



irba

INDEPENDENT REGULATORY BOARD FOR AUDITORS

ISSUE

14

December 2010

NEWS



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MESSAGE FROM THE

CEO

Another year has come and gone and I cannot help but wonder: where are we and where are we going? This question and uncertainty do not stem from IRBA not having direction - it does, but sometimes the outside forces seem to have goals of their own. It is no secret that the auditing landscape moves, and has to move, as the external environment changes, but it has been long ago that it was faced with so many changes, both internationally and locally.

I am writing this message from Kuala Lumpur, where the 2010 World Congress of Accountants is hosted,

and while topics discussed vary from Human Governance to Shaping the next Generation of Accountants, the central theme is around sustaining value creation. Entities and managers will no longer only be measured against short term results, and investors are looking for more than just growing their investment. Integrated reporting is the new buzz word, and while preparers of financial information are debating what needs to be disclosed, auditors need to start thinking about how to report on this information and whether they have the required skills set to do so.

But investors have also turned their attention towards the auditors. They are demanding more communication from auditors, not only by improving the current audit report which is perceived as too clinical, but also for auditors to make publicly available their own results and corporate governance practices. The Green Paper on Audit issued by the European Commission in the last few weeks with a comment date of 15 December 2010 includes recommendations which will solicit different views from regulators and the auditing profession and may have a major impact on audit regulation globally.

The World Congress also coincided (and not coincidentally) with the release of the Monitoring Group's Report on the IFAC Reforms. The Monitoring Group was established to evaluate the processes of international standard setting (auditing and ethics) with a specific mandate to make recommendations which will ensure that those standards are ultimately set in the public interest. The report includes various recommendations on improving governance in standard setting processes, for example in the nominations and composition of boards, which will ensure that the public interest is considered at all times.

Public interest is no buzz word. IRBA's mandate is to protect the public interest and we have, and will go to any lengths to protect that mandate. It is for this reason that IRBA has made proposals to the Department of Trade and Industry to draft regulations to the new Corporate Legislation that will ensure such protection. These proposals include the need to regulate providers of assurance services other than audit and to ensure that there are appropriate standards, ethics and monitoring of these professionals, so that the public can place reliance on these assurance reports and confidence in our financial markets can be maintained, both by international and local investors.

Transformation continues to present challenges as long as the spirit of the Employment Equity legislation is not complied with. We do not support 'quick fixes' to address the transformation challenges faced by the profession, but implore all parties to develop strategies which will result in sustaining growth in the number of Black auditors - this requires delving deep into the current issues that has led to, and are most probably still responsible, for the skewed statistics reflected in the profession.

South Africa was ranked number one out of 139 countries in the latest survey conducted by the World Economic Forum. What now? IRBA must maintain this position, but also support other countries on the continent in improving their standards and governance so that Africa can become a respected player in the global markets. This will not, however, be done at the expense of providing the necessary support to the local profession which is faced with the challenges referred to above. But the challenges are not only that of the profession - we need to position ourselves to respond to the changing landscape while providing a 'safe' environment in which auditors can discharge their obligations without fear.

The proverbial pendulum has not yet swung to a position where oversight and regulation are balanced with sufficient trust in the profession, not only locally but also globally. In the end, we need to create the confidence that auditors share the view that high quality audits are essential if the public interest is to be protected. But this also requires the support from government, especially in the areas of the independence of the regulator from the profession, and recognition of IRBA as an independent regulator by audit regulators in other jurisdictions.

These are exciting times.

I, and the staff of IRBA, would like to wish everyone a joyous festive season and look forward to developing the necessary solutions to continue to protect the public while bringing stability to the auditing landscape.

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EDUCATION, TRAINING AND PROFESSIONAL DEVELOPMENT

NEW DELIVERY MODEL FOR THE EDUCATION AND TRAINING REQUIREMENTS FOR REGISTERED AUDITORS

The IRBA has a proposed new delivery model for the education and training requirements for Registered Auditors (RAs) out on exposure (*Government Gazette 27, August 2010*). The document can be found on the IRBA website (www.irba.co.za). The basic premise of the proposed new delivery model is that audit is a specialisation after qualification as a professional accountant. South Africa is one of the few countries in the world where professional accountants qualify as specialist auditors. Once a candidate has successfully completed a recognised training contract and passed the Public Practice Examination (PPE), they may register as a Chartered Accountant (CA) or an RA.

The proposed new delivery model recognises that the competence requirements necessary to qualify as a professional accountant are appropriate as a basis for the development of an RA. The IRBA will, therefore, continue to accredit and recognise the programmes that develop and assess core technical competence and professional competence of professional accountants. The IRBA will also recognise the final assessment of professional competence for professional accountants.

Once a candidate has successfully completed the following programmes recognised by the IRBA they will be eligible to enter the professional experience period:

- A recognised academic programme;
- A recognised core assessment programme;
- A recognised training programme; and
- A recognised professional assessment programme [Part II]
- A professional accounting qualification through a professional body accredited by the IRBA.

Only professional accountants who have qualified through a professional body accredited by the IRBA will have their professional experience recognised by the IRBA.

The strength of the professional experience period will be in the partnership between the IRBA and RA firms. The professional experience period provides qualified professional accountants the opportunity to specialise as an auditor by gaining exposure to a broad range of issues faced by RAs in practice and to develop and enhance their:

- Professional competence and judgement;
- Ethical values; and
- Lifelong learning skills and attitudes

The professional experience period is defined in terms of both the duration [time] and the depth and breadth of competence developed in a public practice environment. The professional experience period must provide aspirant RAs with increasingly complex work that requires, over time, that the candidate assumes increasing responsibility. Tasks must increase in complexity and level of responsibility as the RA candidate progresses through the professional experience period.

By the end of the professional experience period, aspirant RAs are expected to have acquired and to have demonstrated competence at a level **senior** to that of an entry level professional accountant. The supervising RA will be required to make a recommendation to the IRBA regarding the aspirant RA's registration with the IRBA.

The IRBA prescribes that a minimum term of professional experience appropriate for the development and demonstration of the competency requirements

of an entry level RA is two years post the professional accountant qualification in an RA firm. Within the minimum two year post professional accountant qualification period aspirant RAs must complete a minimum of 1500 billable hours¹ in audit and assurance services. (It is acknowledged that, in some cases, completion of the 1500 billable hours may require more than two years) Billable hours provide evidence of the nature of work undertaken and some indication of its quality. Candidates who wish to register as an auditor, and completed an elective other than audit and assurance, will be required to complete a minimum of three years and 2250 billable hours in audit and assurance.

Professional Experience must be obtained through work activities that require the development of knowledge, skills and professional values appropriate to the public practice environment. Such experience should be gained in the office of an RA and under the direction and supervision of an RA in audit and related service engagements.

In terms of IFAC, auditing is a structured process that:

- a) Involves the application of analytical skills, professional judgement and professional scepticism;
- b) Is usually performed by a team of professionals, directed with managerial skills;
- c) Uses appropriate forms of

¹ It is not anticipated that a candidate will submit time sheets in support of this requirement. It is acknowledged that often an audit engagement can include other services. The 1500 billable hours should be in direct audit work. The supervisor will confirm the time spent on audit work.

- technology and adheres to a methodology;
- d) Complies with all relevant technical standards, such as International Standards on Auditing (ISAs), International Standards on Quality Control (ISQC), International Financial Reporting Standards (IFRS), International Public Sector Accounting Standards (IPSAS), and any applicable international, national or local equivalents; and
- e) Complies with required standards of professional ethics.

Auditing is an integral component of evolving systems of accountability within organisations and society. Although an audit may be mandated by statute, it may also be a condition to borrowing or a matter of contract. In addition, it may be undertaken voluntarily by an organisation as a means of ascertaining the fairness of representations, the degree of compliance with rules and regulations or the efficiency, effectiveness and economy of operations.

Auditing should therefore be viewed as a subject that extends beyond the statutory audit of financial statements to include the broader attest function and other reporting engagements.

Candidates who undertake the professional experience period to become audit specialists are required to take responsibility for their own professional development and seek opportunities to progress through defined positions within an RA firm. Such positions will provide opportunity for increasing competency development and offer assignments of increasing complexity and increasing levels of responsibility.

RA firms must meet the following responsibilities to the IRBA and the candidate:

- Registration with the IRBA [Firm and professional oversight RA];
- Provide an environment conducive to the development, enhancement and demonstration of professional competence;

- Ensure that each potential RA is provided sufficient and appropriate support during the professional experience period;
- Foster commitment to life-long learning and skills development;
- Encourage potential RAs to become involved in work that challenges their skills in a variety of contexts;
- Foster the ethics, values, independence and objectivity appropriate for the RA profession; and
- Offer progress of work to increasing complexity and requiring increasing levels of responsibility and knowledge and expertise.

The professional experience period is designed to complement and run parallel with the internal structures, performance review and evaluation process of the RA firm. The RA firm must ensure that each RA candidate is assigned to a specific professional oversight RA. The professional oversight RA will be an RA who has been registered with the IRBA for a minimum of three years at the outset of the professional experience period.²

It is the responsibility of the professional oversight RA to ensure that the professional experience period provides the candidate with the quality and range of experience to enhance and develop his professional abilities, skills and values to a level appropriate for registration with the IRBA. Professional oversight is necessary to ensure that RA candidates are provided with the opportunity to develop their competencies, produce work of a high quality, and undertake work at progressive levels of responsibility. The professional oversight RA will be responsible for, inter alia, the following:

- Collection and co-ordination of performance appraisal information and any other relevant information on the

candidate's performance and competencies.

- Reflection, interpretation and assessment of the candidate's progress using the information referred to above.
- Consultation based on the information presented in the performance appraisal reports with both the candidate and the line managers, direct supervisors and any other relevant person.
- Provide regular and meaningful feedback on the development the candidate's professional competence.
- Regular reporting to the IRBA on the development the candidate's professional competence. This report should be accompanied by relevant documentation (performance appraisal, reports and any other information). A reporting template will be supplied by the IRBA.
- A signed testimonial, on completion of the two year programme that confirms, amongst other things that the candidate has developed his professional competence to a level appropriate for registration with the IRBA. A standard template will be provided by the IRBA.

The IRBA recognises that the professional oversight RA may not necessarily be the direct supervisor of the candidate. It is, however, anticipated that the professional oversight RA is a senior member of staff who is able to invest the appropriate amount of time and commitment to the responsibilities outlined above. The professional oversight RA will take responsibility for supplying the IRBA with information on the candidate's professional development. The IRBA will place significant reliance on the information and reports provided by the professional oversight RA. It is, therefore, incumbent on the professional oversight RA to ensure that the information provided to the IRBA is valid and reliable.

² The IRBA will consider circumstances for relaxation of this time requirement on a case by case basis.

The responsibility to identify a suitable professional oversight RA rests with the RA firm. The professional oversight RA must accept the responsibility outlined above [clear guidelines will be published]. Once the professional oversight RA/candidate relationship has been mutually agreed to, the professional oversight RA and the candidate will sign an agreement (Standard agreement to be published). The signed agreement must be forwarded to the IRBA for registration. The IRBA will check the eligibility of the RA to act as a professional oversight RA and the candidate to participate in the professional experience period. Registration of the professional experience period provides the IRBA with information on the number of potential RAs in the pipeline and also protects the professional oversight RA and candidate by formalising the relationship.

In circumstances where a candidate has not registered with the IRBA for the professional experience period, the candidate must submit certain supporting evidence and an identified professional oversight RA must sign a testimonial confirming the candidate's experience, position and suitability for registration with the IRBA. The IRBA will evaluate such circumstances on a case by case basis and may grant the professional experience period retrospectively.

Once a candidate has completed the two year professional experience period, has achieved the 1500 billable hours in audit and the professional oversight RA is satisfied that the candidate has demonstrated competency to a level appropriate for registration with the IRBA, the professional oversight RA will provide a testimonial that confirms:

- The candidate has had two years of professional experience;
- The candidate has had 1500 billable hours during the period of professional experience;
- The position/s held during the period of professional experience; and
- That nothing has come to the professional oversight RA's attention that suggests that the aspirant RA is not suitable for registration with the IRBA.

The final assessment of whether an RA candidate has met the requirements to register with the IRBA as an RA is the responsibility of the IRBA. The IRBA will appoint a panel of experienced practitioners and academics to review the portfolio of evidence submitted by the oversight RA. The panel will, on a regular basis, review the reports and reserves the right to request additional information and/or contact the candidates and/or professional

oversight RAs for an interview should there be any queries or concerns regarding the development of the candidate's professional competence. The panel is ultimately responsible for making the final decision with regards to a candidate's eligibility to register with the IRBA as an RA.

Should you wish to comment on IRBA's new delivery model, please review the entire document on the website and send all comments to lkatzin@irba.co.za.

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RAISING CAREER AWARENESS OF THE AUDITING PROFESSION IN LIMPOPO

Mr Temba Zakuza, Chairman of the Education, Training and Professional Development Committee (EDCOM) of the IRBA and Mr. Abraham Ramano from the IRBA's Education, Training and Professional Development Department visited the

University of Venda (UNIVEN) on 13 October 2010. They were met by Prof AB Gyekye, Dean of the Department of Economics and Mr DC Maanda, Head of the Department of Accounting and Auditing.

UNIVERSITY OF VENDA B COMM ACCOUNTING DEGREE

Over 100 B Comm students at the University of Venda were addressed by the IRBA and ABASA (Association of Black Accountants South Africa). Mr Zakuza elaborated on the benefits of pursuing a career in accounting and auditing. He explained that the IRBA is a statutory body responsible for regulating RAs in South Africa. He further explained that the IRBA does not offer courses for qualification as an RA directly but that the IRBA accredits professional bodies and recognises the education and training programmes of the professional bodies. Mr Zakuza explained that currently the South African Institute of Chartered Accountants (SAICA) is the only professional body accredited by the IRBA. SAICA in turn accredits universities to conduct the academic programme. Although UNIVEN is

not a SAICA accredited university Mr Zakuza urged learners to not be discouraged and still pursue their RA or CA aspirations by completing a one year bridging programme (depending on the university) through a SAICA accredited university.

Mr Zakuza also offered to assist the university in partnering with a SAICA accredited university in order to assist in seeking accreditation of the university's programme. Similar to the partnership agreement he initiated between the University of Fort Hare (UFH) and Nelson Mandela Metropolitan University (NMMU), in assisting the UFH to obtain its accreditation through SAICA to offer the CA programme.

Mr Zakuza encouraged learners to work hard in order to realize their dreams. He also highlighted that the profession is for people with integrity and who are fearless. He

reiterated that the qualification not only prepares a candidate for the accounting and auditing profession, but it also prepares candidates to become great leaders. He quoted that nearly 25% of the Directors of the Top 100 companies listed on the Johannesburg Stock Exchange are Chartered Accountants.



Raising awareness of the Auditing Profession in order to increase the number of transformational candidates in the profession is one of the IRBA's objectives.

FASSET VISITS PRETORIA SUPPORT PROGRAMME CANDIDATES



The IRBA hosts a Support Programme for candidates who have been unsuccessful in previous attempts to pass the Public Practice Examination. Fasset (Sector Education and Training Authority (Seta) for Finance, Accounting, Management Consulting and other Financial Services) provided funding to subsidise the costs

of the 2010 Support programme for repeat candidates.

Fasset visited the Pretoria venue on 8th October 2010. Ms Heidi Volschenk, a Fasset Board representative and a 2010 project patron for the IRBA's Support Programme had the opportunity to

interact with the candidates and gain insights into the Programme. The main aim of the visit was to independently assess whether the strategic objectives, as identified by the Fasset board annually, are being achieved through the Support Programme funding.

Ms Heidi Volschenk did not only monitor the projects progress, but also gave support and encouragement to the candidates and motivated them to achieve success in the 2010 PPE.

The Support Programme commenced in June and the last contact session will be held on 30th October for Cape Town and Durban candidates, 10th November for Pretoria candidates and on 6th November for Johannesburg candidates.

The Support Programme facilitators, the NSOA, are confident that

candidates who have demonstrated their commitment to the programme through the submission of tutorials and attendance at all the contact session will have a significantly improved chance of passing the 2010 PPE.

The 2010 PPE will be written on 23rd November 2010 and the results will be published on 25th February 2010.

The IRBA wishes all the support programme candidates best of luck in their 2010 PPE.

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STANDARDS

WORLD ECONOMIC FORUM'S GLOBAL COMPETITIVENESS SURVEY FOR 2010

We are delighted to inform readers that South Africa has moved to number 1 out of 139 countries surveyed in the World Economic Forum's Global Competitiveness Survey for 2010-2011, for the strength of its auditing and reporting standards regarding company financial performance (refer to pages 303 and 383 of the Global Competitiveness Report). South Africa achieved a score of 6.4 out of a maximum of 7.

South Africa's reputation as a globally recognised standard setter and regulator should not be underestimated and the IRBA will endeavour to maintain South Africa's standards and international standing. The full report is available on the World Economic Forum's website at www.weforum.org/en/initiatives/gcp/Global%20Competitiveness%20Report/index.htm.

ADOPTION AND PRESCRIBING OF HANDBOOKS OF INTERNATIONAL QUALITY CONTROL, AUDITING, REVIEW, OTHER ASSURANCE AND RELATED SERVICES PRONOUNCEMENTS, 2010 EDITION PARTS I AND II

The IRBA would like to draw the attention of all registered auditors to **Board Notice 154 of 2010**, included in **Government Gazette No. 33710** issued **5 November 2010**: "The Adoption of International Quality Control, Auditing, Review Other Assurance And Related Services Pronouncements in terms of the Auditing Profession Act, 26 of 2005 ("the Act"). This Notice replaces **Board Notice 128** in **Government Gazette 32615** issued **9 October 2009**.

Whereas the Board previously resolved to adopt, issue and prescribe in the Government Gazette, the Standards contained in the publication known as "**Handbook of International Standards on Auditing and Quality Control**" 2009 Edition,

ISBN 978-934779-92-7, with effect from 15 December 2009, and this publication is now replaced and substituted with the publications known as:

- **Handbook of International Quality Control, Auditing, Review, Other Assurance and Related Services Pronouncements, 2010 Edition Part I, ISBN978-1-60815-052-6; and**
- **Handbook of International Quality Control, Auditing, Review, Other Assurance and Related Services Pronouncements, 2010 Edition Part II, ISBN978-1-60815-052-6.**

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IRBA PROJECTS

COMPANIES ACT, 2008 AND DRAFT REGULATIONS

The Department of Trade and Industry (dti) issued a communication on 28 September 2010, indicating that the Companies Act, 2008 (as amended) and the Consumer Protection Act will come into force on 1 April 2011. The dti also issued a 'Notice of Introduction of a Bill into the National Assembly', with

the explanatory summary in Notice 1014 in Government Gazette No. 33695 on 27 October 2010. We understand that the **Companies Amendment Bill [B 40-2010]** may be introduced into Parliament during November 2010 and the Parliamentary Committee will thereafter advertise, calling for Public Hearings, for which two weeks' notice is required. We

understand that the Amended Draft

Regulations to the Companies Act, although drafted, have yet to be issued in their final form.

The IRBA continues to engage with the dti, the Minister of Finance and National Treasury, to convey concerns regarding possible conflicts of the Companies Amendment Bill, 2010 with the Auditing Profession Act, and the implications of the Companies Act, 2008 and Regulations thereto for the economy, public interest and the auditing profession.

The IRBA is aware of the concerns and challenges facing registered auditors and their clients pending implementation of the Companies Act, 2008. These arise, inter alia from the removal of the audit requirement replaced with a review requirement for certain categories of private companies, extension of requirements of the Companies Act requirements to close corporations some of whom may require an audit, new business rescue provisions and other far reaching changes. Until the Companies Amendment Bill is passed by Parliament, Regulations pursuant to the Companies Act, 2008 as amended, are issued, and the implementation date published by the Minister, this uncertainty will continue. We will communicate further as soon as clarity is obtained. One of the consequences of this period of uncertainty is an increase in 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. This issue is addressed more fully in this edition of IRBA news by the Director: Legal.

We are also aware that professional accountants and some registered auditors are attending training courses purporting to explain the “*independent review of financial statements*” in terms of the Companies Act, 2008. Since the Amended Act and Regulations pursuant thereto have yet to be published, the final requirements remain uncertain and we **caution** registered auditors, who are already fully trained and experienced in

performing an independent review in terms of ISRE 2400 *Engagements to Review Financial Statements* and ISRE 2410 *Review of Interim Financial Information performed by the Independent Auditor of the Entity* to be circumspect regarding advice that the independent review envisaged in the Companies Act, 2008 may differ from the principles and requirements in those standards. It may however, be opportune to engage with audit clients of small and owner managed companies or large close corporations, who may in future require a review rather than an audit, as to such services your firm may provide, since registered auditors will automatically qualify to perform such reviews, appropriate to their client’s needs.

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

We have received numerous enquiries from registered auditors anxious to know whether or not they may provide assurance to their clients in respect of B-BBEE ratings in accordance with the Broad-based Black Economic Empowerment Act, No 53 of 2003 and the related B-BBEE Codes of Good Conduct, without having to follow the accreditation process provided for in Section 10 of Code 000 of The Framework for Measuring Black Economic Empowerment.

The IRBA was granted conditional approval during March 2010 for registered auditors to provide B-BBEE verification services, subject to the following conditions:

1. Establishment of a “Framework” for Approval of a Regulatory Body;
2. Development of a Training Programme approved by the dti that registered auditors providing B-BBEE Ratings will be required to complete; and
3. Establishment of a Memorandum of Agreement (MOU) between the IRBA and the dti, setting out the respective terms and conditions.

The Director: Standards and one of our Standards Professional Managers serve on a Director General Task Team assisting the dti with addressing these conditions and have submitted proposals regarding an appropriate Framework that will form the basis of the Memorandum of Agreement with the dti. We continue to assist the dti with advice on technical matters. Once the conditions have been resolved, individual registered auditors and their firms will not be required to go through the SANAS Accreditation Process and verification guidance will be aligned with the relevant International Engagement Standards.

The dti has called for tenders from potential service providers for the development of appropriate training courses and is hosting a workshop on 12 November 2010 with interested stakeholders, including the IRBA, to progress this requirement.

Following concerns regarding existing unacceptable B-BBEE practices, such as fronting, we have assured the dti that compliance with our IRBA Code of Professional Conduct and related Rules Regarding Improper Conduct already provides for complaints against registered auditors who provide assurance or ratings that are materially incorrect or misleading.

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

1. Indicate the B-BBEE Rating or EME or SME status of their firms – this has already been implemented in our annual firm renewals sent out in August 2010. Each firm’s status will be recorded by the IRBA and reflects the ongoing support and encouragement of the IRBA for transformation initiatives in the auditing profession;
2. Provide evidence that individual registered auditors 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, other than an EME or SME status, are issued to an audit client, the additional documentation to support the rating awarded would form part of the "audit working papers".

The BEE Council has instructed the dti to resolve the outstanding conditions for approval of the IRBA as soon as possible and to publish a Notice in the Government Gazette as soon as they are finalised. We will advise registered auditors of the requirements as soon as this is done.

We also understand that a number of auditing firms may be contracted in by Accredited Verification Agencies to perform the verification work at entities in order to evaluate the ratings. The relevant Verification Agency then issues the Rating Certificate based on a review of the auditor's working papers. We also understand that larger listed companies may well be preparing integrated reports as part of their annual reports for 2010 and 2011 in compliance with the JSE Limited Listing Requirements in implementation of the King III recommendations and ordinarily may include B-BBEE Scorecard information

therein. In both such circumstances, the auditor is providing assurance on the content of the integrated report, but is not issuing a formal "B-BBEE Ratings Certificate".

AUDITOR LIABILITY PROJECT

This project has been delayed the past few months and will recommence shortly with a view to presenting proposals with regard to capping of auditor liability to the Board during 2011.

COMMITTEE FOR AUDITING STANDARDS (CFAS)

CURRENT CFAS PROJECTS

- **Access to Audit Working Papers: A Guide for Registered Auditors:** amendments have been made to accommodate the access requirements in ISA 600, *Special Considerations – Audits of Group Financial Statements (Including the Work of Component Auditors)* for the group engagement partner (principal auditor) responsible for the group audit engagement and the auditor's report on the group financial statements. **The Guide was issued on 3 November 2010.**
- **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 Attorney's Trust Accounts in terms of the Attorney's 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 SAICA 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 xx that will be issued as an exposure draft for comment early in 2011.

- **IFAC Guide to Quality Control for Small and Medium Sized Practices:** CFAS has approved the SAAPS 1 Task Group's recommendation to withdraw SAAPS 1 *Quality Control* 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.
- **Medical Schemes Audit Guide:** A CFAS Task Group comprising auditors who specialise in the audit of medical schemes, is busy drafting the Medical Schemes Audit Guide. The various sections of the Guide have been allocated to individual audit firms and

the Medical Council. A retired audit partner, with experience in the audit of medical schemes, will manage the project, to expedite the issue of the exposure draft early in 2011.

- **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.

CFAS REPORTS STANDING COMMITTEE (RSC)

- **Proposed Revised SAAPS 2 Financial Reporting Frameworks and the Auditor's Report:** The **Proposed Revised SAAPS 2** has been issued for comment. **The comment period ended on 12 November 2010.** The proposed revised SAAPS deals for the first time with the acceptability of accounting frameworks applicable to both private and public sector entities and government departments in South Africa, in the application of the Clarity ISAs and the effect of the accounting framework adopted by management, both on the acceptance of the engagement, and on the auditor's report. Comments received were considered by the RSC and recommendations for changes presented to the CFAS at its meeting on 24 November 2010 where **SAAPS 2** was approved for issue.
- **Revised SAAPS 3 Illustrative Independent Auditors Reports:** The **Revised SAAPS 3** has been updated for changes arising from the Clarity ISAs and will include reports on public sector entities and government departments as required by the Auditor-General South Africa. The **Revised SAAPS 3** was presented for approval at the CFAS meeting on 24 November 2010 and uploaded to the IRBA website thereafter.

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 South African Banking Association, 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.

FINANCIAL SERVICES BOARD (FSB)

- **Long Term and Short Term Insurance – SAM Project:** The Director: Standards has been 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. Following the exposure draft issued by the FSB's Retirement Funds Department regarding the Section 13(B) reporting requirements and proposals for the regulation of investment administrators that fall under the FAIS Department, discussions are continuing with both departments to determine their requirements from auditors.
- **Nominees reporting:** discussions are continuing 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.
- **Long Term and Short Term Insurance:** Discussions continue with the FSB to resolve concerns regarding the regulatory reporting requirements in the Long Term and Short Term Insurance Act and Regulations.

Department of Trade and Industry

- **Enterprise Investment Programme (EIP):** The dti has revised Guidelines for the Enterprise Investment Programme

(EIP): Manufacturing Investment Programme (MIP) and Tourism Support Programme (TSP). Some of the key changes are in respect of the definitions of; acquired assets, qualifying assets, investment costs, commencement date of production, incentive grant calculation and performance requirements. Some of these changes have an impact on the factual findings report that has been agreed with the dti, the report is currently being revised to take the changes into account and once they have been agreed the revised report and program guidelines will be uploaded on the IRBA and dti websites.

- **Automotive Investment Scheme (AIS):** The Minister of Trade and Industry has approved the new investment scheme, the *Automotive Investment Scheme (AIS)* that replaces the existing Motor Industry Development Programme (MIDP). AIS is an incentive designed to grow and develop the automotive sector through investment in new and/or replacement models and components that will increase plant production volumes, sustain employment and/or strengthen the automotive value chain. We will be meeting with the dti to assist them in establishing the appropriate reporting requirements for the scheme.

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.**

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

Comments submitted on exposure drafts

IAASB Exposure drafts on which various CFAS task groups will comment or have already submitted comments include:

- ISAE 3420, *Assurance Reports on the Proper Compilation of Pro Forma Financial Information Included in Prospectuses* was issued on 28 April 2010. Comments were submitted by **30 September 2010**, with input from the joint task group with SAICA and the JSE that is currently working on a review and revision of the SAICA JSE-Related Guides and Circulars.
- ISA 315 (Revised), *Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment* and ISA 610 (Revised), *Using the Work of*

Internal Auditors was issued on 15 July 2010. Comments were submitted by the due date of **15 November 2010**.

- Proposals Relating to International Auditing Practice Statements (IAPs): *Withdrawal of Existing IAPs; Clarification of the Status and Authority of New IAPs; Proposed Amendments to the Preface to the International Quality Control, Auditing, Review, Other Assurance, and Related Services Pronouncements; Proposed International Auditing Practice Statement IAPS 1000, Special Considerations in Auditing Complex Financial Instrument* was issued on 13 October 2010. Comments are due by **11 February 2011**.
- ISRS 4410 (Revised), *Compilation Engagements* was issued on 28 October 2010. Comments are due by **31 March 2011**.
- The IAASB is currently working on the following other **projects**:
 - *Review Engagements* – revision of ISRE 2400 to

accommodate the demand globally for an alternative to an audit for small and medium sized entities, often owner managed businesses.

- *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*.
- *Assurance on a Greenhouse Gas Statement*.
- Auditor's Report.
- ISA Implementation Monitoring.
- *The Auditor's Responsibilities Relating to Other Information in Documents Containing Audited Financial Statements*.
- XBRL.
- Audit Quality.

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

ETHICS

REVISED CODE AND RULES

Persons registered with the Board 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 will be included in the **2011 Manual of Information** issued by the IRBA or available on request on a CD. 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*.

The alignment with the IFAC Code will assist auditors who have since 2005 been required to comply with the International Auditing Standards whilst reconciling the format of the former PAAB Code to the SAICA Code of Professional Conduct and the IFAC Code of Ethics for Professional Accountants. It also supports the alignment with the IRBA's mandate to protect the public through regulation of the auditing profession.

Registered auditors are reminded that in adopting Parts A and B and the Definitions in the Revised IFAC Code of Ethics for Professional Accountants (July 2009) that modifications and changes have been made for

additional requirements that are specific to registered auditors in South Africa - these are **underlined and in italics** to assist registered auditors to easily identify differences from the IFAC Code. The Code applies to **all registered auditors** providing **“professional services”** as more fully defined in the Code and Rules. Whilst the drafting convention of the Code differs completely from that previously applied in the existing IRBA Code, the principles are unchanged. The drafting convention follows that adopted in the International Standards on Auditing with the term “shall” and denotes a “requirement” with which an auditor must comply.

As always the Rules provide the mechanism for the IRBA to take disciplinary action against registered auditors and others registered with the IRBA. New requirements that may constitute improper conduct include a failure to comply with auditing pronouncements prescribed by the

Board and any contravention or failure to comply with the Code.

The effective date of 1 January 2011 allows registered auditors time to implement the new requirements. 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**.

Auditors 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.

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NOMINATIONS FOR VACANCIES ON CFAE

We received an excellent response to our call for nominations to fill the vacancies on the CFAE and have shortlisted nominees who met the requirements. All shortlisted nominees have been interviewed by a panel comprising CFAE members and the Secretariat.

Recommendations were taken to the Nominations Committee and considered at its December 2010 meeting. Recommendations will be submitted to the next Board meeting for appointment and will be communicated thereafter.

INSPECTIONS

INSPECTIONS DEPARTMENT AND ITS ROLE AT THE IRBA

INTRODUCTION

The Independent Regulatory Board for Auditors (“the IRBA”), which was initiated and continues to be governed by the Auditing Profession Act of 2005 (“the APA”), has as its mission the responsibility of regulating the auditing profession

in order to protect the financial interests of the South African public and international investors. The Inspections Department (previously Practice Review Department) is one of six departments at the IRBA and is specifically mandated, in terms of Section 47 of the APA, with regulating the conduct of registered

auditors and in doing so inspecting the work of registered auditors and their practices to monitor their compliance with internationally recognised professional standards. The responsibilities of the department and what can be expected from an inspection have been highlighted in the article.

WHAT DOES SECTION 47 REQUIRE?

In terms of Section 47(1)(a) "the Regulatory Board, or any person authorised by it, may at any time inspect or review the practice of a registered auditor". The section allows for the IRBA to "inspect and make copies of any information including but not limited to any working papers, statements, correspondence, books or other documents in the possession or under the control of a registered auditor". The Inspections Department is mandated by the APA to perform inspections based on a review cycle which is either a three year or a six year cycle depending on the nature of the client base of the practitioner. The APA specifically requires the IRBA to inspect or review the practice of a registered auditor that audits a public interest company "at least every three years". The six year cycle applies to registered auditors with a client base of non public interest clients.

APPLICATION OF SECTION 47

To achieve the department's objectives it employs full time experienced qualified professionals. The structure of the department is flat with the Senior Inspectors reporting through to a Senior Manager who then reports the Director. The department is currently staffed with twelve Senior Inspectors and a Senior Manager. The department has also utilised inspectors with specific skills such as human resource and ethics specialists on firm inspections.

Engagement inspection

The inspection process is run in cycles with the completion of the third cycle imminent and the fourth cycle of inspection currently underway. All registered auditors, of which there are currently approximately 2800, will be subject to an inspection when selected in terms of the relevant cycle. The process of file selection when the inspection is performed is risk based depending on the risk category (category "A", "B" and "C" with category "A" and "B" being the

public interest clients). Category "A" and "B" clients are the primary focus of the inspection process however it should be noted that any file may be selected in terms of the department's file selection methodology.

Firm inspection

The practice is subject to a firm inspection should a registered auditor in the practice have a category "A" or "B" client. As with the engagement inspection process the relevant international standards are required to be met - in this case the International Standard on Quality Control (ISQC 1) applies. Firm inspections are performed on a three year cycle. As with engagement inspection the Inspection Committee considers the submission and makes a decision on whether the quality control requirements, as required by ISQC 1, have been complied with.

APPLICATION OF SECTION 48

In rare instances practitioners are referred to the Investigation Committee. This occurs when two criteria are met. Firstly, where no corrective action has been taken by the practitioner following from a prior inspection, and secondly where there is significant non compliance with professional standards which takes the form of fundamental non or inadequate documentation and consequently it is probable that an inappropriate audit opinion has been expressed. An investigation of a charge of improper conduct is performed by the Legal Department at the IRBA, and if found guilty of improper conduct, as set out in paragraph 8 of the disciplinary rules, sanctions are imposed on the practitioner. The sanctions imposed range from a caution or reprimand to cancellation of registration and removal of the name of the practitioner from the register.

WHAT THE AUDITOR CAN EXPECT FROM A REVIEW

The road shows have provided some insight into the workings at the IRBA and the changes that have taken place since

July 2009. The inspection outcome, however is still fundamentally the same, and is dependent on whether the registered auditor has an audit file which supports the audit opinion. The primary inspection approach is risk based and the fundamental approach taken to performing the inspection by the Inspector still involves an initial discussion, file selection and inspection and a final discussion on the findings. Assessing whether the documentation on file supports the audit opinion effectively means assessing whether the audit opinion is supported by compliance of the full set of annual financial statements with the relevant financial reporting framework and the working papers on file comply with the requirements of the International Standards on Auditing. The department's view is that the objective of International Standard on Auditing 230 applies and requires that the audit file has:

- (a) A sufficient and appropriate record of the basis for the auditor's report; and
- (b) Evidence that the audit was planned and performed in accordance with International Standards on Auditing and applicable legal and regulatory requirements.

The Inspectors, who are independent and impartial, perform the information gathering and compliance assessment exercise reporting on findings identified during the review. The findings are risk ranked on a rating scale (0 indicating no issues with 5 recommending referral to the Investigation Committee) and discussed with the practitioner who is given the opportunity to

comment on the findings in writing. Should there be any contentious issues requiring further discussion they are addressed during the meeting.

Prior to submission the inspection working papers are subject to an internal quality control process where another Inspector and the Senior Manager review the Inspector's working papers and findings and debate any issues which may be contentious or require further consideration. For certain selected files internal quality control also takes the form of "review the reviewer" where the Senior Manager re-performs the review that the Inspector has performed. This review has no bearing on the initial review findings as it is merely to monitor consistency and quality within the department.

Following the internal quality control process the findings and recommendation are submitted to the Inspection Committee where the decision is taken on whether the file meets with the necessary International Standards on Auditing and that the financial statements are fairly presented in terms of the

relevant accounting framework and where applicable the Companies Act. A file subject to re-inspection will result in another inspection to be performed by the IRBA which is usually scheduled to take place within a year of the decision by the Inspection Committee. The practitioner does not need to be concerned about a "witch hunt" and provided the standards expected of a registered auditor are complied with then the inspection process need not be viewed with suspicion and dread. Where instances of non-compliance have been identified the process could be viewed as an opportunity to address deficiencies in the audit approach and documentation process. Addressing the findings is a means of ultimately reducing audit risk and assisting in providing comfort that the auditing profession is producing audit reports that can be relied upon.

CONCLUSION

The role of the IRBA as a public protector provides for the regulation of the profession tasked with the responsibility of providing assurance to users relying on the work of the

auditor. The role of the auditor has become more complex in recent years especially given the ongoing changes and challenges associated with being a registered auditor. The IRBA, with the Inspections Department, has also had to adapt to the changing regulatory environment (both locally and internationally) and given this context performing ongoing inspections by the Inspections Department continues to be a necessary "evil" for a registered auditor in public practice.

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LEGAL

QUARTERLY REPORT FROM THE DIRECTOR: LEGAL FOR THE PERIOD 1 JULY 2010 TO 30 SEPTEMBER 2010

INVESTIGATING COMMITTEE

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

In addition one matter was not referred to the Committee due to a lack of response from the complainant. One practitioner died during the course of the investigation.

DISCIPLINARY ADVISORY COMMITTEE

The Disciplinary Advisory Committee met twice during this period and disposed of 12 matters (concerning 11 practitioners), as follows.

Decisions not to charge

- one matter 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)
- three 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).

Decision to charge and matter finalised by consent

Six practitioners were fined.

- one matter was a combined case and related to two separate complaints of negligence (R50,000 of which R20,000 was suspended on conditions)
- one matter related to a JSE referral (R75,000 of which R25,000 was suspended on conditions)

- one matter related to negligence (R20,000 of which R10,000 was suspended on conditions)
- one matter related to a body corporate (R10,000 of which R5,000 was suspended on conditions)
- one matter related to a Law Society trust account certificate (R100,000 of which R25,000 was suspended on conditions)
- one matter related to lack of independence and favouring one client over another (R75,000 of which R50,000 was suspended on conditions)

DISCIPLINARY COMMITTEE

The Disciplinary Committee met once during this period. The matter is part heard and resumes in October 2010.

“HOLDING OUT” IN ALL OF ITS VARIOUS MANIFESTATIONS

This statutory offence appears to be on the increase and RAs are not always certain what to do about instances which they might encounter. We hope that the following information will be of assistance.

“Holding out” as a registered auditor (RA)

This offence emanates from Section 41 of the Auditing Profession Act and covers, for example, a non RA member performing statutory audits. Section 41 states:

41. (1) “Only a registered auditor may engage in public practice or hold out as an registered auditor in public practice or use the registered auditor description (sic) “public accountant”, “certified public accountant”, “registered and auditor”, “accountant and auditor in public practice”, or

any other designation or description likely to create the impression of being a registered auditor in public practice.

- (2) (a) A person who is not registered in terms of this Act may not -
 - (i) perform any audit
 - (ii) pretend to be, or in any manner hold or allow himself or herself to be held out as, a person registered in terms of this Act;
 - (iii) use the name of any registered auditor or any name or title referred to in subsection (1); or
 - (iv) perform any act indicating or calculated to

lead persons to believe that he or she is registered in terms of this Act.”

What this means is that nobody who is not a currently registered auditor, with IRBA, may perform an audit or do anything which creates the impression that he is a registered auditor; (performing an audit is clearly the most obvious way of pretending to be a registered auditor, but there are others).

The possible contraventions of this section cover a wide spectrum.

At one extreme is the person who is indeed a fully qualified RA and has been registered with the Board for perhaps many years, but for some aberration omits to pay his annual fees, or return his annual documentation, and is struck off our register in consequence. Let us assume that that person is unaware that his fees remain unpaid and is very aware that one may not hold out as an auditor unless one is a registered auditor, but truly believes that he **is** a registered auditor, as he has been for most of his working life.

At the other extreme are people who are not registered, have never been registered, are not qualified to register and who know very well that what they are doing is dishonest, a statutory contravention, and misleading to the public.

In between these two extremes fall a number of other instances such as:-

- The chartered accountant (duly qualified and registered with SAICA) who honestly, but incorrectly, believes that chartered accountants may perform audits.
- The foreign chartered accountant who believes the same.
- The SAIPA member who honestly, but incorrectly, believes that the new Companies Act is in force and that in consequence he may perform "audits".
- The "accounting officer"¹ who is indeed entitled to perform "audits" in certain limited circumstances (for example the Sectional Titles Act) who believes that this entitles him to perform any similar sort of "audit".

All of the above are instances of holding out in contravention of

¹ Accounting officers are members of various institutes and bodies which have been decreed by the Minister, in terms of the Close Corporations Act, to be permitted to perform the duties of an Accounting Officer to a Close Corporation.

Section 41 of the APA. The degree of culpability which will attach to the various individuals guilty of this offence is obviously different.

"Holding out" as a Chartered Accountant

The Chartered Accountants' Designation Act has a similar provision relating to the people holding out as chartered accountants.

The IRBA is not directly concerned about people holding out as CAs. These matters are addressed by SAICA.

"Assisted holding out"

Increasingly we are experiencing scenarios where an RA is in some sort of professional relationship with, for instance, a SAIPA member (it could be any type of accountant, but SAIPA members are the most common in our experience) and the SAIPA member offers the RA's professional services to members of the public. The public is often unaware of the fact that there is an RA in the background and believes that the SAIPA member is his auditor. It could be that the RA's name is reflected on the letterhead of the SAIPA member's practice, or that the RA allows the SAIPA member to sign correspondence on his practice stationery, and we call this scenario "assisted holding out".

What to do when you come across any of the three instances referred to above.

- If you come across a blatant scenario of a non-registered person holding out as an RA, you refer the documentation upon which you surmise that somebody is holding out **alternatively** a full statement explaining why you believe that there is a member of the public holding out as an auditor to Jane O'Connor or Prema Pillay at the IRBA. We will raise the issue with the individual concerned and, depending upon the circumstances giving

rise to the holding out, we might prosecute this through the courts.

- If you come across a scenario of an individual holding out as a chartered accountant you refer this to SAICA.
- If you come across a scenario which would fall under the 'assisted holding out' umbrella, you refer the matter to Jane O'Connor or Prema Pillay and we will raise it with the parties concerned. Ultimately such a complaint could result in either or both of the RA being disciplinarily prosecuted and the other person being prosecuted through the courts in terms of Section 41.

Recent case concerning "holding out"

It is serendipitous that a civil action in which 'holding out' was an issue recently served before the Cape High Court. The facts are as follows: A certain individual, "P", (who had been convicted of 'holding out' in November 2003, as a result of a plea of guilty) applied to the High Court for a Declaratory Order that the (holding out) offence did not constitute fraud, forgery or an 'offence involving dishonesty', **alternatively** that even if it did, that he nevertheless be permitted to act as a director of a company, a member of a close corporation or a trustee of a body corporate.

For the reasons set out above, the IRBA has every reason to believe that conduct giving rise to a 'holding out' conviction might well be dishonest - depending on the circumstances. Accordingly, as soon as we became aware of the action we applied to intervene in the Application. The following is an extract from my affidavit motivating our request to intervene.

"THE INTERVENING RESPONDENT: IRBA

3. The intervening respondent is the Independent Regulatory Board for Auditors ("**IRBA**"), a juristic person established under section 3 of the Auditing Professions Act No 26 of 2005 (the "**APA**"). IRBA is the successor to the Public Accountants' and Auditors' Board ("**PAAB**") which was established under the Public Accountants' and Auditors' Act No 80 of 1991 (the "**PAAA**").
4. IRBA's general functions include, *inter alia*:
 - 4.1 promoting the integrity of the auditing profession;
 - 4.2 protecting the public in their dealings with registered auditors;
 - 4.3 prescribing standards of professional competence, ethics and conduct of registered auditors;
 - 4.4 education and research into any matters affecting the auditing profession; and
 - 4.5 prescribing auditing standards.
5. In addition, under section 6 of the APA, IRBA has a number of specific functions relating to the registration of auditors.

THE PURPOSE OF THIS APPLICATION

6. The purpose of this application is seek the leave of this Honourable Court for IRBA to intervene as a respondent and oppose the relief sought in paragraph 1 of the Notice of Motion in the application launched by the applicant herein ("**P**") under case number X ("**the main application**").

7. For the reasons set out hereinbelow IRBA has an interest in the aforesaid relief and it is submitted that it is accordingly convenient and necessary and, in any event, in the interests of justice that IRBA be joined to the main application as a respondent therein.

BACKGROUND

8. On 20 November 2003, P was convicted of an offence in terms of section 27(3) read with section 14 of the PAAA. I mention in passing that I, in my capacity as Director: Legal of IRBA, laid the complaint which led to P's conviction in 2003, and I annex hereto marked "PJO 1" a copy of my affidavit filed in support of such complaint together with the annexures filed therewith.
9. At the time section 14 of the PAAA provided that:

"No person shall:

 - (a) *engage in public practice as an accountant or auditor or hold himself out as an accountant or auditor in public practice or use by any designation or description likely to create the impression that he is an accountant or auditor in public practice; or*

.....
unless he is registered as an accountant and auditor in terms of this Act and has paid, at the rate applicable to a registered accountant and auditor who is engaged in public practice"
10. Section 27(3) thereof, in turn, provided that:

"Any person who contravenes or fails to comply with any provision of this Act, shall be guilty of an offence and, where no other

penalty is prescribed, liable on conviction to a fine not exceeding R4 000".

11. The PAAA was in force and effect until 31 March 2006, whereafter it was repealed in whole by the APA.
12. The APA, which came into force on 1 April 2006, now provides, in similar terms to those set out above, that:-
 - 12.1 in terms of section 41(1) thereof:

"Only a registered auditor may engage in public practice or hold out as a registered auditor in public practice or use the registered auditor description "public accountant", "certified public accountant" "registered accountant and auditor", "accountant and auditor in public practice" or any other designation or description likely to create the impression of being a registered auditor in public practice.";
 - 12.2 in terms of section 41(2) thereof:

"A person who is not registered in terms of this Act may not-

 - (i) *perform any audit;*
 - (ii) *pretend to be, or in any manner hold or allow himself or herself to be held out as, a person registered in terms of this Act;*
 - (iii) *use the name of any registered auditor or any name or title referred to in subsection(1); or*
 - (iv) *perform any act indicating or calculated to lead persons to*

believe that he or she is registered in terms of this Act.”; and

- 12.3 in terms of section 54 thereof:
“A person who contravenes sections 41, 47 or 44 is guilty of an offence and a person is liable to a fine or in default of payment to imprisonment not exceeding five years or to both fine and such imprisonment.”
13. It is submitted that the intention of the legislature in enacting the abovementioned provisions in the PAAA and thereafter in the APA was clear, namely to provide for a sanction against persons holding themselves out to be accountants and/or auditors who were not registered as such and to render such persons guilty of an offence.
14. It also goes without saying that the sanction/s provided for are inter alia designed for, and to have the effect of, protecting the public from persons unlawfully holding themselves out to be accountants and auditors, when they are not, in fact. In this regard the sanctions provide necessary legislative support for the role played by IRBA and its predecessor the PAAB in carrying out their mandated functions in terms of the APA and its predecessor the PAAA.
15. Clearly IRBA, itself, can exercise no control over members of the general public holding themselves out to be or professing to be accountants or auditors, but in creating a statutory criminal offence in relation to which such persons could be found guilty, the legislature clearly recognised that a criminal sanction with general statutory effect was a necessary adjunct to

the powers and functions exercisable by IRBA and the PAAB in terms of their respective empowering acts.

16. It is against this background that IRBA is concerned that the relief sought by P in paragraph 1 of his Notice of Motion may set an unfortunate precedent which could or may have the effect of undermining the efficacy of the sanction provided for previously by section 27(3) of the PAAA and now by section 54 of the APA.

THE RELIEF SOUGHT BY P AND IRBA'S INTEREST THEREIN

17. In this regard both the relevant relief sought by P and the basis upon which he was convicted of the relevant offence in terms of section 27(3) of the PAAA, bear closer consideration.
18. Paragraph 1 of P's Notice of Motion prays for an order:-
“Declaring that the offence to which (P) pleaded guilty on 20 November 2003, that is to say, a contravention of section 14(a) as read with sections 1 and 27 of (the PAAA) did not constitute “fraud” “forgery” or an “offence involving dishonesty” as envisaged by section 218(1)(d)(iii) of the Companies Act no 61 of 1973 or an offence involving dishonesty as envisaged in section 47(b)(iii) of the Close Corporations Act No 69 of 1984.”
19. While, in his statement in terms of the provisions of section 112(2) of the Criminal Procedure Act no 51 of 1977 (annexure “BP 2” to his founding affidavit) (“P’s section 112(2) Statement”), P inter alia admits that:
“(he) did unlawfully and intentionally engage in public practice as an accountant or auditor or
- held (himself) out as an accountant or auditor in public practice or used a designation or description likely to create the impression to the public in general that (he) was an accountant or auditor in public practice” and*
“(he) knew at the time that it was a criminal offence to do so.” (emphasis provided)
20. Read together the concomitant result of the grant of relief by this Honourable Court in terms of paragraph 1 of P's Notice of Motion will be to render an offence in terms of section 27(3) of the PAAA and presumably section 54 of the APA – even in circumstances where the perpetrator has admitted intentional wrongdoing and explicit knowledge of the criminality of his conduct – an offence which does not amount to a fraud or an offence involving dishonesty.
21. It is submitted that such an order, or judgment of this Honourable Court to that effect, will have a significantly emasculating effect on the sanction provided for previously by section 27(3) of the PAAA and now section 54 of the APA and could have the unintended consequence of undermining the powers, functioning and authority of IRBA contemplated by the APA.
22. In the circumstances it is respectfully submitted that IRBA clearly has an interest in the outcome of the main application and on this basis should be permitted leave to intervene therein.
23. The above notwithstanding and, in any event, it is submitted that it would be in the interests of justice to allow the joinder of IRBA as a respondent in the main application as IRBA is uniquely able to provide this

Honourable Court with input as to its views on the suitability of an order in the terms sought and its likely effect.

IRBA'S PRIMA FACIE CASE

24. Notwithstanding what P may have said – some seven years after the fact - in founding his application, in regard to the reasons why, and the circumstances in which, he pleaded guilty to the offence in terms of section 27(3) of the PAAA, P's section

112(2) Statement is at least *prima facie*, if not conclusive, proof that the offence which he committed and the circumstances in which he committed same constituted a fraud and an offence of dishonesty.

25. It is for this reason that should IRBA be granted leave to intervene in the main application, it will oppose the relief contemplated in paragraph 1 of P's Notice of Motion."

Queries: **Jane O'Connor**
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 Facsimile: **087 940 8873**
 E-mail: **legal@irba.co.za**



In the event, upon receipt of our documents, the Applicant abandoned his prayer for a declarator that the offence does not constitute fraud, forgery or an 'offence involving dishonesty'

REGISTRY

INDIVIDUALS ADMITTED TO THE REGISTER OF THE BOARD From 01 JULY TO 30 SEPTEMBER 2010

- Baron Jonathan
- Benade Lyzaan
- Bernard Nicholas Hendrik
- Bester Thomas
- Beyers Stefan Maria Henri
- Bhula Muhammad Suliman
- Boshoff Johannes Nicolaas
- Butler Dustin Clint
- Carreira Diana Fernandes
- Choonara Yussuf
- Coetzee Willem Jacobus
- De Kock Tertius Johannes
- De Villiers Zohra
- De Wet Anele Helene
- De Wet Bonita Jade
- Dickson Mariska Helena
- Dire Nitha
- Du Plessis Izel
- Du Plessis Leon
- Du Plessis Pierre Gustav
- Du Toit Gerrit Johannes
- Duvenage Bianca
- Ebrahim Amod Irshad

- Erasmus Jacobus Christoffel
- Fotinakis Alexandra
- Grové Johannes Jesaias
- Hillermann Hans Dieter
- Hoffman Ferdinand Wessel
- Jansen Van Rensburg Susan Aletta
- Jantjies Lebogang Brian
- Kaye Brett
- Kearns Lindsay Duncan
- Kohl Thomas Michael
- Kruger Johann Leonard
- Ligault-Bohm Bernice
- Lodewyk Barry Joseph
- Lubbe Willem Schalk
- Makhetha Olivia Maria
- Marais Chantel
- Margot Thornhill Jennifer
- Masondo Chumani Sizwe
- Matshate Tshepo Jan
- Mayne Margaret
- Mofokeng Tshepo Morgan
- Mogano Thabo Elias
- Moolman Petrus Lafras
- Motsweni Thokozile Mavis
- Naidoo Megandren
- Naidoo Carmeni
- Nel Johannes Jacobus
- Nxiweni Siyabonga Gugu

- Olivier Christiaan Stephan
- Olivier Quintin
- Oosthuizen Willem Johannes
- Osman Hanifa
- Patel Niranján Mohanlal
- Pieterse Cornelius
- Pietro Paolo Steven
- Pillay Logan
- Pretorius Christian Louis
- Radebe Nkululeko Mathubeszwe
- Rae Tanya
- Saley Bilal
- Schmidt Lejanie
- Schoeman Elizabeth
- Schoonees Elizabeth Maria
- Schulz Warren William

REGISTRY

CONTINUED

Smit Jacobus Petrus
Snyman Ryno Jacques
Stedall Paul
Steyn Andre
Stoffberg Jacobus Arnoldus
Stoltz Riegert Gerhardus
Storm Deon
Strauss Isaac Petrus
Suliman Yasmeen
Swart James Robert Archer
Thomas Leanne
Van Der Merwe Mareliese Lourenne
Van Der Westhuizen Jaco
Van Schalkwyk Wynand Thomas
Van Tonder Marietjie
Van Zuydam Lizel
Viljoen Elise
Volschenk Jolandi
Wessels Ilze

INDIVIDUALS RE-ADMITTED TO THE REGISTER OF THE BOARD From 01 JULY TO 30 SEPTEMBER 2010

Badenhorst Rudolf Philippus
Baker Nizaam Reshed
Du Plessis Petrus Gerhardus
Eicker Barend Stephanus
Engelbrecht Lindie
Hartman David Andrew
Kramer Ian
Malaza Fundisiwe Smangele Precious
Maritz Jozef Johannes
Moyo Mthandazo Peter
Munnik Francois Wilhelmus
Ramuedzisi Vhonani Denga
Van Dyk Theodorus Bernadus
Van Zyl Jacobus Frederick
Venter Adriaan
Wicht Pieter Harold

INDIVIDUALS REMOVED FROM THE REGISTER OF THE BOARD From 01 JULY TO 30 SEPTEMBER 2010

Allan Ivan Lawrence *Resigned*
Anderssen Brian Edwin *Resigned*
Awbrey John *Retired*
Beggs Colin *Retired*
Berzen David *Resigned*
Biggs Anthony Llewellyn *Resigned*
Binge Keith Verdun *Resigned*
Blignaut Johannes Hendrik *Resigned*
Brettenny Alexander James Norman *Resigned*
Brits Jan Dirk Johannes *Deceased*
Buthlezi Muzikayifani Humphrey *Resigned*

Capper Robert Ernest *Retired*
Carlin Andrew Pieter Melles *Retired*
Cohen Harold *Retired*
Colyvas Alexander Dionisios *Resigned*
Da Mota Roberto Silva *Resigned*
Dalton Trevor John *Resigned*
Davidson Richard Terry *Resigned*
De Beer Carina *Resigned*
De Villiers Daniel JohannEs *Resigned*
De Villiers Jacques De Klerk *Resigned*
Dixon James Stephen *Resigned*
Du Preez Regardt Helgard Petrus *Emigrated*
Earle Graham Vincent *Resigned*
Erasmus Phillipus Lodewikus *Resigned*
Ferreira Cornelius Johannes *Retired*
Fialkov Kevin *Retired*
Fourie Johannes Lodewikus *Retired*
Gomer Wayne Michael *Resigned*
Goodman Isaac *Deceased*
Goosen Enid *Emigrated*
Goosen Gerhardus Rossouw *Retired*
Gouveia Wendy Marcella *Resigned*
Grobler Adolf Herman *Retired*
Hanekom Eduard Willem Albertyn *Retired*
Hassen Muhammad *Resigned*
Hattingh Johannes Heinrich *Resigned*
Hattingh Jacques *Resigned*
Hirsowitz Stanley *Deceased*
Horsfield Michael Allan *Retired*
Horwitz Dennis Louis *Resigned*
Hurr Nicola Anne *Resigned*
Hurter Pieter Maree *Resigned*
Isaacson Solly *Retired*
Jackson Jonathan Mansfield *Resigned*
Janse Van Rensburg Michelle *Resigned*
John Edward Stevens *Resigned*
Kadwa Shabbir Ahmed Ismail *Resigned*
Kali Lusanda *Resigned*
Karam Alexander Joseph *Retired*
Karolia Mohamed Hoosen Ebrahim *Resigned*
Kater-Garakis Petros *Resigned*
Krantz Ian Bernard *Retired*
Kritzinger Lindie *Resigned*
Lancaster Terence Compton *Retired*
Lapoorta Althea Theodoretta *Resigned*
Latinsky Joel Eric *Deceased*
Louw Jacobus Gideon *Emigrated*
Louw Tobias John *Resigned*
Madden James Desmond *Emigrated*
Madubanya Matsobane Robert *Resigned*

Magadla Alupheli Kwanele *Resigned*
Malherbe Ernst Gideon *Resigned*
Manana Nqabanhle Sibusiso *Resigned*
Marais Brenda Dale *Resigned*
Marsden Robin Ian *Resigned*
Mcknight Gillian Colleen *Resigned*
Meaker Allister Brian *Resigned*
Middleton Derek Harold *Resigned*
Mills Robynne Melinda *Resigned*
Moolla Zulker Nain *Resigned*
Mtyelwa Alicia *Resigned*
Nel Christopher Coenraad *Emigrated*
Nel Maria Elizabeth Magrietha *Resigned*
Nel Jacob Stefanus Johannes *Resigned*
O'Flaherty Terence Christopher Harry *Retired*
Omar Khalid Osman *Resigned*
Pascal Van Alphen Roland *Resigned*
Pickford Nigel Lionel *Emigrated*
Pretorius Hellette *Resigned*
Purnell David John *Resigned*
Roets Hendrik Lourens Marthinus *Resigned*
Rossouw Stefan *Retired*
Schoombie Clive Ernest *Deceased*
Simpson Malcolm John Nelson *Retired*
Sims Jonathan Lewis Weir *Resigned*
Stott Barry Anthony *Retired*
Strauss Monique *Resigned*
Terblanche Lorna Anne *Resigned*
Toms Adrian Robert *Resigned*
Van Den Heever Benjamin *Retired*
Van Jaarsveld Adriaan Pieter *Emigrated*
Van Noort Henricus Petrus *Resigned*
Visser Jacobus *Resigned*
Volschenk Riana *Resigned*
Welman Anthonie *Retired*
West Geoffrey Alan *Resigned*
Wetton John Leslie *Resigned*
Wimble Mervyn Hugh Edwards *Retired*
Wynn Rosary *Resigned*
Zietsman Beverley Susan *Resigned*

Registry

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CORPORATE SOCIAL RESPONSIBILITY

On Wednesday 22 September 2010 the CSR committee attended Thembalami's September birthday bash to hand-over toiletry packs to all its residents. We had a terrific time with the residents - clapping and dancing to songs provided by the Angels choir; and later, we were treated to healthy servings of cake to replenish our energy levels while mingling. The residents were extremely grateful for our company and their gifts.



At the time of going to print the IRBA's Corporate Social Responsibility Committee is in the process of planning a drop-off of animal feeds at the Sebenza SPCA and a Christmas social with the boys from All Stars.

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 July to September 2010 is set out below. These communiqués may be downloaded from the IRBA website, under the various "News" tabs.

2010/07/01	FSC Mauritius
2010/07/07	Revised Medical Scheme Audit Reports
2010/07/08	ISAE 3420 Prospectus
2010/07/20	Board Nominations
2010/07/28	CFAE Nominations
2010/07/28	Registry: Annual Fees
2010/08/18	IAASB Enhanced Standards
2010/09/09	IRBA News Issue 13
2010/09/09	Exposure draft on revised registration requirements for auditors
2010/09/14	New Email Address for the Submission of Reportable Irregularities and Guidance on Submission of Reports to the IRBA
2010/09/20	IRBA 2010 Annual Report
2010/09/22	IFAC Handbooks of International Standards on Quality Control Auditing, Review, Other Assurance and Related Services 2010 Edition - Parts I and II

GENERAL NEWS

BIG PICTURE UNVEILED TO THE BOARD

On 27 October the IRBA management and staff had a short tea with the members of the Board while they were attending their Board meeting, and took the opportunity to share with the Board the background to the Big Picture (as mentioned previously in the September issue of IRBA News)



GENERAL NEWS

CONTINUED



Season's Greetings

*As another year draws to a close,
the IRBA wishes all RAs, their colleagues and loved ones
a very safe and prosperous festive season.*



CONTACT INFORMATION

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