

Member Initiated Motions for CAANZ AGM, Sydney, 3 December 2020

Motion 1 - Improve level of disclosure

Taking into account the factors mentioned below at Note 1, the By-Laws should be amended as soon as practicable to include a requirement that "CAANZ ensures a level of disclosure in the accounts which permits meaningful financial analysis of the projects and initiatives undertaken, and meets the highest practical level of transparency and disclosure in keeping with its objective to promote the accounting profession".

Note 1

This member motion is the first of thirty-eight member motions raised at this AGM due to circumstances which indicate that the level of reporting by CAANZ may not meet member expectations for their organising body.

While the level of reporting and apparent failures in the governance structure underlie many of the issues, the independent members initiating these motions (not previously connected, from diverse locations and having different backgrounds) believe that members should be allowed to play a role in setting the standards required of their organising body, in keeping with the expectations around integrity which Chartered Accountants rely upon as the foundation for their profession.

The responses to each of the motions can demonstrate to the public that the ethical code is not a dead document, but a standard reflecting the true values of transparency and accountability which professional accountants live by.

While numerous legacy issues merit stand-alone consideration, the most important motions relate to safety mechanisms to ensure members' best interests are prioritised on an ongoing basis, such as the motions relating to an independent inquiry, the appointment of an ombudsman, the implementation of a process for impartial reviews and a consideration of the governance structure informed by a truly independent legal analysis.

Some of the issues were published by the current Parliamentary Joint Committee of Inquiry into Auditing in Australia whose report due on 2 December 2020 could have a substantial impact on accounting bodies: see submission item #111, including the separate response by CAANZ and its comments noted in the appendix:

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/RegulationofAuditing/Submissions.

Motion 2 - Account for promised cost savings

As soon as practicable, CAANZ is to provide a report to all members reconciling the \$3m pa average loss since the amalgamation with the outcomes promised such as a \$15m annual improvement over the \$3m pa average profits in Australia before the merger.

Motion 3 - Justify cost of overseas offices

As soon as practicable, CAANZ is to provide members with a cost/benefit analysis of setting up and/or maintaining overseas offices in each location, noting where CAANZ has reciprocal relationships with other member bodies, and, following the release of the report, allow members to vote electronically on whether an office is warranted in relation to each overseas location.

Motion 4 - Account for overseas travel costs

As soon as practicable, CAANZ is to provide members with details for each year after 2016 of overseas travel costs incurred listing for each trip the costs; the destination(s); duration; the name of the person; their role and the purpose of the trip and the By-Laws to be amended as soon as practicable to require such disclosures as part of the audited annual report.

Motion 5 - Strengthen directors' statement

The By-Laws should be amended as soon as practicable to include a requirement that "the CAANZ Chair and President include a statement in the Annual report and Financial Statement that after careful inspection, they believe that the annual report and financial statements fully disclose all meaningful matters which a typical member would consider to be of interest".

Motion 6 - Strengthen auditor's statement

The By-Laws should be amended as soon as practicable to include a requirement that "the audit report include a statement that the auditor is not aware of any meaningful matter not disclosed in the financial statements which he or she believes would be of interest to a typical member, or detail any matters which would prevent such statement".

Motion 7 - Disclose PR costs against members

As soon as practicable, CAANZ is to disclose the amounts outlaid in each year since 2016 for public relation or like services to support positions taken by CAANZ which were challenged by members, and the By-Laws amended as soon as practicable to make this a mandatory disclosure in all future financial statements and confirmed as being accurate by the auditor.

Motion 8 - Budget forecasts required

As soon as practicable, CAANZ is to disclose its budget forecasts in advance for each year as part of its annual reporting, together with comparisons of budget against actual, along the same lines as many government bodies and recognising that it is a non-profit member organisation which strives to set the highest standard of transparency and reporting, with the By-Laws to be updated as soon as practicable to reflect this requirement.

Motion 9 - Legal opinion on safety of governance structure

As soon as practicable, CAANZ is to obtain a legal opinion and recommendation(s) to be communicated to all members from a lawyer selected and briefed by the members initiating this motion on the efficacy of the current governance structure to protect members' best interests, especially compared with the prior structure and also the structure in Australia before the amalgamation which featured directors being appointed directly by members rather than indirectly through two unnecessary tiers of separation (see Note 2).

Note 2

Since CAANZ is formed under a Royal charter, the normal protection mechanisms available to the large majority of corporate stakeholders are not available to members, and such protections are absent from its constituent documents.

Motion 10 - Member choice of governance structure

As soon as practicable, CAANZ is to arrange for members to electronically vote on reverting to the governance structure utilised by its Australian predecessor which featured the appointment of directors directly by members (noting that if the motion to seek a legal opinion around suitable governance structures is passed, then the voting process should allow for any recommended alternatives to be chosen by members and, whether or not such motion is passed, the advantages and disadvantages of each alternative structure should nevertheless be communicated to members to allow their decision to be properly informed, such communication being subjected to a review and approval by the independent members initiating this motion before it is communicated to all members).

Motion 11 - Investigate portrayal of governance review as 'independent'

As soon as practicable, CAANZ is to obtain a legal opinion and recommendation(s) to be communicated to all members from a lawyer selected and briefed by the members initiating this motion on the legality of the portrayal to members that the governance review was "independent" when it was apparently led and influenced by CAANZ leaders and its recommendations further disenfranchised ordinary members and served the interests of the governors as outlined in Note 3.

Note 3

The so-called 'independent' review was led by the Governance Committee apparently dominated by CAANZ directors including the CAANZ chair, the president and the two vice-presidents.

The external reviewer, when challenged by a member on his findings, stated that: ***"The Board of CAANZ are our client and we don't discuss assignments unless we have some authority from the client to do so."*** This indicates that the external review was led by a person who believed he was not answerable to the stakeholders whom his report was intended to safeguard.

The board presented members with various proposals to 'streamline' the structure. These resulted in director terms being extended from 6 years to 9 years (described under the heading "Provide increased continuity in Board appointments") and the vice-president roles being promoted to director roles (under the heading "Increase flexibility and inclusion of representation").

The 'streamline' changes also enabled the then chair to later receive a life membership (the same person who directed members from 2009 to 2019, despite a clear intention in the constituent documents for terms to be limited to 6 years).

The governance review ignored significant flaws in the existing structure and further disenfranchised ordinary members. As noted in the national media, it also did not present the costs and disadvantages associated with the proposals. The issues outlined in the various member initiated motions put to this AGM all point to a governance regime which has failed to safeguard members' best interests.

The CAANZ response was included in the PJC Inquiry referenced at Note 1.

A group of seven FCAs publicly expressed concerns around our organising body which were reported in the national media yet ignored by CAANZ.

"The standout principle from the ASX document is to: "Instil a culture of acting lawfully, ethically and responsibly" and as behaving ethically and responsibly is embedded in the DNA of Chartered Accountants, that is also the standard that we should expect from the CAANZ Board."

<https://www.afr.com/companies/professional-services/chartered-accountants-unhappy-with-proposed-changes-20190518-p510ou>

<https://www.linkedin.com/feed/update/urn:li:activity:6536399529707741184/>

Motion 12 - Investigate disclosures around governance review

As soon as practicable, CAANZ is to obtain a legal opinion and recommendation(s) to be communicated to all members from a lawyer selected and briefed by the members initiating this motion on the legality of the disclosures made to members in relation to the members vote process for the governance review.

Motion 13 - Investigate disclosures around 2019 AGM

As soon as practicable, CAANZ is to obtain a legal opinion and recommendation(s) to be communicated to all members from a lawyer selected and briefed by the members initiating this motion on the legality of the disclosures made to members in relation to the 2019 AGM motions to change auditor and increase remuneration for directors and office bearers.

Motion 14 - Investigate portrayal of 2019 result as "surplus"

As soon as practicable, CAANZ is to obtain a legal opinion and recommendation(s) to be communicated to all members from a lawyer selected and briefed by the members initiating this motion on the legality of CAANZ announcing the 2019 results as being a "surplus" in circumstances where the details in the accounts showed retroactive adverse adjustments with a net detrimental effect more than 200 times greater than the highlighted technical operating result.

Motion 15 - Investigate disclosure in 2018 accounts

As soon as practicable, CAANZ is to obtain a legal opinion and recommendation(s) to be communicated to all members from a lawyer selected and briefed by the members initiating this motion on the legality of the statement made in the 2018 Financial Statements that AASB15 was *"not anticipated to have a material impact on the Group's financial reporting"* after that standard was carefully considered by CAANZ for many years and CAANZ in 2019 revealing retroactive adverse adjustments in the order of \$15 million and that the operating surplus for 2018 was overstated by 118%, with CAANZ to provide all details reasonably required and subject to the same privacy rules by which CAANZ is bound.

Motion 16 - Disclose calculation of 'at risk' bonus paid to CEO

As soon as practicable, CAANZ is to advise members on whether the exaggerated results reported in 2018 factored into the calculation of the "at risk" bonus of \$200,000 paid to the CEO and if so, whether the bonus was subject to a decrease adjustment to reflect the 118% exaggeration of the original reported surplus, and if not factored into the calculation, explain why the determination of an "at risk" bonus for the CEO would not be affected by the reported results and what precisely is "at risk".

Motion 17 - Ignoring pointers to fraud appears incompatible with ethical code

As soon as practicable, CAANZ is to obtain a legal opinion and recommendation(s) to be communicated to all members from a lawyer selected and briefed by the members initiating this motion on whether CAANZ can satisfy the Ethical Code by ignoring pointers to fraud in the circumstances outlined in Note 4 below with CAANZ to provide all details reasonably required and subject to the same privacy rules by which CAANZ is bound.

Note 4

The CAANZ 2018 accounts materially overstated the surplus by 118% due to failing to recognise the impact of AASB15 for reasons which are hardly credible for an accounting organisation. This coincides with the then CEO being paid a significant "at risk" bonus. This combination of circumstances, together with other factors relating to the then CEO noted in a 2017 Senate inquiry (eg see link below), would be expected to point to the possibility of remuneration fraud in the eyes of an impartial auditor exercising professional scepticism.

Since October 2019, this unfortunate situation has repeatedly been highlighted to CAANZ, however members and the public are left to speculate on the possibility of crime because CAANZ has inexplicably chosen to hide the key information, and this itself compounds suspicions.

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/MembersRegistrationBill/Submissions [see item #13 including CAANZ response]

Motion 18 - KPI and remuneration details to be disclosed

As soon as practicable, CAANZ is to provide members with details of the key performance indicators and method used to calculate remuneration for all senior officers and the By-Laws to be amended as soon as practicable to require such disclosures as part of the audited annual report.

Motion 19 - Review remuneration levels

As soon as practicable, CAANZ is to obtain an independent review to be communicated to all members of remuneration levels for senior personnel conducted by a remuneration specialist appointed by the independent members initiating this motion, with CAANZ to provide all details reasonably required and subject to the same privacy rules by which CAANZ is bound.

Motion 20 - Review 2017 CEO selection process

As soon as practicable, CAANZ is to obtain an independent review to be communicated to all members of the 2017 CEO selection process in light of the issues exposed in a 2017 Senate inquiry (see Note 5) by a recruitment specialist and/or lawyer appointed by the independent members initiating this motion with CAANZ to provide all details reasonably required and subject to the same privacy rules by which CAANZ is bound.

Note 5

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/MembersRegistrationBill/Submissions [see item #13 including CAANZ response]

Motion 21 - Moderate political policy statements

The By-Laws are to be amended as soon as practicable to make it clear that "CAANZ should not make political policy recommendations outside of the accounting domain [such as those reported by The Australian Financial Review on 16 September 2020 (<https://www.afr.com/rear-window/mission-creep-as-accountants-ask-for-mining-carbon-taxes-20200916-p55w7t>)] unless it has a mandate from more than three quarters of all members who vote electronically on the matter after proper notice is provided to all members of CAANZ's intentions".

Motion 22 - Independent review

As soon as practicable, CAANZ is to support an independent review by a panel of three members selected by the independent members initiating this motion to investigate and report on the activities of CAANZ where it appears that members' best interests may not have been served, such as matters included in other motions put to members at this AGM in line with the principles in Note 6.

Note 6

The main objective of the independent panel is to understand how positions have been taken by CAANZ on significant matters which appear to be self-serving and inconsistent with members' best interests.

The panel is to be granted all the powers and resources reasonably required to undertake this task, including powers similar to those available to the Professional Conduct Committee and subject to the same rules around privacy as apply to CAANZ.

For clarity, the panel is to be provided with full powers to investigate all CAANZ personnel, documents, records and systems, and report to all members, but not to take any action or impose disciplinary sanctions.

The panel is to be formed as soon as practicable after the motion is approved and issue an interim (if not final) report by 31 March 2021, taking into account any recommendations to be made by the PJC Audit Inquiry affecting professional bodies which is currently due to report on 2 December 2020.

Selection of panel members (who must be members) is to be based on their impartiality, experience, understanding of the issues and availability to fully commit their time to the temporary role.

Motion 23 - Appoint independent Ombudsman

As soon as practicable, CAANZ is to employ a full-time independent Ombudsman with full powers to investigate and report directly to all members to ensure their best interests are safeguarded, and demonstrate leadership by Chartered Accountants in the areas of transparency and accountability in accordance with the principles in Note 7 below.

Note 7

The role recognises that existing controls over management are not close to the day-to-day activities and priorities which can hinder CAANZ meeting member expectations.

The inaugural appointment is to be made by the independent members initiating this motion after seeking expressions of interest from members, and thereafter to be elected directly by members with a non-renewable maximum 3 year term (allowing for smooth hand-overs).

The Ombudsman role can only be occupied by a member and is focused on investigation, reporting and co-ordinating member concerns and does not include powers to take remedial action. The main selection criteria is demonstrated integrity and concern for members' best interests, understanding of the potential issues and a collaborative approach to working.

The Ombudsman role includes working co-operatively with the CAANZ Board and management, recognising that the core purpose of CAANZ is to serve the best interest of its members. The role reports directly to members and not to the Board or management, thus ensuring impartiality in members' best interest consistent with the ethical code.

The role extends the concept of an internal audit function by not being limited to financial reporting. The investigation power includes access to all CAANZ personnel, documents, records and systems and is subject to the same privacy rules by which CAANZ is bound.

The By-Laws should be updated as soon as practicable to reflect the constitutional importance of the role in safeguarding members' best interests.

Motion 24 - Process for independent review of complaints

In the absence of an Ombudsman role proposed in another motion or in combination with it, the By-Laws should be amended as soon as practicable to include a requirement that CAANZ implements and maintains a transparent process to ensure complaints from two or more unrelated members against its actions or inactions are subject to an impartial review, including a process whereby Directors and Councillors accused of misconduct may be impartially reviewed by persons they had no part in selecting, in keeping with the requirements of the ethical code for all Chartered Accountants to act impartially.

Motion 25 - Should CAANZ President be replaced?

Given CAANZ's role as a conduct review body, should the current CAANZ President be replaced due to being a partner in a firm engaging in conduct which the Full Federal Court described as being not much better than contumacious and bordering on contempt (see Note 8)?

Note 8

See the judgement of the Honourable Justice Wigney in *Deloitte Touche Tohmatsu (A Firm) v Sadie Ville Pty Ltd (As Trustee for Sadie Ville Superannuation Fund)* [2020] FCAFC 23, 27 February 2020

How could the public be satisfied that the conduct of Deloitte partners excoriated by a Federal Court judge would be impartially reviewed by a body led by a Deloitte partner?

Motion 26 - Legal privilege inconsistent with ethical code

As soon as practicable, CAANZ is to obtain a legal opinion and recommendation(s) to be communicated to all members from a lawyer selected and briefed by the members initiating this motion on whether auditors can satisfy the Ethical Code in circumstances where they seek legal privilege against self incrimination (see Note 9).

Note 9

By definition, a claim for privilege is an admission of a belief that the evidence in question would incriminate the claimant.

The ethical code which CAANZ administers makes it clear that auditors should comply with the law and regulations, and avoid any conduct which the auditor knows or should know might discredit the profession. Above all, they should act with integrity and in the public interest. Always being honest and straightforward is essential. The ethical question is not whether an action can be done, but whether it should be done.

Since ethical rules are concerned with conduct, it would be difficult to envisage a scenario where a claim for privilege is not an admission of unethical behaviour.

Motion 27 - Chair and CEO departures need explaining

As soon as practicable, CAANZ is to explain to members the reason(s) for the sudden departure of its recent chair after only 7 months into a 3 year term, and the early departure of its recent CEO who did not remain for the few extra weeks required for a smooth hand-over, and if privacy or other laws prevent divulging such information, to express to members whether there is any justification to infer that such reason(s), if known, would reflect unfavourably on CAANZ.

Motion 28 - Accounting leadership required

As soon as practicable, CAANZ is to demonstrate leadership in Accounting Reform to promote the accounting profession (see Note 10).

Note 10

As an example, it could sponsor research into managing the transition from an historical basis to a market based approach which is currently happening in a disjointed and ad-hoc way.

Another example is that it could sponsor research into the best ways for stakeholders to play a greater role in developing standards.

Also see the motion concerning digital financial reporting.

Motion 29 - Confirm public audit tender

As soon as practicable, CAANZ is to comply with the PJC Audit Inquiry interim recommendation #7 and confirm that it has undertaken a public tender process to select its auditor within the last 10 years or explain to members why such a public tender process has not occurred, noting that the official notice for the 2019 AGM only made reference to appointing a new auditor following a "competitive tender" without providing details on what made the process competitive and how it could be regarded as being public.

Motion 30 - Leadership in digital reporting

As soon as practicable, CAANZ is to adopt a leadership role in relation to the PJC Audit Inquiry interim recommendation # 10 to make digital financial reporting standard practice in Australia.

Motion 31 - Future motions to allow electronic voting

The By-Laws are to be updated as soon as practicable to require CAANZ to allow members to vote electronically on all future motions put to members and in the meantime CAANZ must exercise its discretion to allow voting to be conducted electronically.

Motion 32 - Consequential motions may be collated

If any further motion(s) to members is/are recommended from the reviews and investigations noted in the above motions, then such further motion(s) is/are to be put to members for electronic voting as soon as practicable after the recommendation is notified to members subject to it being considered reasonable to wait until sometime in April 2021 to allow any such further motions to be collated to minimise any imposition on member time and costs.

Motion 33 - Compensate members to implement motions

CAANZ is to provide compensation to the independent members initiating a passed motion for their reasonable time and out of pocket expenses (incurred after the passing of the motion) in putting the passed motion into effect in accordance with its terms (with time valued at the rate of AU\$1,000 ex.gst per work day plus superannuation if applicable and the total of such costs to be reported in the relevant financial reports).

Motion 34 - Disclose amounts paid to external consultants

As soon as practicable, CAANZ is to provide members with details for each year after 2016 of the amounts paid to external consultants where for a particular consultant the amount paid (including to any related party) exceeds \$3,000 in any 12 month period where the details are to include the consultant's name; the amount paid and the nature of the services received sufficient to allow its appropriateness to be determined both in nature and amount, and the By-Laws are to be amended to require such disclosures as part of the audited annual report.

Motion 35 - Cancel specific investigation if CAANZ recants

To the extent that CAANZ publicly recants its position in relation to any of the motions on a specific matter requiring an independent investigation, and implements remedial measures to the satisfaction of the independent members initiating the motion, then any such investigation relating to the motion passed by members need not proceed, and this fact being communicated with relevant details to all members.

Motion 36 - AGM location to respect governance need

The locations of Annual General Meetings (such as Wellington in 2019 and Perth as was initially intended for 2020) should give priority to its purpose as a significant governance safety mechanism rather than a token to geographic representation, and as such should alternate between the two largest centres (currently being Sydney and Melbourne) and the By-Laws are to be amended accordingly as soon as is practicable.

Motion 37 - Notices of meetings to disclose motions

The By-Laws are to be amended as soon as practicable to require all notices (email or otherwise) related to a member meeting to give prominence to the nature and category of the proposed matters of business and include the wording of all proposed motions, together with explanatory notes, and if the meeting is to include any matter other than the regular annual documents, the heading and subject of the notice should make that clear (see Note 11).

Note 11

This motion follows the lack of detail in the notices sent to members by email in relation to the 2019 AGM which failed to mention that a motion of special business was proposed to significantly increase the remuneration pool for directors and office bearers, as well as not mentioning a proposed change of auditor in circumstances where even the detailed notice posted on the internet did not reveal reasons.

If the sheer size or nature of explanatory details requires separation from the body of an email, then the email is to ensure that sufficient details are provided to inform members of the nature and purpose of the explanatory details, and why they need to be accessed separately.

The guiding principle for notices is that they should provide busy members sufficient information which enables them to decide 'on the run' whether they should spend further time on the matter.

Motion 38 - Proxies to permit both for and against votes

The By-Laws are to be amended as soon as practicable to require that in the event of proxies being applicable to future meetings, CAANZ is required to ensure that members are provided with a practical means of directing their votes on motions either way, including any proxies to be provided to the Chair of the meeting (see Note 12).

Note 12

This motion follows the 2019 AGM which included an item of special business to significantly increase the remuneration pool for directors and office bearers, while making it practically impossible for members outside of the Wellington area to vote against the motion (including unanswered requests put to CAANZ on how members could appoint a proxy who could be relied upon to attend the meeting and direct votes against the motion).