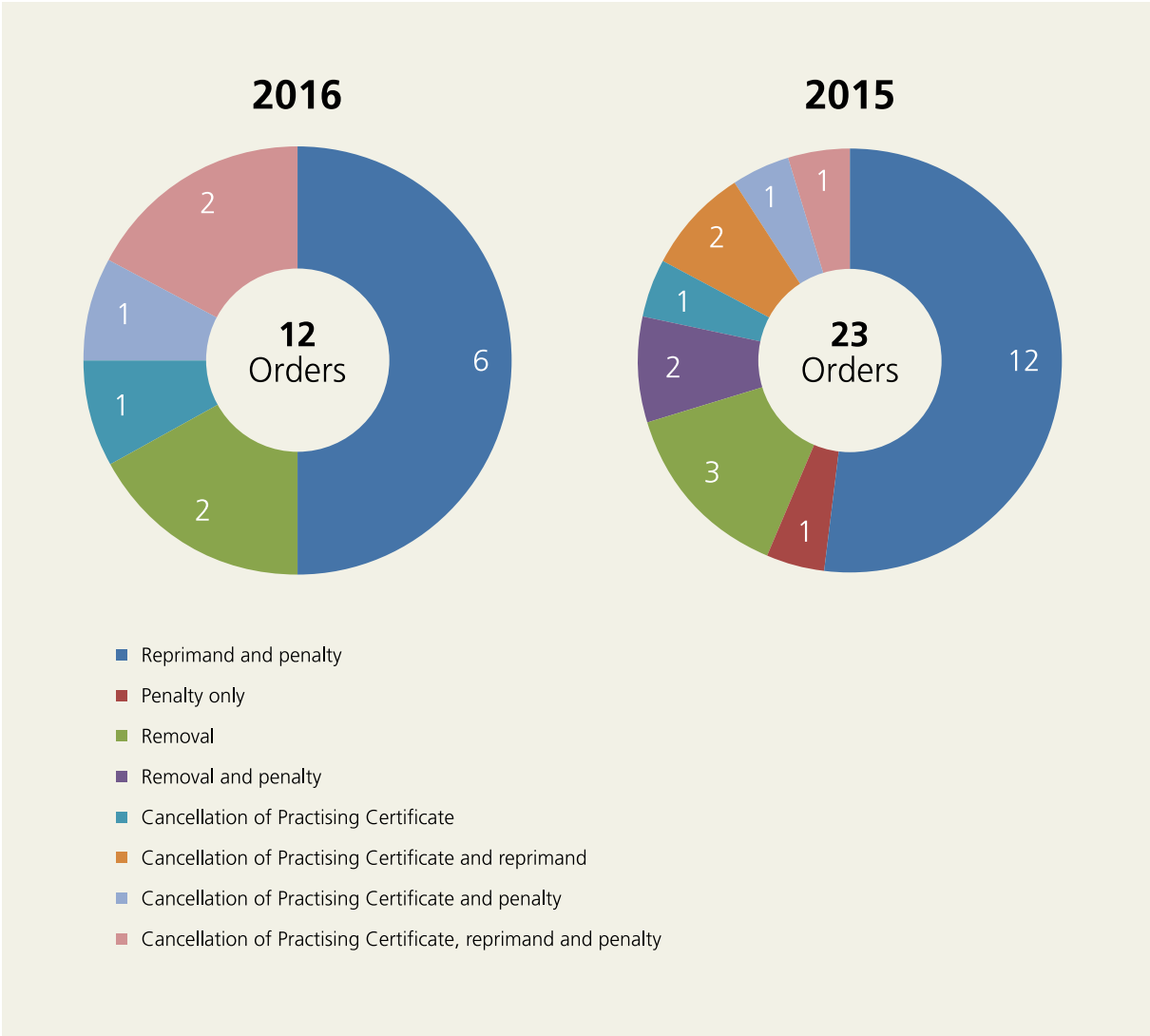
For details on disciplinary process, visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/disciplinary/>.

Disciplinary Committee



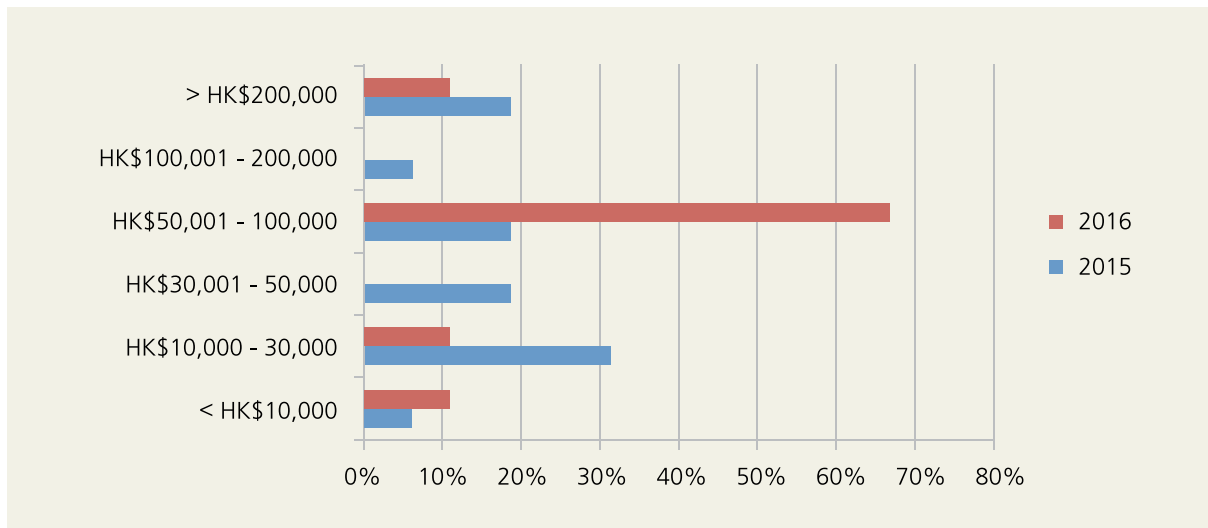
Statistics

Sanctions imposed by Disciplinary Committees

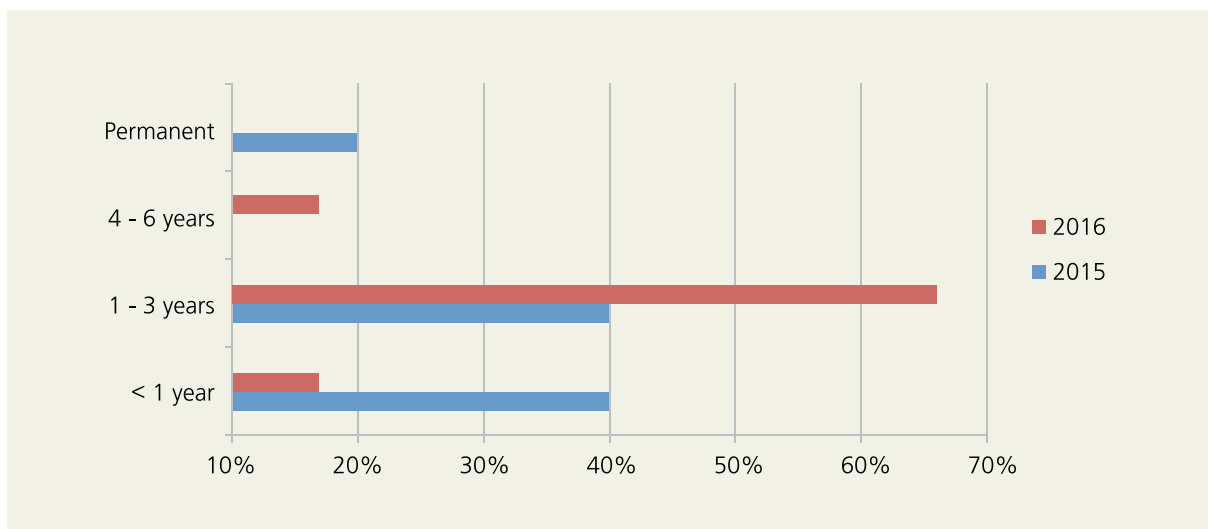


Note: Two 2016 orders are undergoing appeal (2015: 2 orders).

Level of financial penalties ordered by Disciplinary Committees



Period of removal and cancellation of practising certificates ordered by Disciplinary Committees



A summary of disciplinary orders issued in 2016 is at Appendix 1.

Investigations

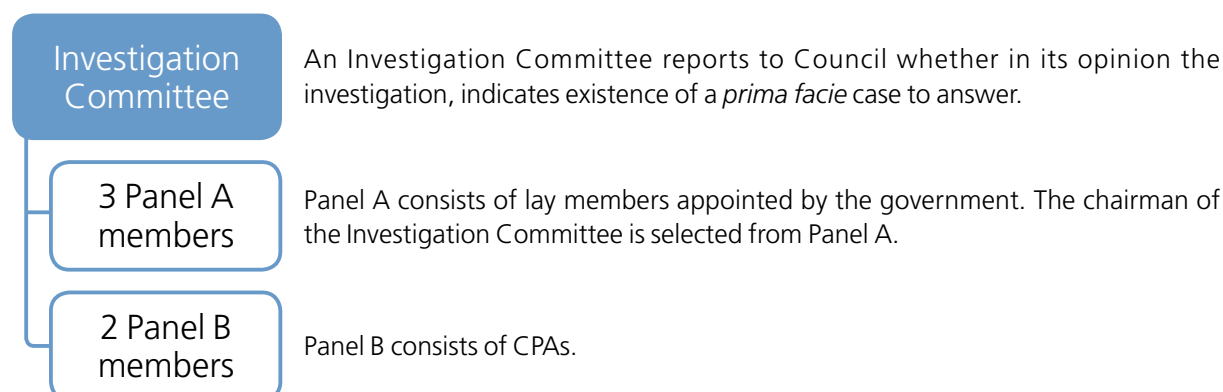
What is an investigation?

Council may constitute an Investigation Committee when:

- it has a reasonable suspicion or belief that a member has not followed professional standards issued by the Institute or has committed other improper acts; and
- the Investigation Committee's powers are needed to assist the Council in determining if a case should be referred to the Disciplinary Panels.



Investigation Committee



Process

- Compliance Department provides support to the Investigation Committees in gathering evidence according to the Committee's instructions.
- Following the commencement of operations by the Financial Reporting Council in July 2007, the responsibility for investigation of matters involving listed entities has been assumed by the FRC. Accordingly, the Institute is only responsible for investigations of non-listed entities and those involving listed entities which commenced before July 2007.
- There were no new Investigation Committees constituted in 2016.

Section 42 offence

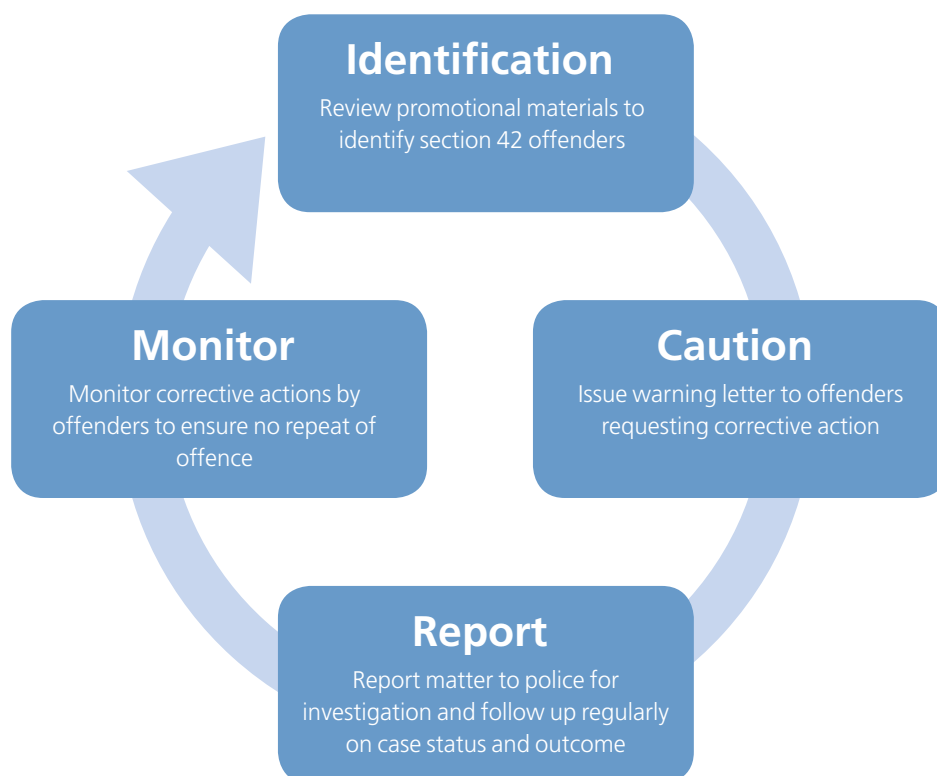
What is a section 42 offence?

Section 42 of the PAO prohibits an individual or entity from fraudulently representing that they are registered as a CPA (practising), or from using “certified public accountant” or “CPA” in their name or in connection with their business.

As the statutory licensing body of the accounting profession in Hong Kong, the Institute not only regulates the conduct of CPAs but also protects the public image of the profession by taking action against section 42 offenders. In this connection, the Institute encourages its members and members of the public to forward evidence of suspected section 42 violations.

Process

When the Institute receives promotional materials which seem to reveal section 42 violations, the Compliance Department undertakes the regulatory action described below to deal with the offenders.



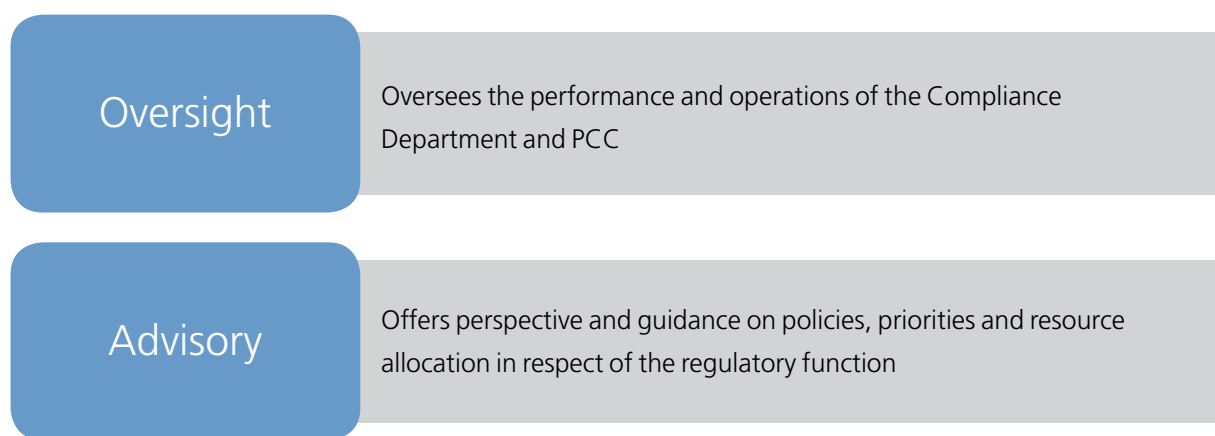
In 2016, regulatory action was taken against 9 offenders (2015: 29 offenders).

Regulatory oversight

Regulatory Accountability Board

The Regulatory Accountability Board was set up to ensure that the regulatory function of the Institute is carried out in accordance with strategies and policies determined by Council, and in the public interest.

The RAB consists of CPAs, representatives of Hong Kong regulatory organizations and lay members. To carry out its responsibilities, the RAB undertakes the following functions:



As part of its oversight function, the RAB conducts an annual process review of the Compliance Department to:

- assess whether the Compliance Department adheres to established internal procedures;
- evaluate the quality of procedures and time taken to deal with cases; and
- identify areas that require improvements and make recommendations thereon.

The results of the 2016 process review indicated that:

- Cases were dealt with in accordance with established internal procedures.
- All allegations raised by complainants were appropriately addressed.
- Quality of case handling met expectations.

Recommendations were made to improve case processing time and file documentation.

Process Review Reports issued by the RAB are published on the Institute's website.

Visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/publications-reference/>.

APPENDIX 1

Disciplinary orders

12 disciplinary orders were issued in 2016 (2015: 23 orders). These orders are summarized below:

Nature of complaint	Sanction
<i>Disciplinary orders involving removal from membership</i>	
<p>Guilty of dishonourable conduct. The respondent was the General Manager and Company Secretary of a Hong Kong listed company. He knowingly made or assisted in making misrepresentations or misleading statements to the Stock Exchange of Hong Kong Limited that an investment project was a genuine one when he knew that it was not. He also participated in the subsequent sham disposal of the project.</p>	<ul style="list-style-type: none"> ■ Removal for 3 years ■ Costs of HK\$200,000
<p>Convicted of an offence involving dishonesty. The respondent was convicted in the Magistrates' Courts for fraud. He was found to have submitted falsified documents in his application to the Continuing Education Fund of the Hong Kong Government for reimbursement of the Qualification Programme course fees.</p>	<ul style="list-style-type: none"> ■ Removal for 5 years ■ Costs of HK\$88,326.30
<i>Disciplinary orders involving cancellation of practising certificates</i>	
<p>Failure to comply with a direction issued by the Practice Review Committee under section 32F(2)(b) of the Professional Accountants Ordinance.</p> <p>The respondent failed to cooperate with the reviewer during the practice review by refusing to provide relevant working papers which were necessary for a practice review to be carried out.</p>	<ul style="list-style-type: none"> ■ Cancellation of practising certificate for 12 months ■ Costs of HK\$37,648

Nature of complaint	Sanction
<p>Failure to properly observe, maintain or otherwise apply Hong Kong Standard on Quality Control 1 <i>Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements</i> ("HKSQC 1") and the fundamental principles of integrity and professional competence and due care under sections 100, 110 and 130 of the <i>Code of Ethics for Professional Accountants</i>. The complaint arose from findings of a practice review of the respondent's practice. The respondent was found to have failed to establish, maintain and document an effective system of quality control in respect of monitoring and provided false or misleading answers in the electronic self-assessment questionnaire.</p>	<ul style="list-style-type: none"> ■ Cancellation of practising certificate for 1 year ■ Reprimand ■ Penalty of HK\$65,000 ■ Costs of HK\$26,123
<p>The respondent failed to act diligently in accordance with sections 100.4(c) and 130.1 of the then applicable <i>Code of Ethics for Professional Accountants</i> because the firm, of which he was formerly a partner, failed to properly observe, maintain or otherwise apply a number of auditing standards in a Hong Kong listed company audit for which he was the engagement partner.</p>	<ul style="list-style-type: none"> ■ Reprimand ■ A practising certificate shall not be issued to him for 2016 and 2017. ■ Penalty of HK\$60,000 ■ Costs of HK\$24,730
<i>Disciplinary orders involving reprimands and financial penalty</i>	
<p>Failure to properly observe, maintain or otherwise apply Hong Kong Standard on Auditing 500 <i>Audit Evidence</i> and HKSA 700 <i>Forming an Opinion and Reporting on Financial Statements</i>.</p> <p>The respondent audited the financial statements of two Hong Kong private companies for the period ended 31 December 2010. In one of the audits, he failed to obtain sufficient audit evidence in respect of a material. In the other audit, he failed to assess the adequacy of a financial statement disclosure and obtain sufficient evidence to conclude the financial statements were free of material misstatements, regarding investments in two subsidiaries.</p>	<ul style="list-style-type: none"> ■ Reprimand ■ Penalty of HK\$50,000 ■ Costs of HK\$96,158.60
<p>Failure to properly observe, maintain or otherwise apply HKSQC 1 and a number of other professional standards.</p> <p>The complaint arose from findings of the follow-up practice review of the respondent's practice. The respondent was found to have continued to fail to implement an adequate system of quality control and address audit deficiencies which were identified in the previous practice review.</p>	<ul style="list-style-type: none"> ■ Reprimand ■ Penalty of HK\$50,000 ■ Costs of HK\$34,672

APPENDIX 1

Nature of complaint	Sanction
<p>Conviction of an offence involving dishonesty. The respondent was convicted of theft in Hong Kong for having taken cash from an ATM machine which belonged to another person.</p>	<ul style="list-style-type: none"> ■ Reprimand ■ Penalty of HK\$5,000 ■ Costs of HK\$28,211
<p>Failure to properly observe, maintain or otherwise apply professional standards issued by the Institute. The first respondent was in breach of HKSA 700 <i>Forming an Opinion and Reporting on Financial Statements</i> and HKSA 500 <i>Audit Evidence</i>. The second respondent was in breach of HKSA 220 <i>Quality Control for an Audit of Financial Statements</i>.</p> <p>The complaint concerned deficiencies in the audit work performed on two convertible bond investments recorded in the financial statements of a Hong Kong listed company.</p>	<ul style="list-style-type: none"> ■ Reprimand ■ Penalty of HK\$70,000 for the first respondent and HK\$50,000 for the second respondent ■ Costs of HK\$54,123.60
<p>Failure to properly observe, maintain or otherwise apply the fundamental principle of professional competence and due care under section 100.5(c), as elaborated in section 130 of the <i>Code of Ethics for Professional Accountants</i>.</p> <p>The respondent practised in his own name and issued an auditor's report on the financial statements of a private company for the year ended 31 December 2011. The auditor's report did not include a modified opinion in respect of the company's failure to disclose a material amount owed to a director and payments to directors as related party transactions in the financial statements.</p>	<ul style="list-style-type: none"> ■ Reprimand ■ Penalty of HK\$15,000 ■ Costs of HK\$60,021
<i>Disciplinary order undergoing appeal process</i>	
Two orders are undergoing appeal.	

Note: Costs and expenses of and incidental to the proceedings of the complainant were ordered to be paid by the respondents in all of the above cases. For details of the disciplinary orders, visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/disciplinary/>.

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