irba news
INDEPENDENT REGULATORY BOARD FOR AUDITORS

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IN THIS ISSUE

MESSAGE FROM THE CEO

My closing message for 2010 sketched the changing landscape for the auditing profession expected in the New Year and beyond. I made a fleeting reference to the European Commission's Green Paper on Audit Policy: Lessons from the Crisis, which was issued in October last year with a comment date of 8 December 2010. As was probably the case for most of us, the recommendations in the Paper haunted me over the summer break and it was thus with great trepidation that I joined about 450 other delegates in the European Commission building in Brussels to listen to the keynote address of the European Union's newly appointed Commissioner for Internal Market and Services, Michel Barnier.

Although the Commissioner repeatedly assured the meeting that they would give the required attention to the 700 comment letters received (comprising over 10 000 pages in total), he conveyed his views in no uncertain terms, and these certainly set the tone for the rest of the conference. I have attempted to reproduce some of his thoughts below.

The Green Paper was no artificial exercise but formed part of the G20 Agenda. The inputs will be used by the Commission to carve a way forward and make progress in the auditing environment as the *status quo* was clearly unacceptable. One of the goals of the Paper was to construct a strong, single audit market, and Europe would show little tolerance for countries that did not share this vision, neither would it allow this goal to be affected by populist movements.

The role of auditors is not clear, but what is clear is that their role cannot be limited to their relationship with the audited entity. It necessarily has to extend to other parties and stakeholders. In this role, auditors should not restrict their responsibilities to respecting accounting rules only, but go beyond that and express an opinion on the state of health of the audited entity.

It can no longer be assumed that auditors are independent, as was demonstrated by the financial crisis. The role of auditor, internal auditor and advisor cannot be rolled into one, and serious consideration will be given to the provision of non-audit services to audit clients.

Audit committees must start to play a bigger role in the governance structures of entities and the financial reporting chain.

The structure of the audit market needs to be seriously addressed. Up to 99% of companies listed on the FTSE Index, for example, are audited by the Big 4 and in some countries this is further concentrated in two or three of the Big 4 Firms. This obviously exposes markets to risk if one of these firms should fail, and it is important to put in place the necessary safeguards now to prevent this from occurring. Consideration must be given as to how new firms and players can be introduced, and proposals include joint audits and setting a ceiling for audits to be conducted by the Big 4 Firms.

With regard to SMEs, it is recognised that a high percentage of the single market comprises SMEs. To encourage growth in SMEs, consideration may have to be given to relaxing certain rules for SMEs. Small audit practices must be heard, as they are responsible for auditing a critical sector in the European economy. What is important is that SMEs' access to the single market must be simplified.

There is a need for better international cooperation, especially between international regulators (*see my further comments at the end of this message*). Convergence is supported and better rules are needed to encourage audit quality.

The Commissioner concluded that the time for action is now, to reform and modernise the audit sector. The objective is to have produced the Commission's final proposals by the end of November 2011.

Clearly there are recommendations and proposals which will need serious consideration by the Commission. The thoughts expressed above are also those of the Commissioner, and not necessarily shared by everyone. In the meantime, we will have to further debate our own views and give the required thought to how the final proposals will impact on South Africa.

In respect of Europe's vision for international cooperation between regulators, I am pleased to advise that the European Commission, at its last meeting, agreed to recognise the oversight system for auditors in South Africa. This is a huge step forward for South Africa. Also see the official announcement on page 23 of this publication.

The detailed summary of responses to the Green Paper is available on the European Commission's website at http://ec.europa.eu/internal_market/auditing/otherdocs/index_en.htm.

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OFFICIAL STATEMENT ACCOMPANYING THE RELEASE OF THE RESULTS OF THE PUBLIC PRACTICE EXAMINATION 2010

OVERALL RESULTS*

The Public Practice Examination (PPE) was written on Tuesday, 23 November 2010 in 23 local venues and two international venues; Namibia and the United Kingdom. Of the 1952 aspirant accountants and auditors who wrote the PPE in 2010 (2798 in 2009), 1585 (2320 in 2009) passed resulting in a pass rate of 81% (83% in 2009). Of the 1495 candidates who wrote the examination for the first time, 1305 passed resulting in a first time pass rate of 87%.

The following candidates achieved the top ten places:

1. Mr Alastair Marais
2. Miss Madeleine van Brakel
3. Miss Alexa Joubert
   Mr Shamir Ramjee
5. Mr Amar Naik
   Mr Joel Kletz
7. Miss Saaleha Akoojee
   Ms Caron Bramwell
   Ms Melanie Cope
   Ms Hettis Meyer
   Ms Charne Joubert

All the top ten candidates achieved honours. In total, honours were awarded to 14 candidates who achieved a pass mark of 75% or above.

Entry to the PPE is the culmination of a long and rigorous academic, training and assessment process aimed at developing the core and professional competence of prospective accountants and auditors. Success in the PPE allows the candidate the opportunity to register as a Registered Auditor (RA).

THE PPE

The objective of the PPE is to assess the professional competence of candidates at entry to the auditing profession. Within the constraints of a written examination, the IRBA has developed the PPE over the years to ensure that it is an appropriate assessment of professional competence and that it reflects the multidisciplinary public practice environment.

The primary objective of the IRBA as established in terms of section 3 of the Auditing Profession Act, 2005 (the Act) is to protect the public through regulation of the auditing profession. In this regard, the IRBA has a duty to ensure that only those who have demonstrated an appropriate degree of professional competence are registered as auditors.

Candidates must demonstrate an ability to solve multidisciplinary practice problems in an integrated manner and to do so must analyse and interpret information and provide viable solutions to address specific client needs. The ability to demonstrate logical thought and exercise professional judgment is an integral part of the examination.

The qualification period is at least seven years and is similar to that of other highly regarded professions and internationally recognised accounting bodies.

TRANSFORMATION OF THE PROFESSION

Transformation of the profession remains a priority for the IRBA. Of the 855 black candidates who wrote the PPE, 641 passed, representing an overall pass rate of 75%.

The IRBA facilitates a Support Programme for Black repeat candidates on an annual basis. In 2010, Fasset (the Seta for finance, accounting, management consulting and other financial services) provided the IRBA with funding to assist in hosting the Support Programme. The Programme yielded excellent results in 2010. Of the 87 candidates who completed the programme 61 passed; representing a pass rate of 70%. Without exception the candidates who attended the Support Programme achieved better results on each question than repeat candidates who did not attend the Support Programme in 2010.

IN CONCLUSION

The IRBA wishes to acknowledge the significant contribution made by the various education institutions, training offices and professional bodies towards the success of the 2010 PPE candidates.

The IRBA's examination continues to be afforded both local and international recognition and we wish to congratulate our successful candidates on their achievement.

** See the loose insert listing all candidates who passed the 2010 PPE*

CONTINUING PROFESSIONAL DEVELOPMENT

Please remember that your CPD return for 2010 will be a declaration. Please download the declaration form from the IRBA's website www.irba.co.za and submit the declaration with your annual return for registration as an RA. The due date for all annual renewal documentation is 30 June 2011.

Your declaration for 1 April 2011 will cover the period 1 January 2010 to 31 December 2010. The IRBA will conduct annual monitoring of your CPD records so please keep all records for monitoring purposes.

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STANDARDS

IRBA PROJECTS

COMPANIES ACT, 2008 AND DRAFT REGULATIONS PURSUANT THERETO

COMPANIES AMENDMENT BILL (2010)

The IRBA made representations on 1 December 2010 at the Public Hearings on the Companies Amendment Bill, as did National Treasury and its various Regulators, namely the Financial Services Board, SARS, STRATE and the SA Reserve Bank. Bilateral meetings have subsequently been held between the various departments and the dti during January 2011. Public hearings were again held in January 2011 and the Parliamentary Committee is scheduled to conclude its work during March 2011. It is expected that further amendments may be made by the Parliamentary Committee.

DRAFT REGULATIONS

The latest Draft Regulations pursuant to the Companies Act, 2008 (the Act) were issued on 29 November 2010 for public comment by 31 January 2011. The Draft Regulations have again been issued with the Companies Amendment Bill (2010) not yet finalised, and with indications that further amendments may still be made to the Amendment Bill. Comments on the Regulations were submitted by the IRBA at the end of January 2011 and can be downloaded from the IRBA website shortly.

INDEPENDENT REVIEW

Important changes are reflected in Draft Regulations 26 to 29 that address the **independent review requirements** and propose a new **Public Interest Score** for determining whether companies that would otherwise be exempt from an audit in terms of Section 30(A) of the Act will be required to have an audit or review. The Draft Regulations recognise the

IRBA as the independent statutory regulator to accredit those institutes in South Africa whose practitioner members may perform independent reviews. The IRBA is finalising the Accreditation Model proposals in consultation with the dti and will shortly engage with those institutes whose members may be appointed as Accounting Officers in terms of the Close Corporation Act, and who may wish to apply for accreditation for their members to perform independent reviews. Until such time as institutes are accredited by the IRBA, only registered auditors may perform such independent reviews for companies. Until the Act is effective, all companies continue to require an audit and only registered auditors may be appointed as auditors of any company requiring an audit.

The Regulations recognise *ISRE 2400 Engagements to Review Financial Statements* as the standard to be applied when performed by a reviewer who is not the auditor of the entity. The IAASB issued the *Proposed Revised ISRE 2400* in January 2011 for comment by May 2011. The revisions are designed to make this the "stand alone" standard for application by "practitioners" i.e. those in public practice as professional accountants and auditors. CFAS will consider the exposure draft for early adoption in South Africa and will develop any additional guidance considered necessary for its implementation.

We continue to experience and prosecute increased numbers of cases of **"holding outs"** by persons who are not registered auditors, representing to company directors that they are **"auditors"** and may be appointed as the company's auditor, **which is a criminal offence.**

PUBLIC INTEREST SCORE

The Regulations also propose a new **Public Interest Score** for determining whether companies that would otherwise be exempt from an audit in terms of Section 30(A) of the Act will be subject to an audit or review. Regulation 26 lists four elements for calculating the proposed Public Interest Score annually, namely:

Regulation 26	No. of points
Employees	One point per employee for maximum no. of employees at any given time during the year
Unsecured Outstanding Debt	One point for each R1 million in outstanding unsecured debt
Turnover	One point for every R1 million in turnover for the financial year
Beneficial Ownership	One point for every individual who has held beneficial interests in the company's shares or is a member of a non-profit company

The Regulations provide that those companies that are not otherwise required to have an audit, or are exempt from either an audit or a review e.g. the existing incorporated companies where all shareholders are also directors will still require an audit if their Public Interest Score, is calculated as 750 or more, or is at least 300, but less than 750, if its annual financial statements for that year were internally compiled. Those with a Public Interest Score below 300 will require an independent review. This does not prevent such companies electing to have a voluntary audit.

In its comments on the Draft Regulations the IRBA has clearly indicated to the dti that the proposed score is too high. The IRBA is currently conducting a survey of some large, medium and small firms to ascertain trends regarding the likely impact. Initial responses indicate potentially serious consequences for auditing firms and the need for them to reconsider their business model. Auditors are well advised to consider the implications based on their audit client portfolios and to engage with their audit clients at an early stage to consider alternatives to meet their needs.

APPROVAL OF THE IRBA FOR REGISTERED AUDITORS TO PROVIDE ASSURANCE ON B-BBEE

The dti issued Board Notice 1140 on 31 December 2010 for comment by 28 February 2011. The Notice proposes the withdrawal of Section 10 of *Code 000 of The Framework for Measuring Black Economic Empowerment (the Codes)* and provides for the accreditation of the IRBA for registered auditors (RAs), approved by the IRBA, to provide B-BBEE Rating Certificates to their clients. Consequently RAs will not be required to go through the SANAS Accreditation Process that will continue for Verification Agencies. RAs who wish to be approved to sign off on B-BBEE Ratings Certificates will have to meet the requirements established by the IRBA in accordance with the final Notice and Memorandum of Agreement with the dti. The IRBA will submit comments on the Notice and will shortly inform RAs of the process and requirements in order to facilitate sign-off on B-BBEE Ratings in accordance with the Broad-Based Black Economic Empowerment Act, No 53 of 2003 and the Codes from 1 April 2011.

It is anticipated that RAs and their firms who wish to provide assurance on B-BBEE ratings will be required to:

- Indicate the B-BBEE Rating or EME or SME status of their firms – this has already been implemented in the IRBAs "annual firm renewal" forms sent out in August 2010. Each firm's B-BBEE status will be recorded by the IRBA and reflects the ongoing support and encouragement of the IRBA for transformation initiatives in the auditing profession; and
- Provide evidence that individual RAs wishing to sign Verification Certificates have completed an approved training course – confirmation may be provided via the annual affidavit to the IRBA.

The IRBA regards the verification engagements as "other assurance," similar to regulatory reporting.

Where B-BBEE Rating Certificates are issued to an audit client, the documentation to support the rating awarded would ordinarily form part of the "audit documentation". Verification guidance to be developed will be aligned with the relevant International Engagement Standards and Training Programme to be approved by the dti.

We have assured the dti that our Code of Professional Conduct and related Rules Regarding Improper Conduct already accommodate investigation of complaints against RAs, and when necessary disciplinary action taken; for example, where ratings provided are materially incorrect or misleading arising from unacceptable B-BBEE practices such as fronting.

We understand that a number of auditing firms may be contracted in by Accredited Verification Agencies to perform the verification work at entities. The Verification Agency has then issued the Rating Certificate based on a review of the auditor's working papers. Notice 1140 provides that with effect from 1 April 2011, RAs approved by the IRBA, may themselves issue the Ratings Certificates.

Listed companies preparing for their 2011 sustainability or integrated reports in compliance with the JSE Limited Listing Requirements and the King III recommendations as part of their annual reports ordinarily include B-BBEE Scorecard information therein. In such circumstances, the RA already provides assurance on the content of the sustainability or integrated report, and with effect from 1 April 2011 may also issue the formal *"B-BBEE Ratings Certificate"* to the client.

COMMITTEE FOR AUDITING STANDARDS (CFAS)

The IRBA congratulates Professor Linda de Beer on her appointment as the Chairman of the IAASB Consultative Advisory Committee (CAG). We are very proud of the international recognition given to her due to her significant contribution to standards development in the accounting and auditing profession globally. See press release in the News section on page 23 for more details

The **Integrated Reporting Committee** (IRC) chaired by Professor Mervyn E King SC established the **Integrated Reporting Committee Working Group** (IRCWG) that has developed the Discussion Paper ***A Framework for Integrated Reporting and the Integrated Report*** issued at a public launch on 25 January 2011. The discussion paper, a world first to be issued globally, addresses the integrated reporting considerations for companies and other entities to comply with the King Code of Governance Principles for South Africa 2009 (King III). The Discussion Paper has been well received at the recent meeting of the International Integrated Reporting Council, chaired by HRH the Prince of Wales, as contributing significantly to the global debate. The IRBA Director: Standards represents the IRBA on the IRCWG.

CURRENT CFAS PROJECTS

- ***IRBA Guide: "The Assurance Engagement on Attorneys' Trust Accounts" and the Revised Assurance Report:*** The Proposed *South African Assurance Engagement Practice Statement (SAAEPS) – The Auditor's Assurance Engagement on Attorneys' Trust Accounts will replace the present SAICA Guidance for Auditors: The Audit of Attorneys Trust Accounts in terms of the Attorneys Act, No 53 of 1979 and the Applicable Rules of the Provincial Law Societies* that will then be withdrawn. The CFAS task group continues to engage with the Provincial Law Societies, the Attorneys Fidelity Fund, the Joint Attorneys and Accountants Committee (JAAC) and auditors with experience in such engagements to resolve outstanding issues. Good progress has been made with the drafting of the Proposed SAAEPS that will be issued as an exposure draft for comment in the first quarter of 2011.
- ***Medical Schemes Audit Guide:*** The CFAS task group comprises auditors who specialise in the audit of medical schemes. The task group members and medical council representatives have contributed various sections of the guide which are presently

being collated to prepare the guide for approval by CFAS for issue as an exposure draft in the second quarter of 2011.

- ***IFAC Guide to Quality Control for Small and Medium Sized Practices:*** CFAS has approved the SAAPS 1 Task Group's recommendation to have SAAPS 1 *Quality Control* withdrawn and to adopt the *IFAC Guide to Quality Control for Small and Medium Sized Practices*. The Task Group is currently reviewing the IFAC Guide to consider modification and adoption for South African auditors.

- ***ISAE 3402 Assurance Reports on Controls at a Service Organisation*** – A CFAS task group has been established to consider issues arising from the requirements for a service organisation auditor to provide such reports and to develop guidance on such engagements and related regulatory reports that may be required, for example, by medical schemes and retirement funds.

- The IRBA submitted comments on the ***European Commission's Green Paper on Audit Policy: Lessons from the Crisis.*** A summary of responses to the Green Paper was issued by the European Commission on 4 February 2011.

CFAS REPORTS STANDING COMMITTEE (RSC)

The **Revised South African Auditing Practice Statement (SAAPS) 2,** now titled *Financial Reporting Frameworks and the Auditor's Report* ("SAAPS 2"), has been revised in response to changes to the International Standards on Auditing (ISAs) and incorporates the following significant changes:

- Implementation guidance for auditors in determining the acceptability of the financial reporting framework applied by an entity as regards **general and special purpose financial statements, general and special purpose frameworks**, and **fair presentation and compliance frameworks** in both the **private and public sectors in South Africa;**

- The effect of the financial reporting framework applied by an entity on the auditor's report including modified opinions, emphasis of matter and other matter paragraphs; and

- For the first time this SAAPS deals with public sector financial reporting frameworks and reporting as contributed by the Auditor-General South Africa, and thus provides more comprehensive guidance than previously.

This SAAPS provides guidance for the implementation of the International Standards on Auditing (ISAs) that became effective for audits of financial statements for periods beginning on or after 15 December 2009.

The **Revised SAAPS 3** ***Illustrative Independent Auditors Reports:*** This SAAPS is being updated for changes arising from the Clarity ISAs and to include reports on public sector entities and government departments as required by the Auditor-General South Africa. The **Revised SAAPS 3** is expected to be finalised by the end of March 2011. In the interim, an example of the wording changes to the standard ISA 700 auditors report arising from the Clarity ISAs will be communicated to auditors and made available for download from the IRBA's website shortly.

RSC REGULATORY REPORTS

The Department of Human Settlements

- **Home Loans and Mortgage Disclosure Act:** Discussions continue with the Office of Disclosure at the Department of Human Settlements, the Bank Association of South Africa (BASA), bank auditors and compliance representatives from banks affected to resolve the auditors' reporting requirements on information submitted by the banks and others as specified in the Act and Regulatory requirements. Some progress has been made with regard to transitional arrangements in January 2011, and we will continue to work with the Department and BASA to resolve amendments to the Regulations as soon as possible.

Financial Services Board (FSB)

- **Long Term and Short Term Insurance – SAM Project:** The IRBA continues to participate in this project and is appointed to the Steering Committee and the Pillar II and Pillar III working groups of the FSB - Solvency Assessment and Management (SAM) Project. This project is expected to extend over the next three years.

- **Retirement Funds:** Discussions continue with the FSB regarding changes to the auditors' reports in the annual financial statements and assistance with the reports required by Section 13B and Section 15 of the Pension Funds Act.

- **Nominees Reporting:** Discussions continue with the FAIS Department and auditors involved in such engagements. The format of a draft report that meets the needs of FAIS for the audit of nominees is under consideration.

CFAS PUBLIC SECTOR STANDING COMMITTEE (PSSC)

The PSSC met during October 2010 and continues work on the development of the following Guides for exposure early in 2011:

- **Guidance for Private Sector Auditors when Auditing in the Public Sector;** and
- **Guidance on the Audit of Performance Information.**

CFAS SUSTAINABILITY STANDING COMMITTEE (SSC)

- The SSC will meet in February 2011. One of its first tasks will be to comment on the Discussion Paper issued on 25 January 2011 by the Integrated Reporting Committee of South Africa, *Framework for Integrated Reporting and the Integrated Report*. Comments on the paper are due by 25 April 2011. The Discussion Paper can be downloaded from www.sustainabilitysa.org. The Committee will also comment on Proposed ISAE 3410, *Assurance Engagements on Greenhouse Gas Statements*. The comments on the exposure draft are due to the IAASB by 10 June 2011.

Details of progress on these projects can be found at www.ifac.org/IAASB/Projects.php

ACTIVITIES OF THE INTERNATIONAL AUDIT AND ASSURANCE STANDARDS BOARD (IAASB)

CFAS task groups have, or will submit comments on the following discussion papers and exposure drafts:

Project	Status
IAPSs status, proposed withdrawal and proposed IAPS 1000 *Special Considerations in Auditing Complex Financial Instruments*	Comments on exposure draft due 11 February 2011
ISRS 4410 (Revised) *Compilation Engagements*	Comments on exposure draft due 31 March 2011
Proposed IAASB Strategy and Work Program for 2012–2014	Comments on consultation paper due 4 April 2011
ISRE 2400 (Revised), *Engagements to Review Historical Financial Statements*	Comments on exposure draft due 20 May 2011
The Evolving Nature of Financial Reporting: Disclosure and Its Audit Implications	Comments on discussion paper due 1 June 2011
ISAE 3410 *Assurance Engagements on Greenhouse Gas Statements*	Comments on exposure draft due 10 June 2011
Audit Quality: An IAASB Perspective	Publication to stimulate debate issued January 2011
ISAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*	Exposure draft to be approved at March 2011 IAASB meeting
Auditor reporting	Draft of proposed discussion paper to be considered at March 2011 IAASB meeting
ISA implementation monitoring	On-going project. Phase 2 proposal expected to be presented at the June 2011 IAASB meeting
ISA 720 *The Auditor's Responsibilities Relating to Other Information in Documents Containing Audited Financial Statements*	First read of exposure draft at March 2011 IAASB meeting
ISRS 4400 *Engagements to Perform Agreed-Upon Procedures Regarding Financial Information*	Project proposal expected to be presented at the June 2011 IAASB meeting
ISAE 3420 *Assurance Reports on the Proper Compilation of Pro Forma Financial Information Included in Prospectuses*	Final standard expected to be approved at the September 2011 IAASB meeting
ISA 610 *Using the Work of Internal Auditors*	Final standard expected to be approved at the December 2011 IAASB meeting
XBRL	Consultations

REVISED CODE AND RULES

Persons registered with the IRBA in South Africa are required to comply with the revised **IRBA Rules Regarding Improper Conduct (the "Rules") and Code of Professional Conduct for registered auditors (the "Code")** published as **Board Notice – BN 89 on 18 June 2010**. The Code and Rules were issued on 1 June 2010 and become effective from **1 January 2011**. The Rules and Code are included in the IRBA's Manual of Information, 2011. The Code is based on Parts A and B of the *IFAC Code in the Handbook of the Code of Ethics for Professional Accountants – 2010 Edition* that also becomes effective from 1 January 2011. The Code replaces the existing (PAAB) *Code of Professional Conduct* and the Rules replace the *Old Disciplinary Rules*.

It is hoped that the effective date of 1 January 2011 has given registered auditors (RAs) time to implement the new requirements in their firms. Transitional provisions have been included for the later implementation of several new independence provisions relating to: public interest entities, partner rotation (including for "key audit partners"), non-assurance services provided to an audit or review client, relative size of fees, and compensation and evaluation policies. In most instances these apply from **1 January 2012**.

RAs will undoubtedly have updated, or are actively engaged in updating their firm's quality control requirements and audit methodologies to accommodate the requirements in the new Code, not least of which are the *Independence Requirements* in Sections 290 of the Code for an audit or review and Section 291 for other assurance engagements. This includes the more stringent independence requirements for public interest entities and related partner rotation requirements. It is also expected that training of all trainees and audit professionals employed in each firm will commence shortly, if it has not already begun. We encourage auditors to carefully consider the implications and not merely to adopt a tick-box approach in compliance with the new Code and revised Rules.

The Standards Department plans to appoint a professional manager shortly who is dedicated to ethics matters to assist RAs and the general public with queries of an ethical nature and to develop practical guidance for practitioners in the implementation of the new Code. The CFAE will be focusing on sections of the Code that may require further research and guidance in their implementation in South Africa, such as auditor rotation and public interest considerations, and continues to support the Inspections and Legal Departments on technical aspects in the implementation of the Code and initiatives of the International Ethics Standards Board for Accountants (IESBA).

The IESBA has recently issued the exposure draft - *IFAC Policy Position Paper #4 A Public Interest Framework for the Accountancy Profession* for comment by **25 March 2011**. This ED is of particular interest to South Africa in light of the more stringent independence and rotation requirements for public interest entities in the Code and proposed Public Interest Score contained in the Draft Regulations to the Companies Act, 2008. Comments submitted to the IRBA by 10 March 2011 will be considered for inclusion in the IRBA's comments to the IESBA.

NEW APPOINTMENTS TO THE CFAE

We welcome the new members appointed to the CFAE from 2011. The committee now comprises:

Members	Firm
Users of Audits	
Edward Kieswetter (Chairman)	Alexander Forbes
Vuyo Jack	Africa Empowered
Nasiema van Graan	JP Morgan
Holder of Stock Exchange Licence	
Shaun Davies (Task Group Chairman)	JSE Limited – Securities Exchange

Members		Firm
Registered Auditors		
Ethel Hamman	(new)	Horwath Zeller Karro
Jacob Schoeman	(new)	BDO
John Beaumont	(new)	Deloitte
Steven Ball	(new)	PricewaterhouseCoopers
Sugandran Palanee	(new)	Ernst & Young
Other		
Kariem Hoosain		Mazars Moores Rowland
Praveen Naidoo		Global Integrity Network
Ulrich Schäckermann		Consultus – Professional Services
Advocate or attorney		
Advocate Lindiwe Emily Vilakazi	(new)	Advocate of the High Court (Pretoria Bar)

REPORTABLE IRREGULARITIES

Registered Auditors (RAs) are requested to note the following important information regarding changes with regard to Reportable Irregularities (RIs):

The Reportable Irregularities Department now falls under the Standards Department. Reports should therefore be addressed to the Director: Standards.

- Both the first and second reports should be e-mailed to ristandards@irba.co.za or faxed to 087 940 8876 and the original reports then posted to PO Box 8237, Greenstone, 1616 or delivered to the IRBA's offices in Building 2, Greenstone Hill Office Park, Emerald Boulevard, Modderfontein, 1609.

- RAs must conclude whether the RI is continuing or not continuing and must please state this in their second reports. It is not acceptable to state that the RA is *"not able to conclude"*.

- Templates for the first and second reports are available in Circular 5/2007, *Template Letters for Auditors: Compliance with the Reporting Requirements of Section 45 - Duty to Report on Reportable Irregularities*. This Circular was issued by SAICA and may be downloaded from SAICA's website.

- Numerous queries received by the RI and Standards staff on a daily basis are addressed in the *Reportable Irregularities Guide* (the Guide) that may be downloaded from the IRBA website at www.irba.co.za/index.php/auditing-standards-functions-55/92?task=view. RAs are urged to refer to the Guide first before calling the IRBA.

Late submissions and extensions:

- Extensions to the submission of the second report, due within 30 days of the date of the first report, will only be granted in **extreme circumstances**, with the approval of the Director: Standards and/or the Chief Executive Officer of the IRBA.

- Explanations such as *"not yet being able to meet with the client", "further investigations being required", "lack of response from the client" and "waiting for further information"* are not valid grounds for requesting an extension or stating that the RA is *"unable to conclude"*.

Errors and omissions

- Amendments to the Auditing Profession Act, 2005 (APA) are scheduled to be submitted to Parliament during 2011. Certain amendments affect the RI requirements. Once passed by Parliament the RI Guide will be updated. In the interim, RAs are requested to take cognisance of the following frequent omissions from their RI reports received and to please include the following:
  - The registration number of the entity being reported on;
  - The individual RA's name (i.e. the report is to be signed in the name of individual RA responsible for the engagement as well as the audit firm);

- The RA's IRBA registration number;
- The individual RA's email address;
- The signed reports to be on the RA's letterhead;
- For the **first report** (section 45(1)): The information and such particulars of the reportable irregularity, as the RA considers appropriate, are to be included; and
- For the **second report** (section 45(3)): Detailed particulars and information supporting the RA's conclusion are to be included.

Voluntary disclosure programme:

RAs will be aware of the Voluntary Disclosure Programme (VDP) for exchange control in terms of the amendments to the Exchange Control Regulations, 1961, and for tax in terms of the Voluntary Disclosure Programme and Taxation Laws Second Amendment Act, 2010 that will apply from **November 2010 until October 2011**. A communiqué was issued on 9 November 2010. The communiqué provides guidance on the process to be followed should an audit client approach their auditor with a contravention and request assistance in submitting an application under the VDP. Such request may lead the auditor to have reason to believe that an RI has occurred or is occurring, triggering a reporting responsibility in terms of Section 45 of the APA.

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LEGAL

QUARTERLY REPORT FROM THE DIRECTOR: LEGAL FOR THE PERIOD 1 OCTOBER 2010 TO 31 DECEMBER 2010

INVESTIGATING COMMITTEE

The Investigating Committee met twice during this period and referred a number of matters to the Disciplinary Advisory Committee with recommendations.

In addition five matters were not referred to the Committee as they were mediated by the Directorate and for the most part the complaints were withdrawn. One matter was not referred by the Committee to DAC, pending the outcome of concurrent litigation.

DISCIPLINARY ADVISORY COMMITTEE

The Disciplinary Advisory Committee met twice during this period and disposed of 21 matters, as follows.

Decisions not to charge

- three matters in terms of Disciplinary Rule 3.5.1.1 (the respondent is not guilty of unprofessional conduct; this includes the situation where the conduct in question might be proved but even if proved does not constitute unprofessional conduct)

- five matters in terms of Disciplinary Rule 3.5.1.2 (the respondent having given a reasonable explanation for the conduct)
- one matter in terms of Disciplinary Rule 3.5.1.4 (there being no reasonable prospect of proving the respondent guilty of the conduct in question).
- three matters in terms of Disciplinary Rule 3.5.1.5 (in all the circumstances it is not appropriate to charge the practitioner with unprofessional conduct).

A further two matters were not prosecuted, but the respondents were informally admonished regarding their behaviour.

Decision to charge and matter finalised by consent

Seven practitioners were fined.

- one matter concerned audit negligence (R100,000 of which R20,000 was suspended on conditions)
- one matter related to a GMP referral (R40,000 all of which was suspended on conditions, plus R5,000 contribution to costs)
- one matter related to failure to respond to communications (R15,000 of which R5,000 was suspended on conditions)
- one matter related to a body corporate (R50,000 of which R25,000 was suspended on conditions)
- two matters related to a Law Society trust account certificate (R75,000 of which R50,000 was suspended on conditions; R75,000 of which R25,000 was suspended on conditions)
- one matter related to a valuation (R90,000 of which R60,000 was suspended on conditions)

DISCIPLINARY COMMITTEE

Die Dissiplinêre Kommittee het een keer gedurende hierdie periode ontmoet om die saak teen mnr [JB] te finaliseer. Hy was skuldig bevind op twee van die drie aanklagte soos aangevoer teen hom. Hy was teenwoordig en verteenwoordig. Die klagtes was soos volg:

DIE EERSTE AANKLAG

1. Die praktisyn is skuldig aan onbehoorlike gedrag soos bedoel in Reël 2.1.1 van die ou dissiplinêre reëls, soos hieronder uiteengesit, deurdat hy die bepalings van die Ouditeurswet waarvan dit sy plig was om te voldoen, oortree het of versuim om daaraan te voldoen; en/of
2. Die praktisyn is skuldig aan onbehoorlike gedrag soos bedoel in Reël 2.1.20 van die ou dissiplinêre reëls deurdat, sonder redelike oorsaak of verskoning, die voorskrifte van die Kode oortree het of nagelaat het om dit na te kom, waarin dit sy plig was om te voldoen met spesifieke verwysing na paragrawe 4.1, en/of 4.2 en/or 4.3 en/of 4.6, en/of 5.1 en/of 6.1 en/of 7.2.3 en/of 7.7 van die Kode; en/of
3. Die praktisyn is skuldig aan onbehoorlike gedrag soos bedoel in Reël 2.1.21 van die ou dissiplinêre reëls, deurdat hy hom op 'n wyse gedra het, soos hieronder uiteengesit, wat onbehoorlike of oneerbare of onprofessionele of onwaardige gedrag vir 'n praktisyn is, of wat die beroep tot oneer strek, of wat tot die diskrediet van die beroep lei.

FEITE WAAROP DIE EERSTE AANKLAG GEBASSEER WORD

1. Die praktisyn het gedurende Desember 2006, 'n sekere Mnr [EC], 'n direkteur en aandeelhouer van die maatskappy en trustee en begunstigde van die Trust van wie die praktisyn 'n ouditeur sowel as trustee en rekenmeester was, benader. Die praktisyn het [EC] gevra vir 'n persoonlike lening vir die bedrag van R1 miljoen, in verband met die finansiëring van 'n rolprent wat die Praktisyn se seun vervaardig het.
2. Die praktisyn het verder bevestig dat hy die lening aan [EC] sou terugbetaal voor 31 Desember 2009 en het aangebied om rente te betaal teen 'n prima rentekoers minus 1%. Op 8 Desember 2006 het [EC] 'n bedrag van R500,000 elektronies vanaf die rekening van 'n maatskappy (van wie [EC] 'n direkteur en aandeelhouer was) laat oordra na 'n rekening in die naam van die privaat maatskappy (wie se besonderhede deur die praktisyn beskikbaar gestel was). Op 12 Desember 2006 het [EC] die bedrag van R500,000 laat oordra vanaf die bankrekening wat in die naam van die maatskappy was na 'n bankrekening in die naam van die BK, die besonderhede waarvan beskikbaar bestel was deur die praktisyn, *in lieu* van die persoonlikelening ooreenkoms aangegaan tussen die praktisyn en [EC] namens die maatskappy.
3. Die praktisyn, deurdat hy die R1 miljoen vanaf [EC] en/of die maatskappy geleen het, het geweet of moes daarvan kennis gedra het dat daar 'n konflik van belange was ingeval hy die lening vanaf die maatskappy en/of [EC] aanvaar, en verder dat sodanige optrede die integriteit, objektiwiteit en onafhanklikheid van die praktisyn ondermyn.
4. Voorts, die praktisyn het geweet of moes daarvan kennis gedra

het dat, hy vry van enige verpligting of belange in die maatskappy, bestuur of eienaar waarvan hy die ouditeur moes gewees het.

DIE TWEEDE AANKLAG

1. Die Praktisyn is skuldig aan onbehoorlike gedrag soos bedoel in Reël 2.1.20 van die ou dissiplinêre reëls deurdat hy, gelees tesame met paragraph 5.1, 6.1, 6.3 en 7.5 van die Kode, sonder redelike oorsaak of verskoning, die voorskrifte van die Kode oortree het of nagelaat het om dit na te kom, waarin dit sy plig was om te voldoen; en/of
2. Die Praktisyn is skuldig aan onbehoorlike gedrag soos bedoel in Reël 2.1.21 van die ou dissiplinêre reëls, deurdat hy hom op 'n wyse gedra het, soos hieronder uiteengesit, wat onbehoorlike of oneerbare of onprofessionele of onwaardige gedrag is vir 'n geregistreerde rekenmeester, of wat die beroep tot oneer strek, of wat tot die diskrediet van die beroep lei.

FEITE WAAROP DIE TWEEDE AANKLAG GEBASSEER WORD

1. Die Praktisyn was te alle wesenlike tye 'n trustee van die Trust en 'n rekenmeester van die Trust.
2. Die Trust het wesenlike aandeelbelange in die maatskappy asook wesenlike aandeelbelange in ander maatskappye.
3. Die Praktisyn was die ouditeur vir die maatskappy en ander maatskappye waarin die Trust wesenlike aandeelbelange het, soos in 4.2 hierbo vermeld.
4. Die Praktisyn het geweet of moes daarvan kennis gedra het dat hy as 'n trustee nie persoonlik betrokke moes raak in die ouditering van die trust en verder dat sodanige betrokkenheid sou lei tot 'n konflik van belange en die onafhanklikheid, integriteit en die objektiwiteit van die Praktisyn ondermyn.

DIE DERDE AANKLAG

1. Die Praktisyn is skuldig aan onbehoorlike gedrag soos bedoel in Reël 2.1.1 van die ou dissiplinêre reëls, soos hieronder uiteengesit, deurdat hy die bepalings van die Ouditeurswet waarvan dit sy plig was om te voldoen, oortree het of versuim om daaraan te voldoen; en/of
2. Die Praktisyn is skuldig aan onbehoorlike gedrag soos bedoel in Reël 2.1.20 van die ou dissiplinêre reëls deurdat, sonder redelike oorsaak of verskoning, die voorskrifte van die Kode oortree het of nagelaat het om dit na te kom, waarin dit sy plig was om te voldoen, met spesifieke verwysing na paragrawe 3.2, en/of 3.3 en/or 4.4 en/of 8.1 van die Kode; en/of
3. Die Praktisyn is skuldig aan onbehoorlike gedrag soos bedoel in Reël 2.1.21 van die ou dissiplinêre reëls, deurdat hy hom op 'n wyse gedra het, soos hieronder uiteengesit, wat onbehoorlike of oneerbare of onprofessionele of onwaardige gedrag is vir 'n geregistreerde rekenmeester, of wat die beroep tot oneer strek, of wat tot die diskrediet van die beroep lei.

FEITE WAAROP DIE DERDE AANKLAG GEBASSEER WORD

1. Die Praktisyn was die ouditeur van die maatskappy (en ander maatskappye binne 'n groep maatskappye).
2. Die Prakstisyn het 'n oudit-opinie, gedateer 31 Julie 2006 met betrekking to die Maatskappy se jaarlikse finasiële state vir die jaar geëindig 30 June 2006, onderteken. Die Praktisyn het geweet of moes daarvan bewus gewees het dat hy nie toegelaat of daartoe geregtig was om 'n oudit vir die maatskappy te doen en/of om die oudit-opinie te onderteken onderwyl hy nie geregtig was en sonder dat hy die Direkteur: Praktykoorsig van die Raad onmiddellik en skriftelik in kennis gestel het in kennis gestel het van sy verandering in sy nie bekragtigingstatus.

[Die voorafgaande word gevolg deur 12 soortgelyge aanklagte wat nie hier herhaal is nie.]

UITSPRAAK EN VONNIS

Die voorsitter van die komitee, Adv van der Linde SC het die uitspraak gelewer. Ter wille van goeie order is dit hieronder volledig uiteengesit.

UITSPRAAK

"Wat die eerste aanklag aanbetref, vind ons die respondent onskuldig en die rede waarom ons dit doen is omdat ons nie op 'n oorwig van waarskynlikhede kan bevind dat 'n persoonlike lening aan hom gemaak is soos wat beweer word in paragraaf [2.1] van die klagstaat nie.

Wat die tweede aanklag aanbetref, vind ons die respondent skuldig op die klagte ge-artikuleer in paragraaf [3.1] van die klagstaat, gelees met paragraaf 7.5 van die kode, gebaseer op die feite uiteengesit in paragrawe [4.1, 4.2, 4.3 en 4.4] van die klagstaat.

Op die derde aanklag vind ons die respondent skuldig op die klag wat ge-artikuleer is in paragraaf [5.3] van die klagstaat op die basis van die feite wat beweer word in paragrawe [6.1 tot 6.14], beide paragrawe ingesluit – sub-paragrawe ingesluit, van die klagstaat"

THE FINDING IN TERMS OF SECTION 51(1)(A) AND SANCTION IN TERMS OF SECTION 51(3)(A) WERE DELIVERED LATER IN WRITING, AS FOLLOWS:

"A disciplinary committee comprising the members indicated at the foot of this finding (p17), heard three charges of alleged improper conduct against the respondent on 27 July 2010 and again on 25 October 2010. At the end of the proceedings on the second day, we found the respondent guilty of two of those charges of improper conduct, and thereafter heard submissions concerning an appropriate sanction. We indicated that we would provide our finding concerning the appropriate sanction later, and we do so now.

We record our appreciation for the effective way in which Mr Adendorff presented the case for the pro forma complainant; and we are grateful for the assistance afforded by Mr Bruwer for the respondent.

The charge sheet appears at p.357 and following of the bundle. The first charge was one of improper conduct as envisaged in Rule 2.1.1 of the old disciplinary rules, in that the respondent failed to comply with a provision of the Auditing Profession Act 26 of 2005 with which it was his duty to comply. Two alternative charges were formulated. The facts on which the first charge was based are set out on p.359 of the charge sheet in paragraphs [2.1 to 2.4]. The essential averment was that the respondent had asked Mr [C], a director and shareholder of a company of which the respondent was the auditor, for a personal loan to the tune of R1 million in order to assist in financing a movie which the respondent's son was in the process of producing.

The second charge was one of improper conduct as envisaged in Rule 2.1.20 of the old disciplinary rules in that the respondent contravened or failed to observe a provision of the Code without reasonable cause or excuse. One of the provisions of the Code relied on was paragraph 7.5:
"Because of the need to be seen to be independent in any reporting assignment, in fact and in appearance, a practitioner should avoid the appointment as a trustee in any situation where the absence of a conflict of interest cannot be clearly demonstrated. A trustee should therefore not be involved personally in the audit of the trust. He/she should also not be involved personally in the audit of a company in which the trust has a material shareholding. Where the practitioner is requested to be a trustee, he/she should be a minority trustee."

An alternative second charge was also formulated. The facts on which the second charge was based, were set out in paragraphs [4.1 to 4.4] at p.360 of the charge sheet. They were that the respondent at all material times was a trustee of a trust which had a material shareholding in a company known as [SLW] (Pty) Ltd, and other companies. The respondent was the auditor of this company, and ought to have known that he could not be a trustee of the trust if at the same time he was the auditor of the company in which the trust had a material shareholding, since this would lead to a conflict of interest.

The third charge was that the respondent was guilty of improper conduct as envisaged in Rule 2.1.1 of the old disciplinary rules, in that he contravened or failed to comply with a provision of the Act with which it was his duty to comply. Two alternative charges were formulated. The facts on which the charge was based were set out in paragraphs [6.1 to 6.14] at p.361 and following of the charge sheet. They are in essence that the respondent had provided the pro forma complainant with a non-attest affidavit in which he confirmed that he was not responsible for signing attest opinions on audits of financial statements, whereas in 12 instances the respondent in fact signed audit opinions of separate companies.

At the end of the hearing we found the respondent not guilty on the first charge; guilty on the second charge (main charge), based on the facts set out in paragraphs [4.1 to 4.4] of the charge sheet, and guilty on the third charge (second alternative formulation), based on the facts set out in paragraphs [6.1 to 6.14] of the charge sheet.

We proceed to set out our reasons for these findings.
The first charge was founded on the assertion that the respondent had asked Mr [C] for a personal loan of R1million. The evidence on this issue was that of Mr [C] himself, and Mr [S] who was also a director in the main company in the [M] Group of Companies, [SLW] (Pty) Ltd. The respondent testified as well.

The evidence of both Mr [C] and Mr [S] was that the [E] Trust was the sole shareholder of [SLW] (Pty) Ltd. The respondent's firm, ... was the auditor of [SLW] (Pty) Ltd as well as the other companies in the [M] Group, and was the accounting officer of the trust. The three trustees of the trust were Mr [C], Mr [S] and the respondent. The respondent became trustee of the trust, and his firm became the auditor of the companies, when the previous auditor had resigned as trustee of the trust and his firm had resigned as auditor of the companies.

In December 2006 the respondent had phoned Mr [C] and asked him for a loan of R1million for a year because he wanted to use this in relation to a film in which his son would play an acting role. After Mr [C] had referred the respondent to Mr [S], Mr [C] and Mr [S] agreed to advance the money, and this was done in two equal tranches, a few days later.

A year later when the loan was not repaid, Mr [C] phoned the respondent on a number of occasions but despite promises

the repayment did not materialise. Action was then instituted against the respondent for recovery of the loan.

In cross-examination Mr [C] explained that the shares in most of the companies in the [M] Group of Companies were held in the [E] Trust. He explained that his group of companies had an accountant, Mr [G], and that the accounting entries concerning the loan were made by him acting on the instruction of the respondent. Mr [C] also confirmed in cross-examination, with reference to a typed transcript of recorded telephone conversations between him and the respondent, that the respondent, when pressed for the R1million, had given an oral guarantee that Mr [C] would get his money. Nonetheless, Mr [C] kept denying that what had occurred was that [SLW] (Pty) Ltd had made an investment (as was put to him); he insisted that a loan was made to the respondent.

The annual financial statements for [SLW] (Pty) Ltd were put to Mr [C]. In these, which were approved both by Mr [C] and Mr [S], a substantial loan to [E] Trust is reflected. That loan includes the R1million that had been paid to [BB] CC, which was reflected in the accounts of [SLW] (Pty) Ltd as being a loan to [E] Trust. Mr [C] confirmed that he had read the annual financial statements of [SLW] (Pty) Ltd and he confirmed that the financial statements reflected that what had occurred was a loan by [SLW] (Pty) Ltd to [E] Trust, and in turn a loan by [E] Trust to [BB] CC, and an investment by [E] Trust in [BB] CC.

He confirmed also that he had approved the [E] Trust accounts which reflected a loan by [SLW] (Pty) Ltd to [E] Trust, within which the R1million was included. He further confirmed that the [E] Trust accounts reflected that [E] Trust had advanced R820 000 to [BB] CC as a loan, bearing interest; and that R180 000 was reflected in the accounts of [E] Trust as having been expended in respect of a shareholding in [BB] CC.

But Mr [C] said he knew nothing of this and that he did not know [BB] CC.

However, it appeared in further cross-examination that he had been furnished in December 2006 with a letter from [the respondent's firm] addressed to the trustees of the [E] Trust which confirmed that [BB] CC was being converted to a company and that the [E] Trust would acquire 30% shareholding in the company. The letter further confirmed that [BB] CC owed [E] Trust R820 000 which would be repaid in a year, plus interest, at prime less 1%.

According to an affidavit which Mr [C] had made to support the charge against the respondent, it appeared that Mr [C] received this letter together with its attachments in December 2006, and that he thereupon phoned the respondent about it. According to the affidavit, the respondent assured Mr [C] that he (the respondent) would personally repay the loan with interest.

The evidence of Mr [S] was to much the same effect as that of Mr [C]. Despite his evidence that he did not think it right and proper and that an auditor should take a loan from a company in which he is the auditor, he did not report this to anyone. On his evidence, the creditor under the loan was Mr [C] personally. Confronted with the June 2007 annual financial statements, he confirmed that he and Mr [C] signed these on the basis that they reflected a loan by [SLW] (Pty) Ltd to [E] Trust; and in turn a loan and investment by [E] Trust to and in [BB] CC. He said that the annual financial statements were not correct and said that the evidence that he was giving, inconsistent as it was with the financial statements, was correct.

The respondent's evidence was that he had introduced an investment opportunity to Mr [C]; that this had certain income tax advantages; that the investment was in a film production entity; and that his son had a minor acting role in the film. As it turned out, the Department of Trade and Industry did not make good on its undertaking to pay the incentive a year later and so to that extent the investment did not materialise as anticipated.

Since he was the auditor of the group of companies and had recommended the investment, he felt that he owed his client a debt in honour (a "ere-skuld"), to ensure that the monies were repaid.

In considering the first charge, we were confronted with this conflict in the two versions. On the one hand it seemed to us very probable that the R1million would not have flowed out of [SLW] (Pty) Ltd had it not been for the persuasion of the respondent, but on the other hand this did not automatically mean that a personal loan had been made by [SLW] (Pty) Ltd to the respondent, or that the respondent had asked for such a loan.

It could equally have been possible, indeed probable, that all that the respondent did was exert influence, consciously or subconsciously, on Mr [C] and Mr [S] for the [M] Group of Companies to invest in an endeavour which would ultimately directly or indirectly assist his son. Such conduct might in our view have been of questionable propriety, particularly in view of paragraph 6 of the IRBA Code of Professional Conduct, dealing with conflicts of interest.

However, this was not the charge levied against the respondent, and

disciplinary rule 4.10.2 requires that the charge sheet shall "set out the relevant facts upon which the charge(s) are based with sufficient particularity as to allow the respondent to plead." In our view, a charge that the respondent is guilty of improper conduct in persuading Mr [C] and Mr [S] that the [M] Group of Companies should make an investment in a film in which his son had a minor acting role, involves a different factual basis from the charge that was actually formulated against the respondent, namely that he had asked for a personal loan.

Concerning which of the two versions to adopt, we were not entirely satisfied that the respondent's evidence could be accepted in every respect. However, we were equally not satisfied that Mr [C] and Mr [S]'s evidence could be accepted in every respect, particularly in the light of two factors. The first is that the financial statements of [SLW] (Pty) Ltd and of the [E] Trust were approved by them when these reflected not a personal loan to the respondent, but instead a loan by [SLW] (Pty) Ltd to [E] Trust; and in turn both a loan and an investment by [E] Trust to and in [BB] CC. Both Mr [C] and Mr [S] were businessmen of considerable experience, and their underplaying of the importance of the financial statements was, in our view, not convincing.

The second factor was that after the first day's hearing, the civil action in which [SLW] (Pty) Ltd (as it turns out, not Mr [C]) had sued the respondent for repayment of the loan, was settled. The very first paragraph of the settlement, which was signed by Mr [C] and in fact made an order of court, provided:
"The plaintiffs accept that the loan of R1million was not made to the defendant."

It is true that Mr [C] was not called to explain this paragraph, but the fact remains that the pro forma prosecutor accepted that this settlement agreement was in fact entered into and that the document bore the signature of Mr [C]. This agreement is not consistent with Mr [C]'s evidence thus far.

In these circumstances we found ourselves unable to conclude on a balance of probability that the respondent had asked Mr [C] and Mr [S] for a personal loan. That being so, a finding of guilty on the first charge was not competent.

The second charge concerned paragraph *7.5* of the IRBA Code of Professional Conduct, which we have quoted above. It was not in dispute that the respondent was a trustee of the [E] Trust; and that he was personally involved in the audit at least of [SLW] (Pty) Ltd, which was a company in which the [E] Trust has a material shareholding.

The argument for the respondent was however that the last sentence of paragraph *7.5* of the Code ('*where the practitioner is requested to be a trustee, he/she should be a minority trustee*"), meant that provided the practitioner was a minority trustee, there was nothing wrong with him being involved personally in the audit of a company in which the trust has a material shareholding. In other words, the argument was that the last sentence of paragraph *7.5* was not an independent stand-alone requirement, but indeed a qualification to what goes before in paragraph *7.5*.

In our view this is not correct, and a plain reading of paragraph *7.5* means that three independent self-standing requirements are laid down: a trustee (practitioner) should never be involved personally in the audit of the trust; a trustee (practitioner) should never be involved personally in the audit of a company in which the trust has a material shareholding; and a trustee (practitioner) should always be a minority trustee.

In view of this interpretation, we found the respondent guilty of a contravention of paragraph *7.5*.

The third charge concerned the fact that the respondent had signed audit opinions despite having signed the prescribed non-attest affidavit. His defence was based on an interpretation of Section 41(6)(b) read with Section 41(8) of the Auditing Profession Act 26 of 2005. In terms of Section 41(6)(b) of the Act, "*a registered auditor may not sign any account, statement, report or other document which purports to represent an audit performed by that registered auditor, unless the audit were performed by that registered auditor, under the personal supervision of direction of that registered auditor or by or under the personal supervision or directions of that registered auditor and one or more of the partners, co-directors or co-members of the registered auditor, as the case may be, in accordance with prescribed auditing standards.*" *Sub-section 41(a) provides that "nothing in sub-section (6)(b) prevents any registered auditor from signing the firm name or title under which the registered auditor practises*."

It appeared that the respondent had signed the opinions of the companies concerned in the name of his firm, "...". In his evidence he suggested that since that is what he did, and since [his partner] in fact took responsibility for the audits, he had not acted in contravention of Section 41(6)(b) of the Act.

We do not agree. Section 41(6)(b) of the Act, although it refers to a "registered auditor", in fact explicitly deals with the case where the registered auditor is a firm, having regard to the definition of "registered auditor" in Section 1 of the Act. This is evident from the second half of sub-section 41(6)(b), where there is reference to the involvement of other "partners, co-directors or co-members of the registered auditor".

Accordingly, as we read Section 41(6)(b), where the registered auditor is a firm, and a registered auditor signs an audit opinion in the name of his or her firm, then either that particular auditor is required to

have performed that audit under his or her personal supervision; or the audit concerned is required to have been performed under the personal supervision of that registered auditor and one or more of the partners, co-directors or co-members of the registered auditor. Simply put, if a registered auditor signs an audit opinion in the name of his firm, he is at least required himself (or herself) to have been involved personally in the performance of that audit.

In the present matter, the respondent was indeed personally involved in the performance of the audits; he testified that he acted as if he were an audit senior or audit manager. But although that conduct may not have been proscribed in terms of his non-attest affidavit, what is proscribed by Section 41(6)(b) is him signing that audit opinion.

Accordingly, we found the respondent guilty on the third charge.

Concerning sanction, the respondent himself testified. In effect, concerning the second charge, his evidence was that he had simply filled the shoes of a previous auditor who had also been both trustee of the trust and auditor of the company concerned. Concerning the third charge his evidence was that he bona fide believed that he was entitled to sign the audit opinion, particularly having regard to the fact that [his partner], who actually did take responsibility for the audit opinion, was not available on those occasions to do so.

We took into account the fact that the respondent had no relevant previous contraventions, and that no one had in fact suffered a loss flowing from the conduct that led to him being found guilty on the second and third charges.

In the result we resolved to impose the following sanction:

- *In respect of Charge 2, a fine of R50 000 is imposed, of which R30 000 is suspended for a period of three years, on condition that the respondent is not found guilty of a charge of improper conduct consisting of a contravention of Rule 2.2 of the Rules Regarding Improper Conduct committed during the period of suspension.*
- *In respect of Charge 3, a fine of R50 000 is imposed.*
- *In respect of both charges, the respondent is directed to contribute R25 000 to the costs that have been incurred by the investigation into the charges against the respondent.*
- *Publication of the charges, and of the facts and the findings, without mention of the name of the respondent or his firm, is to occur once in IRBA News".*

Disciplinary Committee
(from p14)
WHG van der Linde, SC
H Griffiths
L J Lekale
C F Reid
N Russouw
R van Wyk
CR Qually

Queries: Jane O'Connor
Director: Legal
Telephone: 087 940 8804
Facsimile: 087 940 8873
E-mail: legal@irba.co.za

REGISTRY

IMPORTANT INFORMATION ABOUT THE 2011 ANNUAL FEES AND ANNUAL RETURN

The IRBA is planning to post the 2011 Annual Return to all RAs during May 2011. This document will include the following:

- your invoice for the 2011 individual annual fees;
- a pro-forma Inspections affidavit;
- a pro-forma CPD declaration;
- a Broad-Based Black Economic Empowerment (B-BEE) approval signatory form; and
- a print out from our database for you to update your personal details.

The planned due date for fees and documentation is **30 June 2011**.

Please note that if you do not pay your annual fees by the due date, your registration will lapse.

If you only pay your annual fees, but do not return your completed documentation by the due date, your registration will be cancelled for failure to submit documentation.

The completed documents which must be returned by the due date are the inspections affidavit and the CPD declaration.

Please only complete and return the B-BBEE approval signatory form if it is applicable to you. If your personal details have changed, please update the print out and return it; if your details have not changed please simply sign the print out and return.

Payment, as well as the completed documentation, must be **received** by the Board by the due date.

We would accordingly respectfully remind our RAs to pay their fees and submit their documentation timeously to avoid their registration being terminated.

The full Annual Return document which will be posted to you will contain details on how and where to send your proof of payment and documentation.

If you have any queries, please contact the Manager: Registrations, Caroline Garbutt, on 087-940-8800 or e-mail cgarbutt@irba.co.za.

INDIVIDUALS ADMITTED TO THE REGISTER OF THE BOARD From 1 OCTOBER TO 31 DECEMBER 2010

Ackerman Richard
Ahmed Mohamed Hanif
Anthony Jermaine Jennifer
Bernard Michelle
Billson Alan Martin
Brand Sulette
Cheadle Roberta Louise
Cox Dylan Kenneth
Davis Michelle
De Kock Cormarie
Dhuki Ashvir
Du Toit Marieke
Duvenhage Werner
Edwards Russell John
Forte Tarryn Andrea
Galal Sapna
Grobler Petrus Charl
Hand Handra
Hove Edwin Mufaro
Jennings Albert Charles
Kemp Cherrie-Lee
Kerr Sean Patrick
Kettle Justin Evan
Lambat Ismail Mahomed
Le Roux Jean Pierre
Letcher Ralph Antony
Magumbo Simon
Makibile Nokunene
Mckennsie Mariska
Miller Jeannette-Anne
Mkumbuzi Tsungai Patrick
Moroa Thabang
Muller Philip Johan
Nell Anne-Marie
Nell Delarey
Pelser Natalie
Pholo Makgolane Mary
Ramuedzisi Lutendo Lufuno Fulufhelo
Rust Jan Cornelius
Stieger Craig Lloyd
Taariq Paulsen
Taute Mar-Lee
van der Valk Susan Eileen
van der Walt Deon
van Jaarsveld Elmare
Wentzel Matthys Johannes
Zondi Xolani
Zwingwe Thompson

INDIVIDUALS RE-ADMITTED TO THE REGISTER OF THE BOARD From 1 OCTOBER TO 31 DECEMBER 2010

Allan Ivan Lawrence
Barends Laurence Jeftha
Cloete Woutrina
Fialkov Kevin
Loots Jaco
Molala Mamadiga Salome
Mpai Mamokwa James Roy
Ndlovu Nomthandazo Tshepo
Schauder George
van Niekerk Roedolf Johannes

INDIVIDUALS REMOVED FROM THE REGISTER OF THE BOARD From 1 OCTOBER TO 31 DECEMBER 2010

Abrahams Samuel Ellis *Retired*
Bassa Zarina Bibi Mohamed *Resigned*
Boom Royden Arend *Resigned*
Claasen Malcolm *Deceased*
Gericke Johan Anton *Retired*
Hattingh Debra *Resigned*
Heffer Mark James *Resigned*
Janse van Rensburg Gerhardus
Johannes Nicolaas *Resigned*
McDonald Ramsay Hector *Emigrated*
Mckay Cindy *Resigned*
Pruis Lukas Cornelius *Resigned*
Sadek Mohamed Zakaria *Resigned*
Taback Harold *Emigrated*
Williams John Gareth *Resigned*

Caroline Garbutt
Manager: Registrations
Telephone: *087 940 8800*
Facsimile: *087 940 8873*
E-mail: *registry@irba.co.za*

IMPORTANT NOTICE ON REGISTRATION WITH THE FINANCIAL INTELLIGENCE CENTRE

On 1 December 2010, the Financial Intelligence Centre Amendment Act of 2008 (the FIC Act) came into effect, bringing with it a range of compliance obligations and requirements for accountable and reporting institutions.

Among these is the necessity for all accountable and reporting institutions to register with the Financial Intelligence Centre (the FIC). According to the FIC Act accountable and reporting institutions had until **1 March 2011**, to register with the FIC. This date has been extended as per the FIC notice dated 1 March 2011.

Registration strengthens the FIC's ability to detect and to prevent illicit monies from being laundered through South Africa's financial system.

The FIC Act also allows the FIC as well as the supervisory bodies, to impose administrative and punitive measures on those businesses which do not comply with the provisions of the FIC Act.

Registration with the FIC is easy and free of charge. To access registration forms, information on the FIC Act and related matters, visit the FIC website on www.fic.gov.za.

If you have registration or compliance queries call the FIC on 0860 222 200 or 012 641 6292 or e-mail on fic_feedback@fic.gov.za.

Related communications issued by the IRBA and available on the IRBA website:

FIC Amendment Act: registration of accountable institutions (6 January 2011)
Communique: Anti-money laundering (4 February 2011)
FIC Notice (1 March 2011)

SOUTH AFRICAN CHAPTER OF INTERNATIONAL ANTI-MONEY LAUNDERING ASSOCIATION LAUNCHED

The Association of Certified Anti-Money Laundering Specialists (ACAMS) launched its South Africa Chapter on the 3rd Nov 2010 at a cocktail event held at Sunninghill, Gauteng. The launch was attended by the Executive Vice President ACAMS, John Byrne. The key-note speaker was Murray Michell, Director of the Financial Intelligence Centre. The IRBA's CEO and manager: AML Inspections also attended.

The purpose of this international organisation, is to provide a platform for career development and professional networking for its members. It also serves as a resource to assist financial institutions and related business to identify and locate specialists in anti-money laundering, counter terrorist financing and financial crime specialists. Its mission is to provide up-to-date education and training, professional networking opportunities and other career development tools to professionals in the field. Currently it is the only international organisation in its field, particularly to meet the need of law enforcement officers and regulatory agents.

ACAMS offer membership to industry professionals which includes an opportunity to obtain a CAMS (certified anti-money laundering specialist) certification. On-line web seminars and on-site training is provided and past seminars are archived on an online library. Seminars also include case studies, hands-on exercises, peer information and networking opportunities. Members also have access to live one-hour briefings led by industry experts addressing key challenges shared by AML/CTF professionals around the world.

Various learning and networking events as well as a two day seminar are planned for 2011. The first of these was a seminar on 3 February during which, amongst others, anticipated changes to be recommended by the FATF following their international work session during February, were discussed.

For more information: acams.org; enquiries can also be directed to: Sandi 083 793 2547 or sandi@fcrmc.co.za

Roy Melnick 082 857 6868 or roy.melnick@za.pwc.com
Kevin West 084 647 7992 or Kevin.west@kpmg.co.za .

Paul van Helden
Director: Inspections
Telephone: 087 940 8837
Facsimile: 087 940 8874
E-mail: pracrev@irba.co.za

ALL STARS SHELTER

In December 2010 the IRBA hosted a tea party for the boys at the All Stars Shelter, run by Child Welfare Kempton Park. Each boy received tasty treats on the day, as well as a shoe box full of games, toiletries and school stationery. They also each received a box full of sweet treats for the December holidays, all donated by the IRBA staff.

It was a real pleasure to meet such polite boys, and discuss their dreams and aspirations for the future. Most want to be football or cricket stars, but we hope to be able to convince one or two of them to become RAs instead.

SPCA

One of the IRBA inspectors arranged to collect several tons of pet food from Foodcorp, a pet food manufacturer on the West Rand, which we were very proud to hand over to the local SPCA branch in Sebenza. The donation was very well received, and it is our aim to continue with this initiative in 2011.

COMMUNICATIONS

In the interests of improved communication with Registered Auditors and other stakeholders, a list of Communiqués sent by bulk e-mail during the period October to February 2011 is set out below. These communiqués may be downloaded from the IRBA website, under the various "News" tabs.

2010/10/07	SAAPS 2 (Revised) Exposure Draft
2010/10/27	Call for nomination of persons to serve on the Investigating Committee (Invesco)
2010/11/03	Guide for Registered Auditors: Access to Audit Working Papers
2010/11/04	South Africa ranked first out of 139 countries for its Strength of Auditing and Reporting Standards
2010/11/09	IAASB Proposes New Guidance on Auditing Complex Financial Instruments
2010/11/09	IAASB Addresses Compilation Engagements and Exposes an Enhanced Standard
2010/11/09	Registered Auditors and the Voluntary Disclosure Programme
2010/11/15	Adoption of Auditing Pronouncements
2010/11/24	Firm Reminder Notice
2010/11/25	IRBA News Issue 14
2010/12/08	IRBA has a new postal address
2010/12/13	IRBA Training and Information Sessions 2011
2010/12/17	Financial Intelligence Centre
2010/12/17	Manual of Information 2011 available
2011/01/18	IRBA Training And Information Sessions 2011
2011/02/04	SAAPS 2 (Revised): Financial Reporting Frameworks and the Auditor's Report
2011/02/04	Financial Intelligence Centre
2011/02/08	IRBA Manual of Information and Handboek vir Inligting 2011
2011/02/18	Extensive IFRS Refresher for Auditors, Preparers and Users of Financial Statements

GENERAL NEWS

IRBA TRAINING AND INFORMATION SESSIONS MARCH 2011

By the time this issue of IRBA News reaches you, we will be well into our travels around the country, presenting the 2011 Training and Information sessions.

Key topics at the sessions will include, amongst others:

- The impact of the Companies Act
- IRBA Code of Professional Conduct
- The proposed IRBA Funding Model
- The new proposed delivery model for the education and training of RAs
- Other IRBA projects and feedback

For those RAs who were unable to attend the sessions due to geographical and other limitations, please note that we would be more than willing to come to your region for an informal meeting later this year. If you can get a group of RAs together at an appropriate venue, you are welcome to contact Joanne Johnston with your proposed dates, so that we can schedule the session. The presentation slides are also available at www.irba.co.za > Road shows.

MANUAL OF INFORMATION AND HANDBOEK VIR INLIGTING 2011

The 2011 issue of the **Manual of Information** and the **Handboek vir Inligting** are now available in hard copy format. New registrants will receive a copy of the applicable year's Manual upon registration. Each year thereafter the book will be made available to Registered Auditors and students through the student bookstores, at a price of approximately R100.

The IRBA has outsourced the sale and distribution of the book and you can purchase a copy from any of the following bookstores:

L J Armstrong Booksellers CC
Ground Floor, Royal Court
42 11th Street (just off corner of Louis Botha Avenue)
Orange Grove
Johannesburg
Tel 086 000 2665
e-mail: info@armstrongs.co.za
order via the website www.armstrongs.co.za

Van Schaik bookstores countrywide
e-mail: vsorders@vanschaik.com
www.vanschaik.com

Book Express
(they will mail books countrywide)
70B Loch Avenue
Parktown West
Johannesburg
Tel (011) 482 8433
e-mail: info@bookexpress.co.za
www.bookexpress.co.za

ProVisions Books
37F Ordnance Road
Durban
Tel (031) 337 2112
e-mail: info@provisions.co.za
www.provisions.co.za

Adams Booksellers
341 West Street
Durban
Tel (0861) 341 341
e-mail: info2@adamsbooks.co.za
www.adamsbooks.co.za

18TH WORLD CONGRESS OF ACCOUNTANTS

The World Congress of Accountants (WCOA) is held every four years, and is organised by the International Federation of Accountants (IFAC). The Congress gives accounting professionals the opportunity to share their views on current issues and trends in the profession. As we wrote in the December 2010 issue of IRBA News, the 18th World Congress of Accountants was held in Kuala Lumpur, Malaysia in November 2010. The theme for this world congress was Accountants: Sustaining Value Creation. This world congress was hosted by the Malaysian Institute of Accountants.

Professional accountants operate in all facets of the global economy, creating value and upholding business integrity in both the private and public sectors. In a world demanding short term solutions, professional accountants are challenged to sustain long term growth. Accountants lead strategic teams, are charged with creating value and safeguarding assets, are an important part of organisational governance, and provide regulators and society with assurance that business has operated to the highest standards.

The CEO of the IRBA joined Canada, Germany and Australia on a panel to present a discussion on "Review and Compilation Services", which is currently highly topical in South Africa.

EUROPEAN COMMISSION RECOGNISES SOUTH AFRICA AS EQUIVALENT AUDIT OVERSIGHT SYSTEM

(refer to CEO's message on page 2)

Brussels, 19 January 2011

EXTRACT FROM EUROPEAN COMMISSION PRESS RELEASE

The European Commission today adopted the first decision recognising the equivalence of the audit oversight systems in 10 third countries[1]. This decision paves the way for reinforced cooperation between Member States and third countries which have been declared equivalent, so that they can mutually rely on each other's inspections of audit firms. The decision also grants a transitional period to auditors from 20 third countries[1] allowing them to continue their audit activities in the EU while further assessments are carried out.

Internal Market and Services Commissioner Michel Barnier said: "This decision comes at a time when the Commission is considering improvements within the audit market more generally, and so must be seen within this broader context. Today's decision is an important step towards closer international cooperation on the supervision of auditors and audit firms. International cooperation on auditor oversight is crucial to avoiding the overburdening of audit firms and duplicating supervisory work, and above all, to promoting a high degree of investor protection by ensuring high quality audits."

Mutual reliance

As the demand for companies to operate globally increases, so too does the need for their auditors to do the same. With auditing now moving beyond national borders, there is a need for effective global auditor oversight, which requires extensive international cooperation. It is for this reason that the Commission supports international mutual reliance on the supervision of auditors that is carried out by their home country audit oversight. Mutual reliance means that Member States and the third countries can rely on each other's inspections of audit firms allowing for a more effective and efficient oversight of global audit firms.

With the Commission decision now in place, Member States may choose to rely on the supervisory work of one of the 10 third country oversight systems, which have been assessed as equivalent. The extent to which a Member State will rely on and cooperate with one of these third countries is determined by the cooperative arrangements that have been signed by the Member State and the third country.

Since 2008, more than 20 third countries have established public bodies to supervise the work of auditors and at least another 10 are in the process of establishing one. In most cases such bodies are inspired by the European supervision model on auditors.

[1] The countries assessed as equivalent are Australia, Canada, China, Croatia, Japan, Singapore, South Africa, South Korea, Switzerland and the United States of America.

SOUTH AFRICAN APPOINTED TO TOP POSITION IN GLOBAL GROUP

Professor Linda de Beer has been appointed chairman of the Consultative Advisory Group (CAG) to the International Auditing and Assurance Standards Board (IAASB). The IAASB CAG is an independent body and provides the forum in which the representatives of its various member organisations—including regulators, preparers,

and others with an interest in international auditing and assurance—provide advice on public interest matters relating to auditing standards. The IAASB is an independent standard-setting board that establishes in the public interest International Standards on Auditing (ISAs) and other pronouncements for use by professional accountants around the world.

Prof. de Beer stated: "The IAASB CAG plays a vital role in ensuring that the recipients of assurance services—namely the preparers and users of financial information, regulators, and other participants in the financial reporting supply chain—have an influence on ISAs. It is critical for the credibility of financial reporting to have these constituents involved in the standard-setting process. It is equally critical that recipients understand the assurance they receive."

South Africa adopted the ISAs as far back as 2005.

Besides De Beer's directorships of various companies and membership of committees such as the King Committee on Corporate Governance, she also represents the JSE Limited on the Committee for Auditing Standards of the IRBA.

The use of international auditing standards provides credibility to financial information on which investors and other interested parties rely. High quality auditing standards coupled with good governance provide the necessary framework to create reliable markets and so improve investment in SA. The IRBA, as audit standard setter and regulator in SA, is delighted that Prof. de Beer is in a top position to also influence standards and governance from a global perspective.

The chairman of the IAASB CAG provides leadership direction to the CAG, overseeing the achievement of the CAG's objectives and liaising with other public interest bodies.

The CAG has a very strong public interest focus in advising the IAASB on its strategy and technical topics. It is vital that the standard-setting process must keep public protection in mind at all times. Auditing standards and regulation of auditors can only be effective if it protects the public.

This role demonstrates once more that the international community has the necessary confidence in SA to drive an important initiative such as protection of the public interest -this goes a long way in creating the necessary confidence in our own markets.

THE IRBA HOSTS INTERNATIONAL VISITORS FROM IAASB

In November 2010 the IRBA was proud to host a luncheon for international visitors Arnold Schilder, Chairman of the IAASB, and Jim Sylph, Executive Director, Professional Standards. The IFAC visitors were in South Africa for a series of meetings on auditing, and the IRBA representatives were pleased to have the privilege of meeting them.

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irba
INDEPENDENT REGULATORY BOARD FOR AUDITORS