

0Ref#: 566805

30 June 2016

Imran Vanker
Director Standards
Independent Regulatory Board for Auditors (IRBA)

Email: standards@irba.co.za

Dear Imran

**SAICA SUBMISSION ON THE IRBA's EXPOSURE DRAFT, PROPOSED
AMENDMENT TO THE CODE OF PROFESSIONAL CONDUCT FOR REGISTERED
AUDITORS - CUSTODY OF CLIENT ASSETS**

In response to your request for comments on the **Proposed Amendment to the Code of Professional Conduct for Registered Auditors – Custody of client assets** please find comments prepared by The South African Institute of Chartered Accountants (SAICA).

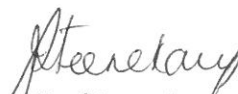
We thank you for the opportunity to provide comments on this document.

Please do not hesitate to contact us should you wish to discuss any of our comments.

Yours sincerely,



Kim Bromfield (CA(SA))
Senior Executive -
Corporate Reporting



Juanita Steenekamp (CA (SA))
Project Director - Governance and Non-
IFRS Reporting

June 2016

QUESTIONS ASKED

RESPONSE TO REQUEST FOR SPECIFIC COMMENTS

1. Do you agree with the proposed amendment to Section 270.4?

Our comments refer to the proposed amendments to section 270.4(b).

If the proposed amendments will give greater protection to clients' monies, we are supportive of them. However, we are unsure whether this will be the case.

With regards to registered auditors keeping clients' money, we are aware that some registered auditors receive money from clients to pay third parties on behalf of the clients, such as CIPC, SARS and the Compensation Fund. Some registered auditors also provide a payroll service to clients and receive money from the client to pay the client's employees.

We support the goal of the IRBA to clarify and strengthen the position of registered auditors holding funds on behalf of a client in order to provide greater protection to the clients' monies. In the explanatory memorandum the IRBA states that *"The use of a general bank account for holding a client's funds should be avoided since the registered auditor may effectively be placing their client's funds at risk. The risk, for example, could include any of the following:*

- a) Where a registered auditor passes away and the client's funds become part of the deceased estate; or*
- b) In the event of the registered auditor's insolvency, the funds may fall into the insolvent estate at the expense of the true owner and also at the expense of the image of the profession as a whole; or*
- c) In the event of the registered auditor absconding with the fund, the owner of the fund is left with nothing but a personal action against the registered auditor (who might or might not himself carry fidelity insurance)."*

The IRBA's proposed change to Section 270.4(b)(ii) to address this risk is as follows:

*"(ii) appropriately designate **(name)** such **bank** accounts (which account or accounts ~~may be a general account in the registered auditor's name or must be in specific accounts~~ operated in the names of the relevant clients or any other person to whom the registered auditor is accountable); and"*

In order to protect the clients' monies, whatever bank account is set up must not form part of the registered auditor's deceased estate should he die or form part of the insolvent estate or be attached by creditors should he be declared insolvent or liquidated. We are unsure whether this will be the case.

We urge the IRBA to be more specific about the way in which the bank accounts should be set up, and to obtain legal opinion as to whether the client's monies will be protected upon death or insolvency of the registered auditor. The IRBA should then publish the findings so that it can be assessed whether the objective of client protection is achieved.

SAICA SUBMISSION ON THE
*IRBA's Exposure Draft, Proposed Amendment To The Code Of Professional Conduct
For Registered Auditors - Custody Of Client Assets*

June 2016

We note that reference to a 'general account in the registered auditor's name' has been deleted, leaving only the requirement to have bank accounts 'operated in the names of the relevant clients'. Without any further explanation or prescription as to the terms of such bank accounts and without an indication as to whether the IRBA has obtained legal opinion that the risks identified by the IRBA in a) and b) above will be addressed by this change, we are unsure as to whether the proposed change provides any greater protection to clients' monies held by registered auditors. The input we received has been mixed.

In our view it is not clear whether the client must (effectively) open the bank account (because it needs to be in his name) and provide the registered auditor with a power of attorney or other relevant written authority to transfer monies out of the account for a specified purpose of settling the client's obligation to third parties, or whether the registered auditor opens a bank account for every client and the name of each account merely indicates the client's name, but the accounts are still those of the registered auditor. It is also unclear whether the latter is even possible. An informal discussion with one of the banks indicated that at that bank it is not possible to open a bank account and have it simply named with someone else's name. The bank account must be opened in the name of that other person (which we understand to mean that the bank account would be owned by the other person and not the registered auditor) and should that other person want the registered auditor to be able to transfer monies out in order to settle specified liabilities of that other person, that other person must provide written authority to the registered auditor to do so. We are unsure whether this would be the position across all banks in South Africa. We urge the IRBA to ascertain the practical feasibility of the proposal.

With regard to the third risk (risk c)) identified by the IRBA above, we are unsure how clients would be protected should the registered auditor 'use the funds *not* in accordance with their mandate', other than having a personal action against the registered auditor. It would be useful if this was explained. Would the registered auditor be required to have indemnity insurance in place?

Should these bank accounts not provide the required protection of client monies, SAICA would like to propose that the IRBA considers amending the Auditing Profession Act to require registered auditors to have a trust account for client monies.

The proposed amendments will have the effect of increased costs and an increased administrative burden, but if the risks will be mitigated and client monies protected then the increase in costs and administrative burden would be worthwhile.

Another alternative could be for the IRBA Code to state that bank accounts for client monies will only be acceptable if such accounts could never form part of the estate of the registered auditor or be attached by creditors, and that they must require a written mandate signed by the client as to the specific purpose of the account and what transactions are permitted.