
INDEPENDENT REGULATORY BOARD FOR AUDITORS

Section 90 (2) of the Companies Act, 2008 Johannesburg / 01 November 2012

APPLICATION OF SECTION 90 (2)

The Companies and Intellectual Property Commission (CIPC) agreed to extend enforcement of the application of Section 90(2) to 1 June 2013. This means that enforcement of the provisions of Section 90(2) is deferred to 1 June 2013, after Senior Counsel Opinion on the interpretation of Section 90(2) was jointly obtained by the IRBA and SAICA. The Opinion confirms that the prohibitions contained in Section 90(2) are also applicable to firms appointed as auditors, and not only to individual auditors. The opinion and brief to Senior Counsel are available on the IRBA [website](#). Registered auditors should, however, continue to comply with the current requirements as prescribed by the IRBA Code of Professional Conduct in respect of the provision of audit and non - audit services. The prohibitions contained in Section 90(2) apply to statutory audits. Furthermore, with respect to the prohibition relating to the filling of positions for the previous five years contained in Section 90(2)(b)(v), the CIPC confirmed that this provision should be applied prospectively, i.e. from 1 May 2011, but that compliance will also be extended to 1 June 2013.

IMPACT ANALYSIS

In the interim, the Board of the IRBA agreed that an impact analysis on the application of Section 90(2) as reflected in the opinion of Senior Counsel will be conducted. The results of the impact analysis will be presented to the IRBA Board for consideration and submission to the CIPC. The IRBA requested SAICA to assist in conducting the impact analysis, to which SAICA agreed.

CLARIFICATION OF SECRETARIAL SERVICES

Section 90(2) of the Companies Act prohibits secretarial services which are related to performing the duties of accountant or bookkeeper, to also be provided by the auditor of the company. This means that services such as the completion and lodging of returns may be carried out by the auditor of the company.

CLARIFICATION OF BOOKKEEPING AND ACCOUNTING SERVICES

It was agreed with the CIPC that the IRBA and SAICA will develop guidance to clarify the distinction between bookkeeping and accounting services that can be performed by the auditor of the company, and those that are prohibited. These services include the maintenance of the company's financial records and the preparation of its financial statements. The IRBA and SAICA are in the process of developing the required proposals in this regard and will communicate the outcome to auditors after discussion and agreement with the CIPC.

Bernard Peter Agulhas
Chief Executive Officer

About the IRBA

The objective of the IRBA is to endeavour to protect the financial interests of the South African public and international investors in South Africa through the effective and appropriate regulation of audits conducted by registered auditors, in accordance with internationally recognised standards and processes.