

APSCA Guidance – Evidence Submission

Issue	Requirements for Member Firm Submission of Reports and Supporting Evidence to the APSCA Ethics Team Regarding Possible Discipline of Member Auditors
Relevant Disciplinary Framework and Procedures Section	4.4 and 5.4

1. **Purpose:** to provide Member Firms with guidance on:
 - i. **How the APSCA Ethics Team Process Reports and Evidence from *Member Firms*** in the context of an alleged ethical or other violation of the *APSCA Code and Standards of Professional Conduct (Code)* by a *Member Auditor*.
 - ii. **Reports and Other Evidence** required from *Member Firms* to enable the APSCA Ethics Team to prepare cases for review by APSCA's Disciplinary Board for Member Auditors (DBMA).

This guidance is the result of learnings from discipline cases involving *Member Auditors* presented to the DBMA over the past several years. It is designed to provide greater guidance and clarity regarding implementation of the APSCA *Code* and APSCA's Complaint Handling Protocol. APSCA recognizes that individual *Member Firms* choose to structure their disciplinary process in different ways. Whatever that structure, it is important that the APSCA Ethics Team receive reports and supporting materials from *Member Firms* in a clear and consistent manner to ensure the integrity of APSCA's disciplinary process. This may also require follow-up inquiries by the Ethics Team with *Member Firms*, *Member Auditors* and/ or other relevant individuals or organizations (such as audit programs).

Consistent with this, **Section 2** below on the Ethics Team's workflow, provides insight into the guiding principles under which the Ethics Team reviews, evaluates, follows up on and investigates reports and supporting materials. These guiding principles relate to ethics investigations best practice, substantiation, and the requirements of APSCA's disciplinary proceeding.

Section 3 sets our specific requirements for the submission of reports and supporting evidence.

Section 4 covers areas regarding evidence that have arisen at recent DBMA meetings, e.g. audio recordings, effect of other legal proceedings, and redactions, and provides guidance regarding these areas.

2. How the APSCA Ethics Team Processes Reports and Evidence from Member Firms

The Ethics Team reviews, processes and investigates reports and evidence submitted by [Member Firms](#) in an objective, critical and robust manner. Key factors considered by the APSCA Ethics Team in preparing cases for consideration by the DBMA include:

- **How was the investigation conducted?** The Ethics Team conducts a careful review of the investigation report from the perspective of methodology and scope, to determine how the investigation was conducted and by whom. In particular, APSCA seeks to affirm that the investigation process was independent, objective and robust as per established ethics investigation best practice. Some aspects of such best practice have been set out in section 2.1 Summary of Guiding Principles below.
- **What additional information can and/or needs to be gathered?** The Ethics Team does not solely rely on information and/or evidence provided by [Member Firms](#) in or alongside their investigation report. When necessary, the Ethics Team will seek additional information from the [Member Firm](#) who submitted the report and/or the [Member Auditor](#) or others against whom allegations are made, as well as potentially public domain research and information from auditing schemes.
- **Substantiation, substantiation, substantiation.** [Member Firms](#) under many circumstances have considerably more discretion in terms of disassociation with, and/or termination of [employees](#) than APSCA does in its disciplinary process, which is limited to actions regarding the [Member Auditors](#) membership in APSCA. This can lead to a misalignment of an investigative report submitted by a [Member Firm](#) and the APSCA disciplinary process. For example, cases may arise in which a [Member Firm](#) feels it has sufficient information to terminate or disassociate with a [Member Auditor](#) under its internal policies and relevant contracts, but substantiation may not be sufficient for the DBMA to substantiate the allegation under APSCA's standards and issue any sanction.

In this context, and due to the robust disciplinary proceeding process, a key aspect of the Ethics Team's investigative process pertains to the substantiation of allegations made against and [Member Auditor](#) in any reports submitted by [Member Firms](#). [Member Firms](#) should expect follow up and requests for additional information from the Ethics Team in any case where evidence submitted may be circumstantial or subjective, and/or when the Ethics Team obtains or receives conflicting evidence or information from another source (including, but not limited to, the [Member Auditor](#) against whom allegations are made).

[Member Firms](#) should also understand that there will be cases in which termination and/ or disassociation of a [Member Auditor](#) over an alleged ethical or competency issue may not result in disciplinary action by the DBMA – particularly in cases where there is a lack of, or significant subjectivity surrounding, substantiation.

2.1 Summary of Guiding Principals

Set out below are basic high-level guidelines with regards to integrity investigations generally that the Ethics Team keeps in mind when reviewing investigation reports and supporting materials submitted by [Member Firms](#). Note many of these are included in APSCA's Complaint Handling Protocol document.

- Whether all investigative activity was completed in a legal and ethical manner, and in a manner consistent with the [Code](#).
- Whether the investigation was conducted in an objective and independent manner, with any potential conflicts taken into consideration and managed effectively.
- Whether the investigation was undertaken by individual(s) who are competent, technically proficient and have sufficient training in conducting an investigation.
- If applicable, that sufficient measures were taken to ensure no retaliation by the [Member Firm](#) or management towards complainants or whistle-blowers was made under any circumstances, with regards to them having brought forth a complaint, prior to, during or after an investigation.

3. Guidelines for [Member Firm](#) Submission of Reports and Supporting Evidence to the APSCA Ethics Team Regarding Possible Discipline of [Member Auditors](#).

What follows is guidelines for [Member Firms](#) with regards to investigation reports and other evidence that must be submitted to the APSCA Ethics Team in connection with a Notice of Disassociation for actions that may violate the APSCA [Code](#).

3.1. Internal Investigation Report

[Member Firms](#) should submit to APSCA together with the Notice of Disassociation for actions that may violate the [Code](#) its associated internal investigation report. The report may be redacted in accordance with the process described in Section 4.3 below. The report should be clear, concise, logical and objective. In addition to detailing the conclusion drawn by the investigator, it should include, at a minimum, the following:

- A summary of the allegation(s), as well as how and when they were received.
- Which specific APSCA [Code](#) provision(s) the alleged misconduct was in violation of.
- The names of all individuals involved in the planning and execution of the investigation.
- A description of the methodology of the investigation, for example interviews, email review and/or document review.
- A summary of which allegations were substantiated, as well as the substantiation of any additional misconduct discovered during the investigation.
- A clear description of both the evidence that substantiates the allegation, as well as the source of that evidence.

To the degree that the Ethics Team finds the report to be insufficient or requires further information, the Ethics Team will contact the [Member Firm](#) to request further information and/ or clarification.

3.2. Gathering and Recording of Evidence and Information

Evidence submitted by *Member Firms* to the Ethics Team alongside their investigative report is of utmost importance. Since the disciplinary process is structured to ensure independence and objectivity, direct evidence will be given more weight than conclusions drawn in a *Member Firm's* investigative report, to the extent that any conclusions are not directly supported by the evidence.

Where it considers evidence cited and/ or submitted alongside a *Member Firm's* investigative report to be insufficient, the Ethics Team reserves the right to request additional evidence, or the conducting of additional investigative work.

To the extent that it is consistent with applicable laws and regulations, all evidence must be submitted to APSCA alongside the *Member Firm's* investigative report.

There is no procedure for considering evidence that is submitted after the Ethics Team has concluded its investigation and submitted a case to the DBMA. For this reason, it is essential that the *Member Firm* provide clear and complete information with its submission

4. Guidance on Specific Areas of Evidence

4.1 Audio Recordings

APSCA does not encourage the recording of conversations, but the DBMA will consider audio recordings under certain circumstances. The legality of recording conversations differs from jurisdiction to jurisdiction, and *Member Firms* are expected to ensure that recordings submitted to APSCA were recorded in a legal manner according to applicable local laws. The *Member Firm* should submit to APSCA a copy of the recording in its original language, and a transcript. Where the language of the recorded conversation is not English, *Member Firms* must submit an English translation of the transcript.

Audio recordings must be complete, and if for any reason an incomplete or otherwise compromised recording is submitted as evidence, they will be treated as incomplete by the DBMA to the extent deemed relevant to the case. There must be a clear reason for incomplete recordings being submitted, which will also be factored into the degree relevant.

4.2 Legal Proceedings

From time to time, a Code violation investigated by the APSCA Ethics Team and considered by the DBMA may also be the subject of a legal proceeding. In such cases the below factors must be considered:

- **Timeline:** relevant legal proceedings that relate to a case may result in a delay in the processing by APSCA's Ethics Team and the DBMA pending the outcome of the case, as well as factoring in additional time to review and process the relevant documentation.

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- **Relevance:** in general, the DBMA will give weight to a decision made by a tribunal of competent jurisdiction, the vastly differing legal systems and standards across the many jurisdictions in which *Member Firms* operate means the relevance of legal proceedings and resultant rulings will need to be considered on a case-by-case basis.

4.3 Redactions

In submitting reports and supporting evidence to the APSCA Ethics Team in relation to a disciplinary proceeding, *Member Firms* may need to redact certain information for confidentiality reasons, and/or internal privacy and data security policies.

In such cases, redactions are expected to be the minimum required to mask such information, which generally will include which pertains to the identities of auditee factories and/or *Members*. When redactions do occur, *Member Firms* should be prepared to explain and provide justification for them to APSCA.