

INFORMATION ON IRBA BOARD FOR APPLICATION AND/OR NOMINATION AS BOARD MEMBER

EXTRACTS FROM THE AUDITING PROFESSION ACT

Part 2 Functions of Regulatory Board

4 General functions

- (1) The Regulatory Board must, in addition to its other functions provided for in this Act –
 - (a) take steps to promote the integrity of the auditing profession, including -
 - (i) investigating alleged improper conduct;
 - (ii) conducting disciplinary hearings;
 - (iii) imposing sanctions for improper conduct; and
 - (iv) conducting practice reviews or inspections;
 - (b) take steps it considers necessary to protect the public in their dealings with registered auditors;
 - (c) prescribe the standards of professional, competence, ethics and conduct of registered auditors;
 - (d) encourage education in connection with, and research into, any matter affecting the auditing profession; and
 - (e) prescribe auditing standards
- (2) The Regulatory Board may -
 - (a) participate in the activities of international bodies whose main purpose is to develop and set auditing standards and to promote the auditing profession;
 - (b) publish a journal or any other publication, and issue newsletters and circulars containing information and guidelines relating to the auditing profession;
 - (c) co-operate with appropriate international regulators in respect of matters relating to audits and auditors; and
 - (d) take any measures it considers necessary for the proper performance and exercise of its functions or duties or to achieve the objects of this Act.

5 Functions with regard to accreditation of professional bodies

The Regulatory Board must, subject to this Act –

- (a) prescribe minimum requirements for accreditation of professional bodies in addition to those provided for in this Act;
- (b) consider and decide on any application for accreditation and grant such accreditation in full or in part;
- (c) prescribe the period of validity of the accreditation;
- (d) keep a register of accredited professional bodies and decide on –
 - (i) the register to be kept;
 - (ii) the maintenance of the register; and
 - (iii) the reviewing of the register and the manner in which alterations thereto may be effected; and
- (e) terminate the accreditation of professional bodies in accordance with this Act.

6 Functions with regard to registration of auditors

- (1) The Regulatory Board must, subject to this Act —
 - (a) prescribe minimum qualifications, competency standards and requirements for registration of auditors in addition to those provided for in this Act;
 - (b) consider and decide on any application for registration of auditors;
 - (c) prescribe the period of validity of the registration of a registered auditor;
 - (d) keep a register of registered auditors and decide on —
 - (i) the register to be kept;
 - (ii) the maintenance of the register; and
 - (iii) the reviewing of the register and the manner in which alterations thereto may be effected;
 - (e) ensure that the register of registered auditors is at all reasonable times open to inspection by any member of the public;
 - (f) terminate the registration of registered auditors in accordance with this Act; and

(g) prescribe minimum requirements for the renewal of registration and re-registration.

7 Functions with regard to education, training and professional development

- (1) The Regulatory Board must -
 - (a) either in full or in part, recognise or withdraw the recognition of the educational qualifications or programmes or continued education, training and professional development programmes in the auditing profession of educational institutions and accredited professional bodies;
 - (b) recognise or withdraw the recognition of any accredited professional body to conduct any final qualifying examination contemplated in section 37 or conduct any such examination for the purposes of section 37;
 - (c) prescribe requirements for and conditions relating to and the nature and extent of continued education, training and professional development;
 - (d) prescribe training requirements, including, but not limited to, the period of training and the form for training contracts;
 - (e) approve and register training contracts entered into by prospective registered auditors;
 - (f) prescribe competency requirements; and
 - (g) either conditionally or unconditionally, recognise or withdraw the recognition of registered auditors as training officers;
- (2) The Regulatory Board may -
 - (a) establish mechanisms for registered auditors to gain recognition of their qualifications and professional status in other countries
 - (b) enter into an agreement with any person or body of persons, within or outside the Republic, with regard to the recognition of examination or qualification for the purposes of this Act
 - (c) establish and administer an education fund for the purpose of education, training, professional development and continued education, training and professional development of registered auditors and students in the auditing profession, and
 - (d) give advice to, render assistance to, consult with or interact with any organ of state, statutory body, educational institution, professional body or examining body with regard to educational facilities for and the education, training and professional development of registered auditors and prospective registered auditors
- (3)
 - (a) The Regulatory Board must, prior to withdrawing of recognition referred to in subsection (1)(a) or (b) give notice in writing to the educational institution or accredited professional body concerned of its intention to withdraw and the reasons on which it is based, and must afford the educational institution or accredited professional body a period of not less than 21 days and not more than 30 days in which to submit grounds for not proceeding with withdrawal.
 - (b) If the Regulatory Board considers that withdrawal of recognition would not be in the best interests of the public, the auditing profession or the members of an accredited professional body, it may extend the recognition of the educational institution or accredited professional body concerned on such conditions as it considers appropriate.
 - (c) The Regulatory Board must publish the withdrawal of recognition in terms of this subsection.

8 Functions with regard to fees and charges

- (1) The Regulatory Board must prescribe –
 - (a) accreditation, registration, registration renewal and re-registration fees;
 - (b) annual fees, or portion thereof in respect of a part of a year;
 - (c) the date on which any fee or levy is payable; and
 - (d) the fees payable in respect of any examination referred to in section 37, conducted by an accredited professional body or the Regulatory Board;
- (2) The Regulatory Board may prescribe
 - (a) any fees payable for the purposes of the educational fund referred to in section 7(2);
 - (b) fees payable for an inspection or review undertaken by the Regulatory Board in terms of section 47: and
 - (c) fees payable for any other service rendered by the Regulatory Board
- (3) The Regulatory Board may grant exemption from payment of any fees or levies referred to in subsection (1) or (2).

**Part 3:
Powers of Regulatory Board**

9 General powers

The Regulatory Board may –

- (a) determine its own staff establishment and may appoint a chief executive officer, and employees in posts on the staff establishment on such conditions, including the payment of remuneration and allowances, as it may determine;
- (b) in consultation with the Minister, determine the remuneration and allowances payable to its members or the members of any committee of the Regulatory Board,
- (c) collect fees and invest funds;
- (d) borrow or raise money in accordance with the Public Finance Management Act;
- (e) with a view to the promotion of any matter relating to the auditing profession, grant bursaries or loans to prospective registered auditors;
- (f) finance any publications;
- (g) acquire, hire, maintain, let, sell or otherwise dispose of movable or immovable property for the effective performance and exercise of its functions, duties or powers;
- (h) decide upon the manner in which agreements must be entered into;
- (i) obtain the services of any person, including any organ of state or institution to perform any specific act or function;
- (j) determine where its head office must be situated;
- (k) confer with any organ of state;
- (l) open, and operate its own bank accounts;
- (m) ensure that adequate risk management and internal control practices are in place
- (n) perform legal acts, or institute or defend any legal action in its own name; and
- (o) do anything that is incidental to the exercise of any of its functions or powers.

10 Powers to make rules

- (1) The Regulatory Board may, by notice in the Gazette, prescribe rules with regard to
 - (a) any matter that is required or permitted to be prescribed in terms of this Act; and
 - (b) any other matter for the better execution of this Act or a function or power provided for in this Act.
- (2) (a) Before the Regulatory Board prescribes any rule under this section, it must publish a draft of the proposed rule in the Gazette together with a notice calling on the public to comment in writing within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice,
 - (b) If the Regulatory Board alters the draft rules because of any comment, it need not publish those alterations before prescribing the rule.
- (3) The Regulatory Board may, if circumstances necessitate the immediate publication of a rule, publish that rule without the consultation contemplated in subsection (2).

**Part 4:
Governance of Regulatory Board**

11 Appointment of members of Regulatory Board

- (1) The Regulatory Board consists of not less than 6 but not more than 10 non-executive members appointed by the Minister.
- (2) The Minister must appoint competent persons, who must include registered auditors, to effectively manage and guide the activities of the Regulatory Board, based on their knowledge and experience.
- (3) When making the appointments, the Minister must take into consideration, amongst other factors-
 - (a) the need for transparency and representivity within the broader demographics of the South African population;
 - (b) any nominations received in terms of subsection 5; and
 - (c) the availability of persons to serve as members of the Regulatory Board.
- (4) Disregarding any vacancy in its membership, not more than 40% of the members of the Regulatory Board may be registered auditors.
- (5) Before the Minister makes the appointments, the Regulatory Board must, by notice in the Gazette and in any national newspaper, invite nominations from members of the public.
- (6) The Minister may appoint an alternate member for every member of the Regulatory Board, and an alternate member may attend and take part in the proceedings at any meeting of the Regulatory Board

whenever the member for whom he or she has been appointed as an alternate is absent from that meeting.

- (7) The Regulatory Board, as soon as practicable after the appointment of its members, must publish by notice in the Gazette —
 - (a) the name of every person appointed;
 - (b) the date from which the appointment takes effect; and
 - (c) the period for which the appointment is made.

12 Term of office of members of Regulatory Board

- (1) A member of the Regulatory Board appointed in terms of section 11 holds office for such period, but not exceeding two years, as the Minister may determine at the time of his or her appointment.
- (2) A member of the Regulatory Board may be reappointed, but, subject to subsection (3), may not serve more than two consecutive terms of office,
- (3) Despite subsections (1) and (2), the Minister may, by notice in the Gazette, and after consultation with the Regulatory Board, extend the period of office of all the members of the Regulatory Board for a maximum period of twelve months.
- (4) Despite subsection (1), the Minister may, by notice in the Gazette, after consultation with the Regulatory Board, terminate the period of office of a member or all the members of the Regulatory Board —
 - (a) if the performance of the member is unsatisfactory;
 - (b) if the member, either through illness or for any other reason, is unable to perform the functions of office effectively; or
 - (c) if the member, whilst holding office has failed to comply with or breached any legislation regulating the conduct of members, including any applicable code of conduct.
- (5) Despite subsection (1), the Minister may, if the performance of the Regulatory Board is unsatisfactory, terminate the period of office of all the members of the Regulatory Board
- (6) (a) In the event of the dismissal of all the members of the Regulatory Board, the Minister may appoint persons to act as caretakers until competent persons are appointed in terms of section 11.
(b) The Minister must appoint new members in terms of section 11 within three months of the dismissal referred to in paragraph (a).

13 Disqualification from membership and vacation of office

- (1) A person may not be appointed as a member of the Regulatory Board if that person —
 - (a) is not a South African citizen
 - (b) is not resident in the Republic;
 - (c) is an unrehabilitated insolvent;
 - (d) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and was sentenced to imprisonment without an option of a fine or, in the case of fraud, to a fine or imprisonment or both;
 - (e) subject to subsection (2), has been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;
 - (f) has, as a result of improper conduct, been removed from an office of trust; or
 - (g) has in terms of this Act been found guilty of improper conduct.
- (2) For the purposes of subsection (1)(d), the Minister must, as far as reasonably possible, take cognisance of the prevailing circumstances in a foreign country relating to a conviction.
- (3) The membership of a member of the Regulatory Board ceases if he or she —
 - (a) becomes disqualified in terms of subsection (1) from being appointed as a board member of the Regulatory Board;
 - (b) resigns by written notice addressed to the Regulatory Board;
 - (c) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973);
 - (d) has, without the leave of the Regulatory Board, been absent from more than two consecutive meetings of the Regulatory Board; or
 - (e) ceases to be permanently resident in the Republic; or
- (4) If a member of a Regulatory Board becomes disqualified on a ground mentioned in subsection (1) or (3), such person ceases to be a member of the Regulatory Board from the date of becoming disqualified.
- (5) (a) If a member of the Regulatory Board dies or vacates his or her office before the expiration of

- his or her term of office, the Minister must consider appointing a person to fill the vacancy for the unexpired portion of the period for which that member was appointed.
- (b) If the Minister appoints a person to fill the vacant seat, the appointment must be made within 60 days from the date on which the vacancy occurred.

14 Chairperson and deputy chairperson

- (1) (a) The Regulatory Board must elect a chairperson and a deputy chairperson from among its members.
- (b) The chairperson and deputy chairperson each hold office for a period of two years from the date of their appointment.
- (2) If the chairperson is absent or for any reason unable to perform his or her functions as chairperson, the deputy chairperson must act as chairperson, and while he or she so acts he or she has all the powers and must perform all the duties of the chairperson.
- (3) If both the chairperson and deputy chairperson are absent or for any reason unable to preside at a Regulatory Board meeting, the members present must elect another member to act as chairperson and while he or she so acts has all the powers and must perform all the duties of the chairperson.

15 Meetings

- (1) The Regulatory Board meets as often as circumstances require, but at least four times every year, and at such time and place as the Regulatory Board may determine,
- (2) The chairperson may at any time convene a special meeting of the Regulatory Board at a time and place determined by the chairperson.
- (3) Upon a written request signed by not less than three members of the Regulatory Board, the chairperson must convene a special meeting of the Regulatory Board to be held within three weeks after the receipt of the request, and the meeting must take place at a time and place determined by the chairperson.
- (4) A majority of the members of the Regulatory Board constitutes a quorum at a meeting.
- (5) (a) Every member of the Regulatory Board, including the chairperson, has one vote.
- (b) In the event of an equality of votes, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

16 Decisions

- (1) The decision of the majority of the members present at a duly constituted meeting is the decision of the Regulatory Board.
- (2) No decision taken by or act performed under the authority of the Regulatory Board is invalid only by reason of —
 - (a) a casual vacancy on the Regulatory Board; or
 - (b) the fact that any person who was not entitled to sit as a member of the Regulatory Board participated in the meeting at the time the decision was taken or the act was authorised, if the members who were present and acted at the time followed the required procedure for decisions.

17 Duties of members

The members of the Regulatory Board form the accounting authority of the Regulatory Board within the meaning of the Public Finance Management Act and must, in addition to the duties and responsibilities provided for in the Public Finance Management Act, -

- (a) provide effective, transparent, accountable and coherent corporate governance and conduct effective oversight of the affairs of the Regulatory Board;
- (b) comply with all applicable legislation and agreements;
- (c) communicate openly and promptly with the Minister, any ministerial representatives, professional bodies and registered auditors;
- (d) deal with the Minister, any ministerial representatives, professional bodies, registered auditors and all other persons in good faith; and
- (e) at all times act in accordance with the code of conduct for members of the Regulatory Board as may be prescribed by the Minister.

CODE OF CONDUCT FOR BOARD AND COMMITTEE MEMBERS FOR THE INDEPENDENT REGULATORY BOARD FOR AUDITORS (IRBA)¹

INTRODUCTION

This Code of Conduct (hereinafter referred to as ‘the Code’) has been framed and adopted by the Independent Regulatory Board for Auditors (hereinafter referred to as ‘the IRBA’) in terms of section 12(4)(c) of the Auditing Profession Act, Act 26 of 2005.

APPLICATION OF THE CODE

This Code applies to members of the Board of the IRBA (hereinafter referred to as “board members”) and to members of the IRBA’s statutory committees (hereinafter referred to as “committee members”) upon acceptance of their mandate. The Code sets out the rules applicable in matters of professional ethics and behaviour.

CODE OF CONDUCT

The Board Members and Committee Members shall maintain the highest standards of ethical conduct to provide the public with confidence in the objectivity of the IRBA’s decisions.

Members shall discharge their duties professionally, with due diligence and efficiency and to the best of their abilities. In discharging their duties to the IRBA, board and committee members shall, in particular:

1. Comply with applicable laws and regulations applicable to the IRBA and further ensure compliance with the prescribed and applicable codes, laws, rules, regulations and statutes, which if not complied with, may otherwise disqualify him or her from his or her association with the IRBA.
2. Act in the utmost good faith and exercise due care, diligence and integrity in performing their fiduciary duties.
3. Ensure the use the IRBA’s assets, property, information and intellectual property for official purpose only or as per the terms of their appointment.
4. Not seek, accept or receive, directly or indirectly, any gifts, payments or favour in whatsoever manner which can be perceived as being given to gain favour in dealing with the IRBA. Gifts received by members from stakeholders of the IRBA must be declared to the Board Secretary within seven days of receipt.
5. Act in such a manner that will not be detrimental to the integrity of the IRBA and the auditing profession.

¹ The committees include all committees listed in the Standing Resolutions (Delegations)

6. Exercise independent judgment in respect of every matter presented for consideration and may not fetter his or her discretion in any manner.
7. Declare, where applicable, any interest in a proposed transaction or arrangement with the IRBA so as to avoid any potential conflict between the interests of the member and the interests of the IRBA. This duty continues even once the transaction or arrangement has been entered into and a member is required to report any change in the status quo to the Board.
8. In conformity with applicable legal provisions, disclose personal and or financial interest in any business dealings concerning the IRBA and shall declare information about their relatives (spouse, dependent children and dependent parents) including transactions, if any, entered into with them.
9. Declare any conflicts of interest if a member has any interest on the agenda for discussion in meetings. The Chairman of the meeting must exercise his/her discretion in respect of the declared conflict. Members with conflicts of interests must be recused for the discussion of the item in respect of which a member has a conflict of interest. If the Chairman, in exercising his/her discretion elects not to recuse the member, the member may not vote in respect of the item concerned.
10. Maintain confidentiality of information entrusted by the IRBA or acquired during the performance of their duties and may not use it for personal gain or advantage, while serving as a board or committee member as well as after such membership has terminated.
11. Not commit any offences involving moral turpitude or any act contrary to law or opposed to public policy.
12. Not communicate with any member of the press or any other outside agency on matters concerning the IRBA, except as authorised.
13. Follow the IRBA policies and procedures when interacting with IRBA employees.
14. Abide by the majority decisions of the Board or Committee as prescribed, while retaining the right to seek changes in such decisions through ethical and constructive channels.
15. Encourage and respect the free expression of opinion by fellow Board or Committee Members as well as others who seek to have their opinion heard at meetings.
16. Demonstrate commitment to strong corporate governance principles at all times.
17. Attend meetings as required, unless specific circumstances prevent such attendance, and prepare for such meetings.

Responsibility and Accountability

In performing their duties, members shall be responsible only to the IRBA. Members shall ensure that their action remains within the powers conferred upon them by the Auditing Profession Act, 26 of 2005, , the Minister of Finance and by the Standing Resolutions of the Board in the case of the committees of the Board. The Board is ultimately accountable to the Minister of Finance.

Administration of the Code

The Code shall be administered by the secretary of the Board in conjunction with the secretariat to the relevant Committee. The secretary of the Board has the overall responsibility for the administration of the Code.

If the Secretary of the Board or Committee becomes aware of a breach to the Code or has reason to believe that a breach has occurred, he/she must bring the information to the attention of the relevant Chairman.

The Chairman of the Board or relevant Committee must exercise his/her discretion in respect of the extent of the breach and the necessary actions to be taken.

The Chairman of the Board must report the outcome of the matter to the Board.

Acknowledgement of Receipt of the Code and Agreement to comply with the Code

Each Board Member and Committee Member both present and future shall acknowledge receipt of the Code and agree to comply with the Code. Such acknowledgement, annexed to this Code, must be forwarded to the Board Secretary.