

# **MANUAL OF INFORMATION**

## **2011**

*Guidelines for Registered Auditors*

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**© Independent Regulatory Board  
for Auditors**

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## FOREWORD TO MANUAL

The Manual of Information: Guidelines for Registered Auditors is issued by the Independent Regulatory Board for Auditors (IRBA).

Your attention is drawn to the following main revisions in the Manual:

- **Section 3: New Disciplinary Rules**
- **Section 4: New Rules Regarding Improper Conduct and Code of Professional Conduct**
- **Section 5: Practice Review now referred to as Inspections**
- **Section 6: Standards**  
New Board Notice regarding auditing pronouncements (p 6-5)
- **Section 7: General Circulars**  
Updates to contact details in Circular B.1/1995 Practice Rights in Adjoining Countries (p 7-3)  
Amendment to B.1/1997 Trust Monies (p 7-10)

Bernard Peter Agulhas  
*Chief Executive Officer*

**2011**

## **INDEPENDENT REGULATORY BOARD FOR AUDITORS**

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# **STATUS AND CORPORATE MISSION OF THE INDEPENDENT REGULATORY BOARD FOR AUDITORS**

## **STATUS OF THE BOARD**

The Board is the statutory body controlling that part of the accountancy profession involved with public practice in the Republic of South Africa.

It is important to stress that all entrants to the public practice profession are subject to consistent requirements. Following qualification, accountants entering public practice are required to register with the Board and are governed by its regulations. Those qualified accountants entering other disciplines who are members of a provincial society of chartered accountants, are not subject to the jurisdiction of the Board but are subject to the jurisdiction of The South African Institute of Chartered Accountants.

The Board functions in terms of the Auditing Profession Act, 2005 (Act 26 of 2005). Its members are appointed by the Minister of Finance and must consist of not less than six but not more than 10 non-executive members. The Minister must appoint competent persons, who must include registered auditors, to effectively manage and guide the activities of the Regulatory Board, based on their knowledge and experience.

The Board is funded by fees and levies payable by registered auditors, and National Treasury, and reports annually to the Minister of Finance, who then tables the report in Parliament.

## **VISION AND MISSION**

### **Our vision**

To be an internationally recognised and respected regulator of the auditing profession, relevant to the South African environment.

### **Our mission**

To endeavour to protect the financial interest of the South African public and international investors in South Africa through the effective regulation of audits conducted by registered auditors, in accordance with internationally recognised standards and processes.

### **Our objectives**

To create the framework and principles to contribute to the protection of the public who rely on the services of registered auditors and to support registered auditors who carry out their duties competently, fearlessly and in good faith.

### **Our goal**

#### **To:**

- Develop and maintain auditing and ethical standards which are internationally comparable;

- Provide an appropriate framework for the education and training of properly qualified auditors, as well as their ongoing competence;
- Register auditors who meet the registration requirements;
- Monitor compliance with reportable irregularities and anti-money laundering;
- Monitor the compliance of registered auditors with professional standards;
- Investigate and take appropriate action against registered auditors in respect of improper conduct;
- Develop and maintain stakeholder relationships to enhance performance, accountability and public confidence;
- Strengthen the IRBA's organisational capability, capacity and performance to deliver on its mandate in an economically efficient and effective manner, in accordance with the relevant regulatory frameworks.

### **Our values**

- Independence
- Integrity
- Objectivity
- Commitment
- Transparency
- Accountability



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## **THE AUDITING PROFESSION ACT**

*The Auditing Profession Act has been published exactly as it was signed by the President. However, there appear to be a number of editorial errors in this version, which we have identified and corrected by means of our own notes in [square brackets and italics]. For an example, see page 1-12, under the definition for "this Act".*



# **AUDITING PROFESSION ACT, 2005 (ACT 26 OF 2005)**

## **ACT**

To provide for the establishment of the Independent Regulatory Board for Auditors; to provide for the education, training and professional [development] of registered auditors; to provide for the accreditation of professional bodies; to provide for the registration of auditors; to regulate the conduct of registered auditors; to repeal an Act; and to provide for matters connected therewith.

*(English text signed by the President)*

*(Assented to 12 January 2006.)*

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:

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Sections

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**CHAPTER I**  
**INTERPRETATION AND OBJECTS OF ACT**

**1. DEFINITIONS**

In this Act, unless the context indicates otherwise-

**“accreditation”** means the status afforded to a professional body in accordance with Part 1 of Chapter 111, which status may be granted in full or in part;

**“appropriate regulator”**, in relation to any entity, means any national government department, registrar, regulator, agency, authority, centre, board or similar institution established, appointed, required or tasked in terms of any law to regulate, oversee or ensure compliance with any legislation, regulation or licence, rule, directive, notice or similar instrument issued in terms of or in compliance with any legislation or regulation, as appears to the Regulatory Board to be appropriate in relation to the entity;

**“audit”** means the examination of, in accordance with prescribed or applicable auditing standards-

- (a) financial statements with the objective of expressing an opinion as to their fairness or compliance with an identified financial reporting framework and any applicable statutory requirements; or
- (b) financial and other information, prepared in accordance with suitable criteria, with the objective of expressing an opinion on the financial and other information;

**“auditing pronouncements”** means those standards, practice statements, guidelines and circulars developed, adopted, issued or prescribed by the Regulatory Board which a registered auditor must comply with in the performance of an audit;

**“Auditor-General”** has the meaning assigned in section 1 of the Public Audit Act, 2004 (Act No. 25 of 2004);

**“client”** means the person for whom a registered auditor is performing or has performed an audit;

**“company”** has the meaning assigned to it in the Companies Act, 1973 (Act No. 61 of 1973);

**“delegation”**, in relation to a duty, includes an instruction or request to perform or to assist in performing the duty;

**“ensure”** means to take all reasonably necessary and expedient steps in order to achieve the purpose, objective or intention of this Act or a provision of this Act;

**“firm”** means a partnership, company or sole proprietor referred to in section 40;

**“improper conduct”** means any non-compliance with this Act or any rules prescribed in terms of this Act or any conduct prescribed as constituting improper conduct;

**“management board”**, in relation to an entity which is a company, means the board of directors of the company and, in relation to any other entity, means the body or individual responsible for the management of the business of the entity;

**“Minister”** means the Minister of Finance;

**“organ of state”** has the meaning assigned to it in section 239 of the Constitution of the Republic of South Africa, 1996;

**“prescribe”** means prescribe by notice in the Gazette, and “prescribed” and

**“prescribing”** have corresponding meanings;

**“professional body”** means a body of, or representing, registered accountants and registered auditors;

**“public accountant”** means any person who is engaged in public practice;

**“public practice”** means the practice of a registered auditor who places professional services at the disposal of the public for reward, and “practice” has a similar meaning;

**“Public Accountants’ and Auditors’ Board”** means the board established under the Public Accountants’ and Auditors’ Act, 1951 (Act 51 of 1951) and which continues to exist under section 2 of the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991);

**“Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**“publish”** means to publish in the Gazette or in any official publication or official website of the Regulatory Board dealing with the auditing profession and distributed or circulated on a national basis to members of that profession, and “publishing” and “published” have corresponding meanings;

**“registered auditor”** means an individual or firm registered as an auditor with the Regulatory Board:

**“Regulatory Board”** means the Independent Regulatory Board for Auditors established by section 3;

**“reportable irregularity”** means any unlawful act or omission committed by any person responsible for the management of an entity, which

- (a) has caused or is likely to cause material financial loss to the entity or to any partner, member, shareholder, creditor or investor of the entity in respect of his, her or its dealings with that entity; or
- (b) is fraudulent or amounts to theft; or
- (c) represents a material breach of any fiduciary duty owed by such person to the entity or any partner, member, shareholder, creditor or investor of the entity under any law applying to the entity or the conduct or management thereof;

**“rule”** means a rule prescribed by the Regulatory Board under section 10;

**“third party”** means any person other than a client; and

**“this Act”** includes an [am any] regulations promulgated under section 55;

**“training contract”** means a written training contract entered into in the prescribed form and registered with the Regulatory Board whereby a prospective registered auditor is duly bound to serve a registered auditor for a specified period and is entitled to receive training in the practice and profession of a registered auditor.

## **2. OBJECTS OF ACT**

The objects of this Act are

- (a) to protect the public in the Republic by regulating audits performed by registered auditors;
- (b) to provide for the establishment of an Independent Regulatory Board for Auditors;
- (c) to improve [~~improve~~ approve] the development and maintenance of internationally comparable ethical standards and auditing standards for auditors that promote investment and as a consequence employment in the Republic;
- (d) to set out measures to advance the implementation of appropriate standards of competence and good ethics in the auditing profession; and
- (e) to provide for procedures for disciplinary action in respect of improper conduct.

## **CHAPTER 11**

### **INDEPENDENT REGULATORY BOARD FOR AUDITORS**

#### **PART 1**

#### **Establishment and legal status of Regulatory Board**

### **3. ESTABLISHMENT AND LEGAL STATUS**

- (1) The Independent Regulatory Board for Auditors is hereby established, and-
  - (a) is a juristic person; and
  - (b) must exercise its functions in accordance with this Act and any other relevant law.
- (2) The Regulatory Board is subject to the Constitution and the law, specifically, the Public Finance Management Act.

#### **PART 2**

#### **Functions of Regulatory Board**

### **4. GENERAL FUNCTIONS**

- (1) The Regulatory Board must, in addition to its other functions provided for in this Act-
  - (a) take steps to promote the integrity of the auditing profession, including-
    - (i) investigating alleged improper conduct;

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

## **5. FUNCTIONS WITH REGARD TO ACCREDITATION OF PROFESSIONAL BODIES**

The Regulatory Board must, subject to this Act

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

## **6. FUNCTIONS WITH REGARD TO REGISTRATION OF AUDITORS**

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

## **7. FUNCTIONS WITH REGARD TO EDUCATION, TRAINING AND PROFESSIONAL DEVELOPMENT**

- (1) The Regulatory Board must
  - (a) either in full or in part, recognise or withdraw the recognition of the educational qualifications or programmes or continued education, training and professional development programmes in the auditing profession of educational institutions and accredited professional bodies;
  - (b) recognise or withdraw the recognition of any accredited professional body to conduct any qualifying examination contemplated in section 37 or conduct any such examination for the purposes of section 37;
  - (c) prescribe requirements for and conditions relating to and the nature and extent of continued education, training and professional development;
  - (d) prescribe training requirements, including, but not limited to, the period of training and the form for training contracts;
  - (e) approve and register training contracts entered into by prospective registered auditors;
  - (f) prescribe competency requirements; and

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

## **8. FUNCTIONS WITH REGARD TO FEES AND CHARGES**

- (1) The Regulatory Board must prescribe-
- (a) accreditation, registration, registration renewal and re-registration fees;
  - (b) annual fees, or a portion thereof in respect of a part of a year;
  - (c) the date on which any fee is payable; and
  - (d) the fees payable in respect of any examination referred to in section 37, conducted by an accredited professional body or the Regulatory Board.

- (2) The Regulatory Board may prescribe
  - (a) any fees payable for the purposes of the education fund referred to in section 7(2);
  - (b) fees payable for an inspection or review undertaken by the Regulatory Board in terms of section 47; and
  - (c) fees payable for any other service rendered by the Regulatory Board.
- (3) The Regulatory Board may grant exemption from payment of any fees referred to in subsection (1) or (2).

## **PART 3**

### **Powers of Regulatory Board**

#### **9. GENERAL POWERS**

The Regulatory Board may

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

- (n) perform legal acts, or institute or defend any legal action in its own name; and
- (o) do anything that is incidental to the exercise of any of its functions or powers.

## **10. POWERS TO MAKE RULES**

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

## **PART 4**

### **Governance of Regulatory Board**

## **11. APPOINTMENT OF MEMBERS OF REGULATORY BOARD**

- (1) The Regulatory Board consists of not less than six but not more than 10 non-executive members appointed by the Minister.
- (2) The Minister must appoint competent persons, who must include registered auditors, to effectively manage and guide the activities of the Regulatory Board, based on their knowledge and experience.
- (3) When making the appointments, the Minister must take into consideration, amongst other factors
  - (a) the need for transparency and representivity within the broader demographics of the South African population;
  - (b) any nominations received in terms of subsection (5); and
  - (c) the availability of persons to serve as members of the Regulatory Board.

- (4) Disregarding any vacancy in its membership, not more than 40% of the members of the Regulatory Board may be registered auditors.
- (5) Before the Minister makes the appointments, the Regulatory Board must, by notice in the Gazette and in any national newspaper, invite nominations from members of the public.
- (6) The Minister may appoint an alternate member for every member of the Regulatory Board, and an alternate member may attend and take part in the proceedings at any meeting of the Regulatory Board whenever the member for whom he or she has been appointed as an alternate is absent from that meeting.
- (7) The Regulatory Board, as soon as practicable after the appointment of its members, must publish by notice in the Gazette
  - (a) the name of every person appointed;
  - (b) the date from which the appointment takes effect; and
  - (c) the period for which the appointment is made.

## **12. TERM OF OFFICE OF MEMBERS OF REGULATORY BOARD**

- (1) A member of the Regulatory Board appointed in terms of section 11 holds office for such period, but not exceeding two years, as the Minister may determine at the time of his or her appointment.
- (2) A member of the Regulatory Board may be reappointed, but, subject to subsection (3), may not serve more than two consecutive terms of office.
- (3) Despite subsections (1) and (2), the Minister may, by notice in the Gazette and after consultation with the Regulatory Board, extend the period of office of all the members of the Regulatory Board for a maximum period of 12 months.
- (4) Despite subsection (1), the Minister may, by notice in the Gazette, after consultation with the Regulatory Board, terminate the period of office of a member of the Regulatory Board –
  - (a) if the performance of the member is unsatisfactory;
  - (b) if the member, either through illness or for any other reason, is unable to perform the functions of office effectively; or
  - (c) if the member, whilst holding office, has failed to comply with or breached any legislation regulating the conduct of members, including any applicable code of conduct.
- (5) Despite subsection (1), the Minister may, if the performance of the Regulatory Board is unsatisfactory, terminate the period of office of all the members of the Regulatory Board.

- (6) (a) In the event of the dismissal of all the members of the Regulatory Board, the Minister may appoint persons to act as caretakers until competent persons are appointed in terms of section 11.
- (b) The Minister must appoint new members in terms of section 11 within three months of the dismissal referred to in paragraph (a).

### **13. DISQUALIFICATION FROM MEMBERSHIP AND VACATION OF OFFICE**

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

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

#### **14. CHAIRPERSON AND DEPUTY CHAIRPERSON**

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

#### **15. MEETINGS**

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

## **16. DECISIONS**

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

## **17. DUTIES OF MEMBERS**

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

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

## **18. CHIEF EXECUTIVE OFFICER**

- (1) The chief executive officer is responsible for the day-to-day management of the Regulatory Board and is accountable to the Regulatory Board.
- (2) The chief executive officer must enter into a performance agreement with the Regulatory Board on acceptance of his or her appointment.

## **19. DELEGATIONS**

- (1) The Regulatory Board must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system-

- (a) may -
  - (i) in writing delegate appropriate powers, excluding the power to prescribe rules to a committee, the chief executive officer, an employee or any member of the Regulatory Board; and
  - (ii) assign any committee, the chief executive officer, any employee or member of the Regulatory Board to perform any of its duties; and
- (b) in respect of sections 48, 49, 50 and 51, with due regard to the varying nature and seriousness of matters arising from these sections, in writing delegate or assign appropriate powers or duties, and oblige the investigating and disciplinary committees to delegate or assign appropriate powers or duties to the chief executive officer, any employee or any member of the Regulatory Board.
- (2) A delegation or assignment in terms of subsection (1) -
  - (a) is subject to such limitations and conditions as the Regulatory Board may impose;
  - (b) may authorise subdelegation; and
  - (c) does not divest the Regulatory Board of the delegated power or the performance of the assigned duty.
- (3) The powers and duties of the investigating and disciplinary committees referred to in sections 48, 49 and 50 are deemed delegated and assigned by the Regulatory Board to the committees and are subject to this section.
- (4) The Regulatory Board may confirm, vary or revoke any decision taken by a committee, the chief executive officer, a member of the Regulatory Board or an employee as a result of a delegation or assignment in terms of subsection (1).

## **PART 5**

### **Committees of Regulatory Board**

#### **20. ESTABLISHMENT OF COMMITTEES**

- (1) The Regulatory Board, subject to subsection (2), may establish committees to assist it in the performance of its functions and it may at any time dissolve or reconstitute any such committee.
- (2) The Regulatory Board must, at least, establish the following permanent committees:
  - (a) A committee for auditor ethics in accordance with section 21;
  - (b) a committee for auditing standards in accordance with section 22;
  - (c) an education, training and professional development committee;
  - (d) an inspection committee;

- (e) an investigating committee; and
  - (f) a disciplinary committee.
- (3) (a) A committee consists of as many members as the Regulatory Board considers necessary.
- (b) The Regulatory Board, subject to sections 21,22 and 24 and taking into account, amongst other factors, the need for transparency and representivity within the broader demographics of the South African population, may appoint any person as a member of a committee, on such terms and conditions as the Regulatory Board may determine.
- (c) The Regulatory Board may terminate the membership of a member of a committee if
- (i) the performance by the member of the powers and functions of that committee is unsatisfactory;
  - (ii) the member, either through illness or for any other reason, is unable to perform the functions of the committee effectively; or
  - (iii) the member has failed to comply with or breached any legislation regulating the conduct of members, including any applicable code of conduct.
- (d) If the Regulatory Board does not designate a chairperson for a committee, other than a disciplinary committee, the committee may elect a chairperson from among its members.
- (4) The Regulatory Board must provide funding to its committees in such a way that the committees are able to perform their functions effectively.
- (5) Sections 15 and 16 relating to meetings and decisions of the Regulatory Board, respectively, with the necessary changes apply in respect of any committee, except that the committees must meet at least four times a year.

## **21. COMMITTEE FOR AUDITOR ETHICS**

- (1) The committee for auditor ethics must consist of at least the following members appointed by the Regulatory Board:
- (a) Three registered auditors;
  - (b) three persons representing users of audits;
  - (c) one person representing an exchange which is the holder of a stock exchange licence issued under the Securities Services Act, 2004 (Act No. 36 of 2004); and
  - (d) one advocate or attorney with at least 10 years' experience in the practice of law.

- (2) The committee for auditor ethics must assist the Regulatory Board –
  - (a) to determine what constitutes improper conduct by registered auditors by developing rules and guidelines for professional ethics, including a code of professional conduct;
  - (b) to interact on any matter relating to its functions and powers with professional bodies and any other body or organ of state with an interest in the auditing profession; and
  - (c) to provide advice to registered auditors on matters of professional ethics and conduct.

## **22. COMMITTEE FOR AUDITING STANDARDS**

- (1) The committee for auditing standards must consist of at least the following members appointed by the Regulatory Board:
  - (a) Five registered auditors;
  - (b) one person with experience of business;
  - (c) an incumbent of the office of the Auditor-General, or a person nominated by that incumbent;
  - (d) an incumbent of the office of the Executive Officer of the Financial Services Board, or a person nominated by that incumbent;
  - (e) one person with experience in the teaching of auditing at a university recognised or established under the Higher Education Act, 1997 (Act No. 101 of 1997);
  - (f) one person nominated by any stock exchange licensed under the Securities Services Act, 2004 (Act No. 36 of 2004);
  - (g) the Commissioner of the South African Revenue Services established in terms of the South African Revenue Services Act, 1997 (Act No. 34 of 1997), or a person nominated by the Commissioner; and
  - (h) an incumbent of the office of the Registrar of Banks, or a person nominated by that incumbent.
- (2) The committee for auditing standards must assist the Regulatory Board
  - (a) to develop, maintain, adopt, issue or prescribe auditing pronouncements;
  - (b) to consider relevant international changes by monitoring developments by other auditing standard-setting bodies and sharing information where requested; and
  - (c) to promote and ensure the relevance of auditing pronouncements by –
    - (i) considering the needs of users of audit reports;

- (ii) liaising with the other committees of the Regulatory Board on standards to be maintained by registered auditors and by receiving feedback from such committees on areas where auditing pronouncements are needed;
  - (iii) ensuring the greatest possible consistency between auditing pronouncements and accepted international pronouncements; and
  - (iv) consulting with professional bodies on the direction and appropriateness of auditing pronouncements.
- (3) The committee for auditing standards may assist the Regulatory Board to influence the nature of international auditing pronouncements by –
- (a) preparing comment on exposure drafts or discussion papers and replies to questionnaires prepared by the International Auditing and Assurance Standards Board or a successor body; and
  - (b) nominating representatives to committees of the International Auditing and Assurance Standards Board or a successor body when requested to do so by the Regulatory Board.

## **23. MATTERS RELATING TO APPOINTMENT OF MEMBERS TO COMMITTEES FOR AUDITOR ETHICS AND FOR AUDITING STANDARDS**

- (1) When the need for an appointment to the committees for auditor ethics or for auditing standards arises and the appointment depends on a nomination referred to in section 22, the committees for auditor ethics or for auditing standards must provide the Regulatory Board with the name of the nominated person, the name of any nominated alternate and any further relevant information, whereupon the Regulatory Board must in writing appoint the nominated persons within three months of receipt of the nominations.
- (2) Where any person's appointment to the committees for auditor ethics or for auditing standards is dependent on a nomination referred to in section 22, the Regulatory Board may make the duration of the appointment terminable on notice given by the nominating office-holder to the Regulatory Board that the nominated person has left its employment.
- (3) A member of the committees for auditor ethics or for auditing standards whose term has expired continues to serve until a successor has been appointed.

## **24. INVESTIGATING AND DISCIPLINARY COMMITTEES**

- (1) The investigating committee must include individuals with significant legal experience.
- (2) The disciplinary committee-

- (a) must be chaired by a retired judge or senior advocate;
- (b) must consist of a majority of persons not registered as auditors in terms of this Act, but must include registered auditors; and
- (c) may include other suitably qualified persons.

## **PART 6**

### **Funding and financial management of Regulatory Board**

#### **25. FUNDING**

The Regulatory Board is funded from

- (a) the collection of prescribed fees;
- (b) all other monies which may accrue to the Regulatory Board from any other legal source, including sanctions imposed by the Regulatory Board; and
- (c) moneys appropriated for that purpose by Parliament.

#### **26. ANNUAL BUDGET AND STRATEGIC PLAN**

The annual budget and strategic plan of the Regulatory Board must be submitted to the Minister in terms of the Public Finance Management Act.

#### **27. FINANCIAL MANAGEMENT, FINANCIAL STATEMENTS AND ANNUAL REPORT**

The financial management and the preparation and submission of financial statements and annual reports must be in accordance with the Public Finance Management Act.

## **PART 7**

### **National government oversight and executive authority**

#### **28. EXECUTIVE AUTHORITY**

- (1) The Minister is the executive authority for the Regulatory Board in terms of the Public Finance Management Act and the Regulatory Board is accountable to the Minister.
- (2) The Minister must-
  - (a) ensure that the Regulatory Board complies with this Act, the Public Finance Management Act and any other applicable legislation;
  - (b) ensure that the Regulatory Board is managed responsibly and transparently and meets its contractual and other obligations;

- (c) establish and maintain clear channels of communication between him or her and the Regulatory Board; and
- (d) monitor and annually review the performance of the Regulatory Board.

## **29. MINISTERIAL REPRESENTATIVES**

- (1) The Minister may designate officials of the National Treasury as his or her representatives to the Regulatory Board.
- (2) Ministerial representatives designated in terms of subsection (1) represent the Minister as participating observers at meetings of the Regulatory Board.
- (3) The Minister or his or her designated representative or representatives may at any time call or convene a meeting of the Regulatory Board in order for the Regulatory Board to give account for actions taken by it.
- (4) (a) A ministerial representative must represent the Minister faithfully at meetings of and with the Regulatory Board, without consideration of personal interest or gain, and must keep the Minister informed of what transpired at meetings of the Regulatory Board.  
  
(b) A ministerial representative must act in accordance with the instructions of the Minister and may be reimbursed by the Minister for expenses in connection with his or her duties as a ministerial representative, but may not receive any additional compensation or salary for such duties.

## **30. INVESTIGATIONS**

- (1) The Minister may at any time request the Regulatory Board to investigate any matter at its own cost or against full or partial payment.
- (2) The Minister, at any time, may investigate the affairs or financial position of the Regulatory Board and may recover from the Regulatory Board reasonable costs incurred as a result of an investigation.

## **31. INFORMATION**

The Regulatory Board must provide the Minister or his or her ministerial representative with access to any information as may be reasonably requested.

**CHAPTER III**  
**ACCREDITATION AND REGISTRATION**  
**PART I**

**Accreditation of professional bodies**

**32. APPLICATION FOR ACCREDITATION**

- (1) A professional body must apply, on the prescribed application form, to the Regulatory Board for accreditation in terms of Section 33 or 34.
- (2) If the Regulatory Board is satisfied that the professional body complies with its requirements for accreditation, it must grant the application on payment of the prescribed fee.

**33. REQUIREMENTS FOR ACCREDITATION**

In order to qualify for accreditation, a professional body must demonstrate, to the satisfaction of the Regulatory Board that-

- (a) it complies with the prescribed requirements for professional development and achievement of professional competence;
- (b) it has appropriate mechanisms for ensuring that its members participate in continuing professional development as recognised or prescribed by the Regulatory Board;
- (c) it has mechanisms to ensure that its members are disciplined where appropriate;
- (d) it is, and is likely to continue to be, financially and operationally viable for the foreseeable future;
- (e) it keeps a register of its members in the form prescribed by the Regulatory Board;
- (f) it has in place appropriate programmes and structures to ensure that it is actively endeavouring to achieve the objective of being representative of all sectors of the South African population; and
- (g) it meets any other requirement prescribed by the Regulatory Board from time to time.

**34. RETAINING ACCREDITATION**

In order to retain its accreditation, an accredited professional body must at least once a year at a time prescribed by the Regulatory Board, satisfy the Regulatory Board in the prescribed manner that it continues to comply with the requirements for accreditation listed in section 33.

### 35. TERMINATION OF ACCREDITATION

- (1) The accreditation of a professional body lapses automatically if
  - (a) it ceases to exist; or
  - (b) it fails to pay any prescribed fee or portion thereof within such period as may be prescribed by the Regulatory Board.
- (2) (a) The Regulatory Board, subject to subsection (3), must cancel the accreditation by it of a professional body if that body ceases to comply with any requirement for accreditation.
  - (b) The Regulatory Board must, prior to cancelling of accreditation, give notice in writing to the professional body concerned of its intention to cancel and the reasons on which it is based, and must afford the professional body a period of not less than 21 days and not more than 30 days in which to submit grounds for not proceeding with cancellation.
  - (c) The Regulatory Board, pending the outcome of the process referred to in paragraph (b), may suspend the accreditation of a professional body if it considers it in the best interests of the public or the auditing profession and may make such alternative arrangements to accommodate the needs of the members of such body during the period of suspension as it may consider necessary.
  - (d) If the Regulatory Board considers that cancellation of accreditation would not be in the best interests of the public, the auditing profession or the members of a professional body referred to in subsection (3), it may extend the accreditation of the professional body concerned on such conditions as it considers appropriate.
- (3) A professional body may by written notice to the Regulatory Board renounce its accreditation.
- (4) (a) On the termination of the accreditation of a professional body, the professional body must inform all the registered auditors who were its members at the time of the termination
  - (i) of the termination of its accreditation; and
  - (ii) of their duty to provide the Regulatory Board with the written proof referred to in section 36(2).
- (b) On the termination of the accreditation of a professional body, the Regulatory Board must publish a notice informing all the registered auditors who were members of the professional body at the time of the termination-
  - (i) of the termination of its accreditation; and
  - (ii) of their duty to provide the Regulatory Board with the written proof referred to in section 36.

- (5) A professional body which is no longer accredited is not relieved of any outstanding financial obligation towards the Regulatory Board.

### **36. EFFECT OF TERMINATION OF ACCREDITATION ON REGISTERED AUDITORS**

- (1) The fact that the accreditation of a professional body has ended in terms of section 35 does not affect the registration under this Act of any registered auditor who was a member of the professional body at the time of the termination.
- (2) Registered auditors referred to in subsection (1) who were members of the professional body referred to in subsection (1) must, within six months of the termination of the accreditation of the professional body or within such other period as may be prescribed by the Regulatory Board, provide written proof to the satisfaction of the Regulatory Board that they
- (a) have become members of another accredited professional body; or
  - (b) have made arrangements for their continuing professional development as recognised or prescribed by the Regulatory Board.
- (3) Where a registered auditor referred to in subsection (1) fails to comply with the requirements of subsection (2), the Regulatory Board, subject to subsection (4), may cancel the registration of the registered auditor under this Act.
- (4) The Regulatory Board must, prior to the cancelling of the registration of a registered auditor, give notice in writing to the registered auditor concerned of its intention to cancel and the reasons on which it is based, and must afford the registered auditor a period of not less than 21 days and not more than 30 days in which to submit grounds for not proceeding to cancellation.

## **PART 2**

### **Registration of individual auditors and firms**

### **37. REGISTRATION OF INDIVIDUALS AS REGISTERED AUDITORS**

- (1) An individual must apply on the prescribed application form to the Regulatory Board for registration.
- (2) If, after considering an application, the Regulatory Board is satisfied that the applicant
- (a) has complied with the prescribed education, training and competency requirements for a registered auditor;
  - (b) has arranged for his or her continuing professional development if the applicant is not a member of an accredited professional body;

- (c) is resident within the Republic;
  - (d) is a fit and proper person to practise the profession; and
  - (e) has met any additional requirements for registration as prescribed under section 6, the Regulatory Board must, subject to subsections (3) and (5), register the applicant, enter the applicant's name in the register and issue to the applicant a certificate of registration on payment of the prescribed fee.
- (3) The Regulatory Board may not register an individual if that individual-
- (a) has at any time been removed from an office of trust because of misconduct related to a discharge of that office;
  - (b) has been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery, uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any offence involving dishonesty, other than theft, fraud or forgery, committed prior to 27 April 1994 associated with political objectives, and has been sentenced to imprisonment without the option of a fine or to a fine exceeding such an amount as may be prescribed by the Minister;
  - (c) is for the time being declared by a competent court to be of unsound mind or unable to manage his or her own affairs; or
  - (d) is disqualified from registration under a sanction imposed under this Act.
- (4) For the purposes of subsection (3)(b), the Regulatory Board must take cognisance of the prevailing circumstances in a foreign country relating to a conviction.
- (5) The Regulatory Board may decline to register an individual who is an unrehabilitated insolvent, has entered into a compromise with creditors or has been provisionally sequestered.

### **38. REGISTRATION OF FIRMS AS REGISTERED AUDITORS**

- (1) The only firms that may become registered auditors are-
- (a) partnerships of which all the partners are individuals who are themselves registered auditors;
  - (b) sole proprietors where the proprietor is a registered auditor; and
  - (c) companies which comply with subsection (3).
- (2) On application by a firm which is a partnership fulfilling the conditions in subsection (1)(a) or a sole proprietor, on the prescribed application form, the Regulatory Board must register the firm as a registered auditor on payment of the prescribed fee.
- (3) The Regulatory Board must register a company as a registered auditor on the payment of the prescribed fee if-

- (a) the company is incorporated and registered as a company under the Companies Act, 1973 (Act No.61 of 1973), with a share capital and its memorandum of association provides that its directors and past directors shall be liable jointly and severally, together with the company, for its debts and liabilities contracted during their periods of office;
  - (b) only individuals who are registered auditors are shareholders of the company;
  - (c) every shareholder of the company is a director thereof, and every director is a shareholder, except that
    - (i) where a shareholder of the company dies, the estate of the shareholder may continue to hold the relevant shares for a period of six months as from the date of the death or for such longer period as the Regulatory Board may approve; or
    - (ii) where a shareholder of the company ceases to conform to any requirement of paragraph (b), the shareholder may continue to hold the relevant shares for a period of six months as from the date on which the shareholder ceases so to conform or for such longer period as the Regulatory Board may approve, and provided that
      - (aa) no voting rights attach to any share contemplated in paragraph (c)(i) and (ii); and
      - (bb) a shareholder mentioned in that paragraph does not act as a director of the company or receive, directly or indirectly, any director's fees or remuneration or participate in the income or profits earned by the company in its business; and
  - (d) the articles of association of the company provide that
    - (i) the company may, without confirmation by a court, purchase on such terms as it may consider expedient any shares held in it and the shares purchased are available for allotment in accordance with the company's articles of association; and
    - (ii) despite any provision to the contrary in any other law, a member of the company may not appoint a person who is not a member of the company to attend, speak or vote on behalf of the member at any meeting of the company.
- (4) In its application to a company which is a registered auditor, section 20 of the Companies Act, 1973 (Act No. 61 of 1973), has effect with the exception of subsection (1)(b).

### 39. TERMINATION OF REGISTRATION

- (1) Subject to subsection (3), the Regulatory Board must cancel the registration of any registered auditor that is an individual and-
  - (a) who subsequent to registration becomes subject to any of the disqualifications mentioned in section 37(3);
  - (b) whose registration was made in error or on information subsequently proved to be false; or
  - (c) who prior to registration has been guilty of improper conduct because of which the registered auditor is in the opinion of the Regulatory Board not a fit and proper person to be registered.
- (2) Subject to subsection (3), the Regulatory Board may cancel the registration of any registered auditor that is an individual and-
  - (a) whose estate is sequestrated or provisionally sequestrated or who enters into a compromise with creditors; or
  - (b) who ceases to be a member of an accredited professional body and does not within six months of such cessation provide written proof to the satisfaction of the Regulatory Board that such auditor has made arrangements for his or her continuing professional development.
- (3) Prior to canceling a registration, the Regulatory Board must give notice in writing to the registered auditor concerned of its intention to cancel and the reasons on which it is based, and afford the registered auditor a period of not less than 21 days and not more than 30 days in which to submit grounds for not proceeding with cancellation.
- (4) The registration of a registered auditor that is a partnership, sole proprietor or company automatically lapses if it no longer complies with section 38(1).
- (5) The registration of a registered auditor automatically lapses if such auditor fails to pay a prescribed fee or portion thereof within the period prescribed by the Regulatory Board.
- (6) At the written request of a registered auditor, the Regulatory Board must remove the registered auditor's name from the register, but the removal does not affect any liability incurred by the registered auditor prior to the date of the removal.
- (7) The fact that a registered auditor's registration has been cancelled or removed does not prevent the Regulatory Board from instituting disciplinary proceedings for conduct committed prior to the cancellation or removal.
- (8) As soon as practicable after a registered auditor's registration has been cancelled or removed the Regulatory Board must publish a notice of the cancellation or removal, specifying the registered auditor's name.

## 40. RENEWAL OF REGISTRATION AND RE-REGISTRATION

- (1) A registered auditor must apply in the prescribed manner to the Regulatory Board for the renewal of his or her registration.
- (2) A registered auditor whose registration was terminated in terms of section 39 or cancelled in terms of section 51(3)(a)(iv) may apply for re-registration in the prescribed manner to the Regulatory Board.

## CHAPTER IV

### CONDUCT BY AND LIABILITY OF REGISTERED AUDITORS

#### 41. PRACTICE

- (1) Only a registered auditor may engage in public practice or hold out as an [an a] registered auditor in public practice or use the registered auditor [registered auditor] description [*“registered auditor”*] *“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.
- (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.(b) Paragraph (a)(i) may not be construed as prohibiting any individual from performing an audit if such audit [services] are performed in the service of or by order of and under the direction, control, supervision of or in association with a registered auditor entitled to perform the audit identified and who must assume responsibility for any audit so performed.
- (3) Nothing in this section prohibits:
  - (a) any person from using [the] description *“internal auditor”* or *“accountant”*;
  - (b) any member of a not-for-profit club, institution or association from acting as auditor for that club, institution or association if he or she receives no fee or other consideration for such audit; or
  - (c) the Auditor-General from appointing any person who is not a registered auditor to carry out on his or her behalf any audit which he or she is in

terms of the Public Audit Act, 2004 (Act No. 25 of 2004), required to undertake.

- (4) Except with the consent of the Regulatory Board, a registered auditor may not knowingly employ-
  - (a) any person who is for the time being suspended from public practice under any provision of this Act; or
  - (b) any person [~~person~~ individual] who is no longer registered as a registered auditor as a result of the termination of his or her registration in terms of section 39(1)(c) or the cancellation of his or her registration in terms of section 51(3)(a)(iv); or
  - (c) any person who applied for registration under section 37(3), but whose application the Regulatory Board declined.
- (5) A registered auditor who is not in public practice as an individual practitioner may practise as a member of a firm only if, by virtue of section 40, the firm is itself a registered auditor.
- (6) A registered auditor may not-
  - (a) practise under a firm name or title unless on every letterhead bearing the firm name or title there appears-
    - (i) the registered auditor's present first names, or initials, and surname; or
    - (ii) in the case of a partnership, at least the present first names, or initials, and surnames of the managing partners or, if there are no managing partners, of the active partners or, where such a letterhead is used only by a branch office of the partnership, at least the present first names, or initials, and surnames of the managing partners at that branch office or, if there are no such resident partners, of the partners assigned to that branch office; or
    - (iii) in the case of a company, the names of the directors as required by section 171 of the Companies Act, 1973 (Act No. 61 of 1973);
  - (b) 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 or 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;
  - (c) perform audits unless adequate risk management practices and procedures are in place;
  - (d) engage in public practice during any period in respect of which the registered auditor has been suspended from public practice; or

- (e) share any profit derived from performing an audit with a person that is not a registered auditor.
- (7) The provisions of subsection (6)(b) do not apply in respect of an audit performed by another registered auditor in a partially completed assignment which the previous registered auditor was unable to complete as a result of death, disability or other unforeseen cause not under the control of the previous registered auditor, and which assignment the successor registered auditor is engaged to complete.
- (8) Nothing in subsection (6)(b) prevents any registered auditor from signing the firm name or title under which the registered auditor practises.
- (9) For the purposes of section 171 of the Companies Act, 1973 (Act No. 61 of 1973), in relation to such a company as is described in section 40, it must be regarded as sufficient if a catalogue, circular or letter to which the said section 171 applies and which emanates from a branch office of any company contains the required particulars in respect of directors attached to that branch office.
- (10) In order to engage in public practice, a registered auditor must have paid all applicable prescribed fees.

## **42. COMPLIANCE WITH RULES**

All registered auditors must comply with rules prescribed by the Regulatory Board.

## **43. INFORMATION TO BE FURNISHED**

- (1) Every firm that is a registered auditor must notify the Regulatory Board of any change in its name, composition or address not later than 30 days after the date on which the change takes place.
- (2) Within 14 days of the receipt of a written request from any client for whom a registered auditor acts as auditor or person who proposes to appoint the registered auditor as its auditor, the registered auditor must furnish the following information:
  - (a) Every firm's name or title under which the registered auditor practises;
  - (b) the place or places of business of all firms in which the registered auditor is in public practice as a partner, director or member;
  - (c) the full names of all (if any) of the registered auditor's partners, co-directors or co-members; and
  - (d) the registered auditor's first names or initials, surname, ordinary business address and ordinary residential address.

- (3) In subsection (2) and where, under that subsection, a registered auditor is required to supply information relating to a firm, the supply of the information in the name of the firm must be a sufficient compliance with the obligation of the individual registered auditor.

#### **44. DUTIES IN RELATION TO AUDIT**

- (1) (a) Where a registered auditor that is a firm is appointed by an entity to perform an audit, that firm must immediately after the appointment is made, take a decision as to the individual registered auditor or registered auditors within the firm that is responsible and accountable for that audit.
- (b) The first name and surname of the individual registered auditor referred to in paragraph (a) must be made available to the entity on taking of the decision and to the Regulatory Board on request.
- (2) The registered auditor may not, without such qualifications as may be appropriate in the circumstances, express an opinion to the effect that any financial statement or any supplementary information attached thereto which relates to the entity-
- (a) fairly presents in all material respects the financial position of the entity and the results of its operations and cash flow; and
- (b) are properly prepared in all material aspects in accordance with the basis of the accounting and financial reporting framework as disclosed in the relevant financial statements, unless a registered auditor who is conducting the audit of an entity is satisfied about the criteria specified in subsection (3).
- (3) The criteria referred to in subsection (2) are-
- (a) that the registered auditor has carried out the audit free from any restrictions whatsoever and in compliance, so far as applicable, with auditing pronouncements relating to the conduct of the audit;
- (b) that the registered auditor has by means of such methods as are reasonably appropriate having regard to the nature of the entity satisfied himself or herself of the existence of all assets and liabilities shown on the financial statements;
- (c) that proper accounting records in at least one of the official languages of the Republic have been kept in connection with the entity in question so as to reflect and explain all its transactions and record all its assets and liabilities correctly and adequately;
- (d) that the registered auditor has obtained all information, vouchers and other documents which in the registered auditor's opinion were necessary for the proper performance of the registered auditor's duties;

- (e) that the registered auditor has not had occasion, in the course of the audit or otherwise during the period to which the auditing services relate, to send a report to the Regulatory Board under section 45 relating to a reportable irregularity or that, if such a report was so sent, the registered auditor has been able, prior to expressing the opinion referred to in subsection (1), to send to the Regulatory Board a notification under section 45 that the registered auditor has become satisfied that no reportable irregularity has taken place or is taking place;
  - (f) that the registered auditor has complied with all laws relating to the audit of that entity; and
  - (g) that the registered auditor is satisfied, as far as is reasonably practicable having regard to the nature of the entity and of the audit carried out as to the fairness or the correctness, as the case may be, of the financial statements.
- (4) If a registered auditor or, where the registered auditor is a member of a firm, any other member of that firm was responsible for keeping the books, records or accounts of an entity, the registered auditor must, in reporting on anything in connection with the business or financial affairs of the entity, indicate that the registered auditor or that other member of the firm was responsible for keeping those accounting records.
  - (5) For the purpose of subsection (4), a person must not be regarded as responsible for keeping the books, records or accounts of an entity by reason only of that person making closing entries, assisting with any adjusting entries or framing any financial statements or other document from existing records.
  - (6) A registered auditor may not conduct the audit of any financial statements of an entity, whether as an individual registered auditor or as a member of a firm, if, the registered auditor has or had a conflict of interest in respect of that entity, as prescribed by the Regulatory Board.

## **45. DUTY TO REPORT ON IRREGULARITIES**

- (1) (a) An individual registered auditor referred to in section 44(1)(a) of an entity that is satisfied or has reason to believe that a reportable irregularity has taken place or is taking place in respect of that entity must, without delay, send a written report to the Regulatory Board.
- (b) The report must give particulars of the reportable irregularity referred to in subsection (1)(a) and must include such other information and particulars as the registered auditor considers appropriate.
- (2) (a) The registered auditor must within three days of sending the report to the Regulatory Board notify the members of the management board of the entity in writing of the sending of the report referred to in subsection (1) and the provisions of this section.

- (b) A copy of the report to the Regulatory Board must accompany the notice.
- (3) The registered auditor must as soon as reasonably possible but no later than 30 days from the date on which the report referred to in subsection (1) was sent to the Regulatory Board
- (a) take all reasonable measures to discuss the report referred to in subsection (1) with the members of the management board of the entity;
  - (b) afford the members of the management board of the entity an opportunity to make representations in respect of the report; and
  - (c) send another report to the Regulatory Board, which report must include:
    - (i) a statement that the registered auditor is of the opinion that:
      - (aa) no reportable irregularity has taken place or is taking place; or
      - (bb) the suspected reportable irregularity is no longer taking place and that adequate steps have been taken for the prevention or recovery of any loss as a result thereof, if relevant; or
      - (cc) the reportable irregularity is continuing; and
    - (ii) detailed particulars and information supporting the statement referred to in subparagraph (i).
- (4) The Regulatory Board must as soon as possible after receipt of a report containing a statement referred to in paragraph (b)(i)(cc) of subsection (3), notify any appropriate regulator in writing of the details of the reportable irregularity to which the report relates and provide it with a copy of the report.
- (5) For the purpose of the reports referred to in subsections (1) and (3) a registered auditor may carry out such investigations as the registered auditor may consider necessary and, in performing any duty referred to in the preceding provisions of this section, the registered auditor must have regard to all the information which comes to the knowledge of the registered auditor from any source.
- (6) Where any entity is sequestered or liquidated, whether provisionally or finally, and a registered auditor referred to in section 44(1)(a) at the time of the sequestration or liquidation-
- (a) has sent or is about to send a report referred to in subsection (1) or (3), the report must also be submitted to a provisional trustee or trustee, or a provisional liquidator or liquidator, as the case may be, at the same time as the report is sent to the Regulatory Board or as soon as reasonably possible after his or her appointment; or
  - (b) has not sent a report referred to in subsection (1) or (3), and is requested by a provisional trustee or trustee, or a provisional liquidator or liquidator, as the case may be, to send a report, the registered auditor must as soon as reasonably possible-

- (i) send the report together with a motivation as to why a report was not sent; or
- (ii) submit a notice that in the registered auditor's opinion no report needed to be submitted, together with a justification of the opinion.

## 46. LIMITATION OF LIABILITY

- (1) (a) The application of this section is limited to an audit performed within the meaning of paragraph (a) of the definition of "audit" in section (1).  
(b) Despite section 44(1)(a), for purposes of this section registered auditor means both the individual registered auditor and the firm referred to in that section.
- (2) In respect of any opinion expressed or report or statement made by a registered auditor in the ordinary course of duties the registered auditor does not incur any liability to a client or any third party, unless it is proved that the opinion was expressed, or the report or statement made, maliciously, fraudulently or pursuant to a negligent performance of the registered auditor's duties.
- (3) Despite subsection (2), a registered auditor incurs liability to third parties who have relied on an opinion, report or statement of that registered auditor for financial loss suffered as a result of having relied thereon, only if it is proved that the opinion was expressed, or the report or statement was made, pursuant to a negligent performance of the registered auditor's duties and the registered auditor-
  - (a) knew, or could in the particular circumstances reasonably have been expected to know, at the time when the negligence occurred in the performance of the duties pursuant to which the opinion was expressed or the report or statement was made-
    - (i) that the opinion, report or statement would be used by a client to induce the third party to act or refrain from acting in some way or to enter into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person; or
    - (ii) that the third party would rely on the opinion, report or statement for the purpose of acting or refraining from acting in some way or of entering into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person; or
  - (b) in any way represented, at any time after the opinion was expressed or the report or statement was made, to the third party that the opinion, report or statement was correct, while at that time the registered auditor knew or could in the particular circumstances reasonably have been expected to

know that the third party would rely on that representation for the purpose of acting or refraining from acting in some way or of entering into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person.

- (4) Nothing in subsections (2) or (3) confers upon any person a right of action against a registered auditor which, but for the provisions of those subsections, the person would not have had.
- (5) For the purposes of subsection (3) the fact that a registered auditor performed the functions of a registered auditor is not in itself proof that the registered auditor could reasonably have been expected to know that
  - (a) the client would act as contemplated in paragraph (a)(i) of that subsection;  
or
  - (b) the third party would act as contemplated in paragraph (a)(ii) or paragraph (b) of that subsection.
- (6) Subsections (2) or (3) do not affect any additional or other liability of a registered auditor arising from
  - (a) a contract between a third party and the registered auditor; or
  - (b) any other statutory provision or the common law.
- (7) A registered auditor may incur liability to any partner, member, shareholder, creditor or investor of an entity if the registered auditor fails to report a reportable irregularity in accordance with section 45.
- (8) A registered auditor may not through an agreement or in any other way limit or reduce the liability that such auditor may incur in terms of this section.

## **CHAPTER V**

### **ACCOUNTABILITY OF REGISTERED AUDITORS**

#### **47. INSPECTIONS**

- (1)
  - (a) The Regulatory Board, or any person authorised by it, may at any time inspect or review the practice of a registered auditor and the effective implementation of any training contracts and may for these purposes 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.
  - (b) Despite the generality of paragraph (a), the Regulatory Board, or any person authorised by it, must at least every three years inspect or review the practice of a registered auditor that audits a public interest company as defined in the Companies Act, 1973 (Act No. 61 of 1973).

- (2) The Regulatory Board may recover the costs of an inspection under this section from the registered auditor concerned.
- (3) A registered auditor must, at the request of the Regulatory Board or the person authorised by it, produce any information, including but not limited to any working papers, statements, correspondence, books or other documents, and, subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) or any other law, may not refuse to produce such information even though the registered auditor is of the opinion that the information contains confidential information about [about of] a client.
- (4) A registered auditor who acts in good faith during an inspection of the public practice of the registered auditor and who produces information under subsection (3) may not be held liable criminally or under civil law because of the production of the information.
- (5) Subject to the Constitution and any other law, no person who is or was concerned with the performance of any function under this section may disclose any information obtained in the performance of that function except-
  - (a) for the purpose of an investigation or a hearing under this Chapter;
  - (b) if the person of necessity supplies it in the performance of functions under this Act;
  - (c) when required to do so by order of a court of law;
  - (d) at the written request of, and to, any appropriate regulator which requires it for the institution, or an investigation with a view to the institution, of any disciplinary action or criminal prosecution; or
  - (e) at the written request of, and to, any appropriate international regulator of audits and auditors, that requires such for the purpose of inspection with the consent of the registered auditor.
- (6) A registered auditor must annually submit to the Regulatory Board such information or returns as may be requested by the Regulatory Board.

#### **48. INVESTIGATION OF CHARGE OF IMPROPER CONDUCT**

- (1) The Regulatory Board must refer a matter brought against a registered [auditor] to the investigating committee appointed under section 20 if the Regulatory Board-
  - (a) on reasonable grounds suspects that a registered auditor has committed an act which may render him or her guilty of improper conduct; or
  - (b) is of the opinion that a complaint or allegation of improper conduct, whether prescribed or not, which has been made against a registered auditor by any person appears to be justified.

- (2) (a) If, in the course of any proceedings before any court of law, it appears to the court that there is prima facie proof of improper conduct on the part of a registered auditor the court must direct a copy of the record of the proceedings, or such part thereof as relates to that conduct, to be sent to the Regulatory Board.
- (b) Despite the provisions of any other law, whenever it appears to an appropriate regulator that there is prima facie proof of improper conduct on the part of a registered auditor, the official must forthwith send a report of that conduct to the Regulatory Board.
- (c) The Regulatory Board must refer to an investigating committee any record or report received by it under this subsection.
- (3) At the request of the Regulatory Board, the investigating committee must-
- (a) investigate the matter; and
- (b) obtain evidence to determine whether or not in its opinion the registered auditor concerned should be charged and, if so, recommend to the Regulatory Board the charge or charges that may be preferred against that registered auditor.
- (4) The investigating committee may not question the registered auditor concerned unless the investigating committee informs the registered auditor that he or she-
- (a) has the right to be assisted or represented by another person; and
- (b) is not obliged to make any statement and that any statement made may be used in evidence against the registered auditor.
- (5) (a) In investigating a charge of improper conduct the investigating committee may-
- (i) require the registered auditor to whom the charge relates or any other person to produce to the committee any information, including but not limited to any working papers, statements, correspondence, books or other documents, which is in the possession or under the control of that registered auditor or other person and which relates to the subject matter of the charge, including specifically, but without limitation, any working papers of the registered auditor;
- (ii) inspect and, if the investigating committee considers it appropriate, retain any such information for the purposes of its investigations; and
- (iii) make copies of and take extracts from such information.
- (b) The provisions of this subsection apply regardless of whether the registered auditor is of the opinion that such information contains confidential information about a client.

- (6) Nothing in this section limits or affects the right of any professional body to take disciplinary or other action against any of its members in accordance with its constitution and rules.
- (7) The investigating committee must, after the conclusion of the investigation, submit a report stating its recommendations to the Regulatory Board regarding any matter referred to it in terms of this section.
- (8) The Regulatory Board and investigating committee must in exercising their powers or performing their duties in terms of this section consider the delegation or assignment of such powers and duties in accordance with section 19.

## 49. CHARGE OF IMPROPER CONDUCT

- (1) The Regulatory Board must charge a registered auditor with improper conduct if the investigating committee recommends that sufficient grounds exist for a charge to be preferred against such a registered auditor.
- (2) The Regulatory Board must furnish a charge sheet to the registered auditor concerned by hand or registered mail.
- (3) A charge sheet must inform the registered auditor charged-
  - (a) of the details and nature of the charge;
  - (b) that the registered auditor, in writing, admit or deny the charge;
  - (c) that the registered auditor [may], together with the admission or denial, submit a written explanation regarding the improper conduct with which charged; and
  - (d) of the period, which must be reasonable but may not exceed 60 days, within which the plea in terms of paragraph (b) must be submitted to the Regulatory Board.
- (4) If a registered auditor charged admits guilt to the charge, the registered auditor is considered to have been found guilty as charged.
- (5) The Regulatory Board must on the expiry of the period referred to in subsection (3)(d) refer the charge sheet and any plea received to the disciplinary committee to be dealt with in accordance with section 50, or, where the registered auditor admitted is guilty [~~is guilty~~ *guilt*] to the charge, to be dealt with in accordance with section 51.
- (6) The acquittal or the conviction of a registered auditor by a court of law on a criminal charge is not a bar to proceedings against the registered auditor under this Act on a charge of improper conduct, even if the facts stated in the charge of improper conduct would, if proved, constitute the offence stated in the criminal charge on which the registered auditor was acquitted or convicted or any other offence of which the registered auditor might have been acquitted or convicted at the trial on the criminal charge.

## 50. DISCIPLINARY HEARING

- (1) A disciplinary hearing must be conducted by the disciplinary committee constituted in accordance with section 24.
- (2) (a) The disciplinary committee, for the purposes of this section, must appoint a person to present the charge to the disciplinary committee, which person may be a member of the investigating committee.  
(b) The disciplinary committee may at any time prior to or during the disciplinary hearing terminate and replace a person referred to in paragraph (a), if the committee is of the opinion that that person is not fulfilling the obligations.
- (3) The disciplinary committee may at any time prior to the conclusion of a disciplinary hearing amend the charge sheet or a charge on the grounds that an error exists in its formulation or that a charge is not properly articulated in the original charge sheet.
- (4) A hearing before the disciplinary committee is open to the public except where, in the opinion of the chairperson of the disciplinary committee, any part of the hearing should be held in camera.
- (5) (a) The disciplinary committee may, for the purposes of a hearing, subpoena any person-
  - (i) who may be able to give material information concerning the subject of the hearing; or
  - (ii) who it suspects or believes has in his or her possession or custody or under such person's control any information, including but not limited to any working papers, statements, correspondence, books or other documents, which has any bearing on the subject of the hearing, to appear before the disciplinary committee at the time and place specified in the subpoena, to be questioned or to produce any information, including but not limited to any working papers, Statements, correspondence, books or other documents.(b) A subpoena issued in terms of paragraph (a) must-
  - (i) be in the prescribed form;
  - (ii) be signed by the chairperson of the disciplinary committee or, in that person's absence, by any member of the disciplinary committee; and
  - (iii) be served on the registered auditor concerned personally or by sending it by registered mail.
- (6) The disciplinary committee may retain any information, including but not limited to any working papers, statements, correspondence, books or other documents produced in terms of subsection (5), for the duration of the hearing.

- (7) The chairperson of the disciplinary committee may call upon and administer an oath to, or take an affirmation from, any witness at the hearing who was subpoenaed in terms of subsection (5).
- (8) At a hearing the registered auditor charged-
- (a) (i) may be assisted or represented by another person in conducting the proceedings;
  - (ii) has the right to be heard;
  - (iii) may call witnesses;
  - (iv) may cross-examine any person called as a witness in support of the charge; and
  - (v) may have access to documents produced in evidence; and
- (b) (i) may admit at any time before the conclusion of the disciplinary hearing that he or she is guilty of the charge despite the fact that he or she denied the charge or failed to react in terms of section 49(3)(b) or (c); or
- (ii) may, in the case where the person makes an admission in terms of subparagraph (i), be regarded as guilty of improper conduct as charged.
- (9) The person referred to in subsection (2) may during a hearing-
- (a) lead evidence and advance arguments in support of the charge and cross-examine witnesses;
  - (b) question any person who was subpoenaed in terms of subsection (5); or
  - (c) call anyone to give evidence or to produce any information, including but not limited to any working papers, statements, correspondence, books or other documents in his or her possession or custody or under his or her control, which such person suspects or believes to have a bearing on the subject of the hearing.
- (10) (a) A witness who has been subpoenaed may not-
- (i) without sufficient cause, fail to attend the hearing at the time and place specified in the subpoena;
  - (ii) refuse to be sworn in or to be affirmed as a witness;
  - (iii) without sufficient cause, fail to answer fully and satisfactorily to the best of his or her knowledge to all questions lawfully put to him or her: or
  - (iv) fail to produce any information, including but not limited to any working papers, statements, correspondence, books or other documents in his or her possession or custody or under his or her control, which he or she has been required to produce.

- (b) A witness who has been subpoenaed must remain in attendance until excused by the chairperson of the disciplinary committee from further attendance.
  - (c) A witness who has been subpoenaed may request that the names of the members of the disciplinary committee be made available to him or her.
  - (d) The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce a book, document or object in a civil trial before a court of law may, with the necessary changes, apply in relation to the examination of any information, including but not limited to any working papers, statements, correspondence, books or other documents, or to the production of such information to the disciplinary committee by any person called in terms of this section as a witness.
  - (e) A witness may not, after having been sworn in or having been affirmed as a witness, give a false statement on any matter, knowing that answer or statement to be false.
  - (f) A person may not prevent another person from complying with a subpoena or from giving evidence or producing any information, including but not limited to any working papers, statements, correspondence, books or other documents, which he or she is in terms of this section required to give or produce.
- (11) The record of evidence which has a bearing on the charge before the disciplinary committee, and which was presented before any committee which investigated an event or conduct, is admissible without further evidence being led if-
- (a) the record is accompanied by a certificate from the chairperson; and
  - (b) the certificate certifies that the investigation was lawful, reasonable and procedurally fair.
- (12) If the improper conduct with which the registered auditor is charged amounts to an offence of which he or she has been convicted by a court of law, a certified copy of the record of his or her trial and conviction by that court is, on the identification of the registered auditor as the person referred to in the record, sufficient proof of the commission by him or her of that offence, unless the conviction has been set aside by a superior court.
- (13) In exercising its powers or performing its duties in terms of this section, the disciplinary committee must consider the delegation or assignment of such powers and duties in accordance with section 19.

## **51. PROCEEDINGS AFTER HEARING**

- (1) After the conclusion of the hearing the disciplinary committee must, within 30 days-
- (a) decide whether or not the registered auditor is guilty as charged of improper conduct;

- (b) if the disciplinary committee finds that the registered auditor charged is guilty of improper conduct, take cognisance of any aggravating or mitigating circumstances; and
  - (c) inform the registered auditor charged and the Regulatory Board of the finding.
- (2) A registered auditor found guilty of improper conduct in terms of this section may-
- (a) address the disciplinary committee in mitigation of sentence; and
  - (b) call witnesses to give evidence on his or her behalf in mitigation of the sentence.
- (3) (a) If the registered auditor charged is found guilty of improper conduct, or if the registered auditor admits to the charge, the disciplinary committee must either-
- (i) caution or reprimand the registered auditor;
  - (ii) impose on the registered auditor a fine not exceeding the amount calculated according to the ratio for five year's imprisonment prescribed in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991);
  - (iii) suspend the right to practice as a registered auditor for a specific period: or
  - (iv) cancel the registration of the registered auditor concerned and remove his or her name from the register referred to in section 6.
- (b) The disciplinary committee may impose more than one of the sanctions referred to in paragraph ((1).
- (4) A disciplinary committee may order any person-
- (a) who admitted guilt in terms of section 49(4); or
  - (b) whose conduct was the subject of a hearing under section 50,  
to pay such reasonable costs as have been incurred by an investigating committee and the disciplinary committee in connection with the investigation and hearing in question, or such part thereof as the disciplinary committee considers just.
- (5) The Regulatory Board may, if it deems it appropriate, publish the finding and the sanction imposed in terms of subsection (3).
- (6) (a) The Regulatory Board must give effect to the decision of the disciplinary committee.
- (b) Where an order as to costs has been made under subsection (4), the amount thereof shall be recoverable by the Regulatory Board from the person concerned, and any amount so recovered must be paid into the funds of the Regulatory Board.

## CHAPTER VI

### OFFENCES

#### 52. REPORTABLE IRREGULARITIES AND FALSE STATEMENTS IN CONNECTION WITH AUDITS

- (1) A registered auditor who-
  - (a) fails to report a reportable irregularity in accordance with section 45; or
  - (b) for the purposes of, or in connection with, the audit of any financial statement knowingly or recklessly expresses an opinion or makes a report or other statement which is false in a material respect, shall be guilty of an offence.
- (2) Where the registered auditor failing to report a reportable irregularity or conducting the audit is a firm, subsection (1) applies to [the] individual registered auditor referred to in section 44(1)(a), but nothing in this subsection prevents the taking of disciplinary action under Chapter V in respect of the firm concerned, in addition to or instead of the individual registered auditor referred to in section 44(1)(a).
- (3) A person convicted of an offence in a court of law under this section is liable to a fine or to imprisonment for a term not exceeding 10 years or to both a fine and such imprisonment.

#### 53. OFFENCES RELATING TO DISCIPLINARY HEARINGS

- (1) Subject to section 50(4), a person is guilty of an offence if-
  - (a) having been duly summoned under section 50, the person fails, without sufficient cause, to attend at the time and place specified in the summons, or to remain in attendance until excused from further attendance by the chairperson of the disciplinary committee;
  - (b) having been called under section 50, the person refuses to be sworn or to affirm as a witness or fails without sufficient cause to answer fully and satisfactorily to the best of the person's knowledge and belief all questions lawfully put concerning the subject of the hearing; or
  - (c) having been called under section 50 and having possession, custody or control of any information, including but not limited to any working papers, statements, correspondence, books or other documents, refuses to produce it when required to do so.
- (2) A witness before a disciplinary committee who, having been duly sworn or having made an affirmation, gives a false answer to any question lawfully put to the witness or makes a false statement on any matter, knowing the answer or statement to be false, is guilty of an offence.

- (3) Any person who wilfully hinders any person acting in the capacity of a member of a disciplinary committee in the exercise of any power conferred upon that person by or under section 51 [~~57~~ 50] is guilty of an offence.
- (4) A person convicted of an offence in a court of law under this section is liable to a fine or to imprisonment for a period of five years or to both a fine and such imprisonment.

## **54. OFFENCES RELATING TO PUBLIC PRACTICE**

- (1) A person who contravenes sections 41,47 or 44 is guilty of an offence and is liable to a fine or in default of payment to imprisonment not exceeding five years or to both fine and such imprisonment.
- (2) Any person who-
  - (a) contravenes any provision of section 47; or
  - (b) obstructs or hinders any person in the performance of functions under that section, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.

## **CHAPTER VII GENERAL MATTERS**

### **55. POWERS OF MINISTER**

- (1) The Minister may, by notice in the Gazette, make regulations regarding-
  - (a) any matter relating to the functioning of the Regulatory Board that is necessary to ensure the Regulatory Board's efficiency or to promote good order; and
  - (b) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.
- (2) The Minister may delegate any of his or her powers in terms of this Act, excluding the power to make such [~~such~~] regulations and the power to appoint the members of the Regulatory Board, to the Director-General or any other official of the National Treasury.

### **56. INDEMNITY**

Neither the Regulatory Board or any member or employee or chief executive thereof, nor a committee of the Regulatory Board or any member thereof, nor the Public Accountants' and Auditors' Board or any member thereof, incurs any liability

in respect of any act or omission performed in good faith under or by virtue of a provision in this Act, unless that performance was grossly negligent.

## **57. ADMINISTRATIVE MATTERS**

Subject to the provisions of this Act, where the Regulatory Board takes a decision or any other step of an administrative nature under this Act that affects the rights and duties of another person, the Regulatory Board must-

- (a) publish or otherwise make known the nature and effect thereof in a written, printed or electronic manner to any affected persons and bodies in a manner designed to ensure that they acquire full knowledge thereof; and
- (b) comply with any applicable requirement of just administrative action, including the furnishing of reasons for discretionary decisions imposed by, under or by virtue of any law.

## **58. REPEAL AND AMENDMENT OF LAWS**

- (1) Subject to section 60, the laws mentioned in the Schedule are hereby repealed to the extent set out in the third column of that Schedule.
- (2) With effect from the date on which this Act comes into force, and in respect of damages suffered by any person as a result of an act or omission of a registered auditor committed on or after that date, the reference in section 1 of the Apportionment of Damages Act, 1956 (Act No. 34 of 1956), to "damage" must be construed as a reference also to damage caused by a breach, by the registered auditor, of a term of a contract concluded with the registered auditor.

## **59. TRANSITIONAL PROVISIONS**

- (1) (a) From the date of commencement of this Act, the Regulatory Board must be regarded as the successor to the Public Accountants' and Auditors' Board.
- (b) In order to give effect to that succession-
  - (i) any board members of the Public Accountants' and Auditors' Board who immediately prior to the commencement of this Act were members of that Board, must be deemed to have been appointed members of the Regulatory Board for the remainder of the period for which each member was appointed as a board member under the Public Accountants' and Auditors' Act, 1991;
  - (ii) all property which immediately before the date this Act comes into force was property of the Public Accountants' and Auditors' Board shall, by

- virtue of this Act, without any assignment or other form of transfer or the need for any consent become on that date property of the Regulatory Board;
- (iii) all rights or obligations of the Public Accountants' and Auditors' Board, whether contractual or otherwise, which were in existence immediately before the date this Act comes into force and do not fall within subparagraph (ii) shall become, on that date, rights or obligations of the Regulatory Board and, in their application or construction, be treated for all purposes as if the Public Accountants' and Auditors' Board and the Regulatory Board were the same person in law;
  - (iv) regarding anything done or falling to be done, or any other event occurring, on or after the date this Act comes into force, any reference in an existing document to the Public Accountants' and Auditors' Board must be construed as or, as the case may require, as including a reference to the Regulatory Board; and
  - (v) for the purposes only of section 197 of the Labour Relations Act, 1995 (Act No. 6 of 1995), the provisions of this subsection must be regarded as the transfer of a business from the Public Accountants' and Auditors' Board to the Regulatory Board.
- (c) The Registrar of Deeds concerned must, at the request of the Regulatory Board and on submission of the relevant title deeds and other documents, make the necessary entries and endorsements in respect of his or her registers and other documents in order to give effect to a transfer in terms of subsection (1).
- (d) No transfer duty, stamp duty or other fees shall be payable in respect of such transfer, entry or endorsement.
- (2) Subject to subsection (3), any unfinished business of the Public Accountants' and Auditors' Board on the date this Act comes into force, which is dealt with by that Board under a provision of the Public Accountants' and Auditors' Act, 1991, and for which no corresponding provision appears in this Act, must be completed by that Board as if this Act had not been passed.
- (3) (a) Any proceedings in connection with an application for registration as accountant and auditor still pending on the commencement date must, with effect from that date, be deemed to be proceedings for registration as an auditor contemplated in this Act and must further be administered, considered and completed by the Regulatory Board.
- (b) In the case of any such proceedings, and in the case of any new applications for registration as an auditor received by the Regulatory Board, the requirements for registration set out in section 15(2) and (4) of the Public Accountants' and Auditors' Act, 1991, must despite the repeal of that

Act and any inconsistency with a provision of this Act be deemed to be still applicable until a date determined by the Minister by notice in the Gazette.

- (4) The Education and Training Committee of the Public Accountants' and Auditors' Board, as it existed immediately prior to the commencement date, is deemed to be a committee established by the Regulatory Board under section 20 to determine the requirements for the professional development and achievement of professional competence.
- (5) Any committee performing, immediately prior to the commencement date, an investigating or disciplinary function under the Public Accountants' and Auditors' Act, 1991, remains validly constituted and must complete its functions after that date as if this Act had not been passed.
- (6) Any person who immediately prior to the commencement date was registered as an accountant and auditor under the Public Accountants' and Auditors' Act, 1991, is deemed to be registered as an auditor under this Act.
- (7) Any training contract registered, any recognition of educational institutions or recognition of training officers under the Public Accountants' and Auditors' Act, 1991, is deemed to be a registration or recognition under this Act.
- (8)
  - (a) The Examination Regulations as contained in the Manual of Information: Guidelines for Registered Accountants and Auditors, issued by the Public Accountants' and Auditors' Board as at the commencement date, must be deemed to have been prescribed by the Regulatory Board in respect of registered auditors.
  - (b) The Disciplinary Regulations as contained in the said Manual (excluding paragraphs 2.1 to 2.1.21, inclusive, thereof) must be deemed to have been prescribed by the Regulatory Board, to the extent that the Disciplinary Regulations are consistent with this Act.
  - (c) The Code of Professional Conduct as contained in the said Manual (including paragraphs 1 to 2.1.21, inclusive, of the Disciplinary Regulations) must be deemed to have been prescribed by the Regulatory Board.
  - (d) The Circulars as contained in the said Manual must be deemed to have been issued by the Regulatory Board.
  - (e) The Recognition Model as contained in the said Manual must be deemed to have 2G been prescribed by the Regulatory Board.
  - (f) The auditing pronouncements issued by the Public Accountants' and Auditors' Board are, with effect from the commencement date, deemed to have been issued by the Regulatory Board.
- (9) Subject to the provisions of this Act, on and after the commencement date, anything which was done under a provision of a law repealed by section

58 and which could be done under a corresponding provision of this Act is deemed to have been done under that corresponding provision.

- (10) A reference in any of the preceding subsections to the commencement date is a reference to the date that subsection comes into force.

## **60. SHORT TITLE AND COMMENCEMENT**

This Act is called the Auditing Profession Act, 2005, and comes into operation on a date determined by the Minister by notice in the Gazette.



## **2**

# **EDUCATION, TRAINING AND PROFESSIONAL DEVELOPMENT**

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## **1 FOREWORD**

*The accreditation and recognition process provides a common reference point for the quality of academic, education, training and assessment programmes that lead to registration as a Registered Auditor (RA).*

*It challenges all professional bodies that are accredited by the IRBA, to pursue continuous improvement by constantly evaluating stated objectives.*

*The recognition process tolerates and encourages diverse paths in the achievement of high quality accountancy education. For this reason, the focus of the recognition process is on fostering high quality programmes, rather than on prescribing specific and consistent quantitative measures in approaches to education.*

*The IRBA aspires to a commonality of goals amongst diverse education programmes: to prepare individuals for entry into the auditing profession and to contribute to societal and economic growth objectives specifically within South Africa as well as within an internationally competitive environment.*

*The IRBA encourages all who are responsible for programmes that lead to registration as an RA, to demonstrate a commitment to the recognition process, to high standards of education and to the formation of a highly respected auditing profession.*

## 2 REGISTRATION AS A REGISTERED AUDITOR (RA)

In terms of section 37(2) of the Auditing Profession Act, 2005, ("the Act") it is a requirement for registration as an RA that the applicant has complied with the prescribed education, training and competency requirements of the IRBA.

## 3 EDUCATION, TRAINING AND COMPETENCY REQUIREMENTS FOR REGISTRATION

- 3.1 The Independent Regulatory Board for Auditors (IRBA) has, in terms of section 7(1)(b) determined that passing the Public Practice Examination (PPE) as demonstrating competence at entry point to the profession by those persons wishing to qualify for registration as an RA.
- 3.2 The IRBA has determined the following admission requirements to the PPE in terms of the Act:

Successful completion of:

1. a recognised academic programme. The only academic programme currently recognised by the IRBA is the Certificate in the Theory of Accountancy (CTA), or equivalent, offered by providers accredited by SAICA.
2. a recognised core assessment programme. The only core assessment programme that currently meets the recognition standards of the IRBA is Part I of the Qualifying Examination of SAICA.
3. a minimum of 18 months' practical training under a recognised training programme registered with the IRBA. The 18-month period should be completed prior to the first day of the month in which the examination is to be conducted in a specific year. In the case of trainee accountants who participate in the Academic Traineeship Programme (ATP) and who fail a recognised core assessment programme during the first year of their training contract, a minimum of 15 months' practical training is required under a recognised training programme that is registered with the IRBA. The 15-month period should be completed prior to the first day of the month in which the examination is to be conducted in a specific year. The only training programme currently recognised by the IRBA is the training contracts in public practice administered by SAICA and registered with the IRBA; and
4. a recognised education programme. The only education programme that currently meets the recognition standards of the IRBA is the auditing specialism course or equivalent, accredited by SAICA. This education programme will remain valid for admission purposes for a period of five calendar years, commencing after the calendar year in which the education programme was successfully completed.

## 4 THE ACCREDITATION MODEL

The primary objective of the IRBA as established in terms of section 3 of the Act is to protect the public in the Republic through regulation of the auditing profession. In terms of section 2 of the Act, such regulation is intended to advance the development and maintenance of internationally comparable ethical and auditing standards and to advance the implementation of appropriate standards of competence and good ethics. These objectives seek to advance the economic well-being of South Africa by promoting investment and ultimately employment. The Act provides for various statutory mechanisms necessary to achieve these objectives, one of which is the accreditation of professional bodies.

The reputation, relevance and value of the auditing profession depends on the ability of its members to continually meet the expectations of stakeholders and provide a service appropriate to the needs of the South African economy within the global context. The IRBA therefore has a duty to ensure that all RAs:

- have the necessary professional competence on entering the auditing profession to serve the public interest and the needs of the economy;
- further develop and maintain their professional competence after registration; and
- are subject to appropriate ethical requirements and disciplined where appropriate.

Supporting the realisation of the IRBA's objectives for the development, assessment and maintenance of the professional competence of auditors demands more than high-quality education, training, assessment and continuing professional development (CPD) programmes. What is required is high-quality governance and management of these programmes by professional bodies devoted to providing relevant, effective and efficient services to members and other stakeholders. For this reason, the accreditation of a professional body must address the institutional effectiveness and efficiency as well as the quality of programmes that develop and assess professional competence. In terms of section 33 of the Act, in order to qualify for accreditation a professional body must demonstrate, to the satisfaction of the IRBA, that -

### **Programme accreditation requirements**

- a. It complies with the prescribed requirements for professional development and the achievement of professional competence;

### **Institutional accreditation requirements**

- b. It has appropriate mechanisms for ensuring that its members participate in CPD as recognised or prescribed by the Regulatory Board;
- c. It has mechanisms to ensure that its members are disciplined where appropriate;

- d. It is, and is likely to continue to be, financially and operationally viable for the foreseeable future;
  - e. It keeps a register of its members in the form prescribed by the Regulatory Board;
  - f. It has in place appropriate programmes and structures to ensure that it is actively endeavouring to achieve the objective of being representative of all sectors of the South African population; and
  - g. It meets any other requirement prescribed by the IRBA from time to time.
- In this regard the professional body must have appropriate technical support and guidance available to its members who are registered auditors.

#### 4.1 Structure of the Accreditation Model

| Institutional accreditation<br>[Section 33 (b) to (g)]  |  | Programme accreditation<br>[Section 33(a)]  |
|---|--|---|
| All accredited professional bodies are required to comply with the following institutional accreditation requirements   |  | All accredited professional bodies must comply with the programme requirements for the development and assessment of core competence  |
| <ul style="list-style-type: none"> <li>• Continuing Professional Development;</li> <li>• Discipline of members where appropriate;</li> <li>• Financial and operational viability;</li> <li>• Maintaining a register of members in a prescribed form;</li> <li>• Programmes endeavouring to achieve representative sectors; and</li> <li>• Other requirements               <ul style="list-style-type: none"> <li>o Appropriate technical support and guidance available to all its members who are RAs.</li> </ul> </li> </ul> |  | Develop and assess core competence: <ul style="list-style-type: none"> <li>• Recognised academic programmes; and</li> <li>• Recognised core assessment programmes;</li> </ul><br>In order to be fully accredited, a professional body must comply with the requirements for the development of professional competence: <ul style="list-style-type: none"> <li>• Recognised education programmes; and</li> <li>• Recognised training programmes.</li> </ul> |

## 5 PRESCRIBED ACCREDITATION REQUIREMENTS

### 5.1 Institutional and programme objectives

The IRBA must, in terms of section 5(a), prescribe minimum requirements for accreditation in addition to those provided for in the Act. This is achieved firstly through the definition of objectives (institutional and programme) that relate to each of the accreditation requirements specified in the Act. The objectives are a broad statement of the IRBA's minimum expectations and requirements at the institutional and programme levels.

### 5.2 Accreditation standards

- Accreditation standards describe the fundamental characteristics that should be present either at an institutional or programme level to realise the stated objectives. It should be noted, however, that the mere existence of such characteristics is not an assurance that the required standards will be achieved, but rather that the institution or its programme contains the necessary resources that, if effectively applied, are likely to achieve the stated objectives.
- Accreditation standards describe the minimum institutional and/or programme requirements that must be complied with and it is likely that professional bodies may exceed these requirements for their own purposes.
- The IRBA will seek to define its accreditation standards on the basis of appropriate experience and research and, where appropriate, after consultation with already accredited professional bodies. Standards will be periodically reviewed and revised so as to remain relevant to changed circumstances.
- While the accreditation standards are intentionally general, the assessment thereof is based upon careful and detailed examination of the specific circumstances of the professional body. Their generality enables the IRBA to focus on the particular circumstances relevant to a specific professional body, rather than on establishing measures of conformity. The widely diverse purposes and scope of professional bodies demand that the accreditation standards be sufficiently broad to encompass this diversity, and thereby support innovation. At the same time, the accreditation standards must be sufficiently clear so as to promote quality.
- The IRBA has articulated the following six principles that underpin the interpretation and application of accreditation standards:
  - o The accreditation standards are statements of good practice and are not intended to seek uniformity or conformity that may be applicable to a limited set of circumstances.

- o The diversity and range of professional bodies in South Africa must be respected and accommodated, thus emphasising that good practice may be manifested in a wide range of practices
- o Accreditation standards focus on inputs and outcomes, thereby embracing a model of accreditation that requires the assessment of resources, processes and outcomes at both the institutional and programme level.
- o The standards strive towards economy and clarity and avoid redundancy and ambiguity.
- o No single accreditation standard is considered to have overriding importance for the purposes of granting or maintaining accreditation. Rather, standards are viewed as an interdependent set of requirements that, collectively, enable the institutional and programme objectives to be met.
- o The standards recognise that the IRBA is a statutory regulatory body charged with protecting public interest within the Republic, and therefore must advance the best interests of the profession in this regard.

### 5.3 Indicators of standards

- In determining the extent to which an accreditation standard has been met, certain indicators that provide guidance on how the standard may be achieved in practice are included in the accreditation model.
- The inability to adhere to a specific indicator will not be viewed in isolation in the accreditation and monitoring process. It is accepted that the standard may also be realised through alternative means not referred to in the indicators.
- The indicators elaborate upon the accreditation standards defined by the IRBA. While they identify practices that the IRBA considers characteristic of the standard, they do not demand specific application nor carry any endorsements of particular practices. The indicators address major components of the accreditation standards but they are not designed to cover every aspect of the standard. Professional bodies are, however, encouraged to address each indicator, and to include, where appropriate, alternative or additional indicators where doing so would provide greater depth or more applicability to the individual institution.

## 6 ACCREDITATION PHILOSOPHY

The accreditation of professional bodies is intended to give rise to long-term partnerships between the regulator and relevant professional bodies that share an interest in advancing an appropriate standard within the auditing profession. No

assurance is given or implied that every accredited professional body manifests all the accreditation standards to the same degree. Accredited bodies are expected to demonstrate these standards in a substantial measure and always to be in the process of striving toward improvement. The IRBA will base its accreditation processes and procedures upon the following broad principles:

- Objectivity

Accreditation by the IRBA is an expression of confidence in a professional body's institutional and programme quality. Accreditation attests to the judgement of the IRBA that a professional body complies with certain minimum accreditation requirements. Such judgement is based, as far as possible, on an objective decision supported by evidence that arises both from a self-evaluation process conducted by the professional body, and an external validation process carried out by the IRBA.

- Public assurance

Given the statutory objectives of the IRBA, accreditation must provide public assurance that a professional body has the resources that render it capable of delivering high-quality academic, education and core assessment programmes of an appropriate standard, supported by a high-quality institution. Accreditation cannot, however, provide assurance as to the quality of actual delivery, as this is a function of the extent to which available resources are actually applied.

- Continual improvement

Accreditation seeks to achieve and maintain and constantly enhance high standards of programme delivery within the profession. It must therefore provide an opportunity for accredited professional bodies to continually evaluate stated objectives, and through innovation and change seek continuous improvement in quality. Thus, the accreditation process involves more than an examination of static requirements against predetermined criteria. It rather involves an elaborate and interactive process to evaluate the extent to which a professional body is able to support the realisation of the objectives of the IRBA.

- Forum for consultation

The IRBA recognises that its statutory objectives are to be partly achieved through the mechanism of the accreditation of professional bodies. To this end, therefore, accreditation should provide a forum for consultation between the IRBA, accredited bodies and identified stakeholders that share a common interest in enhancing the development, assessment and maintenance of high standards of competence within the auditing profession.

- Diversity and innovation

The accreditation process tolerates and encourages diverse and innovative means of achieving common objectives. For this reason, the focus of the

accreditation process is on fostering a commitment to quality, rather than on prescribing specific quantitative measures of consistency in policies and procedures among professional bodies.

- Access to the profession

The accreditation process is intended to provide access to the auditing profession to all who have the ability and desire to qualify, register and practise as RAs. It is, however, not the policy of the IRBA to establish academic, core assessment, education and training programmes required for registration purposes. The IRBA believes that this function is best fulfilled by professional bodies that seek accreditation, either in full or in part. Given that the IRBA is to conduct the assessment of professional competence for those persons wishing to register and practice as RAs, it is in the interests of the broader profession that programmes that prepare individuals for this assessment be conducted by accredited professional bodies. In this manner, access to the auditing profession through accredited professional bodies will be encouraged. The roles to be played by the providers (accredited professional bodies) and the assessor (the IRBA) will also be appropriately differentiated.

- Appropriate standards

Given the status of the IRBA as a statutory regulatory body, the accreditation process must promote appropriate standards of professional competence that will ensure that only those persons who have demonstrated the prescribed degree of professional competence are able to register and practise as auditors. Accreditation must also ensure that, as South Africa continues to participate in a competitive global economy, standards of professional qualification and continuing professional development are on par with international standards.

## **7 RESPONSIBILITIES IMPLICIT IN ACCREDITATION**

Accreditation establishes a partnership relationship between the IRBA and the professional bodies that gives rise to certain responsibilities.

### **7.1 Responsibilities undertaken by the IRBA**

In granting accreditation to professional bodies, the IRBA undertakes to:

- Constantly evaluate its own policies and practices to ensure that they represent best international accreditation practices that promote the autonomy of accredited professional bodies.
- Ensure that its accreditation policies and procedures are appropriate within South African circumstances, are responsive to the particular needs of the profession, and contribute towards achieving the objectives of the IRBA as defined in the Act.

- Provide opportunities whereby partially accredited professional bodies that appear to be capable of achieving full accreditation within a reasonable period are able to learn from the accreditation process and thereby enhance their programmes so as to make them capable over time, of full accreditation.
- Honour the relationships between accredited professional bodies and the providers of their various programmes to strengthen the relationships between the profession and those responsible for the development, assessment and training of individuals for the profession.
- Co-operate, where appropriate, with other statutory bodies and organs of state and other professional institutes that share the objectives of advancing the standards of competence of RAs within South Africa.

## 7.2 Responsibilities undertaken by an accredited professional body

The accreditation process is intended to strengthen and sustain the quality and integrity of the auditing profession, making it worthy of public confidence. The extent to which each accredited body accepts and fulfils the responsibilities inherent in the process is a measure of its concern for the quality of auditing and its commitment to striving for and achieving excellence in its own endeavours. The IRBA accredits a professional body only after it is satisfied that its accreditation standards have been complied with. The process of accreditation provides an opportunity for critical self-analysis by the professional body, leading to improvements in quality. With the granting of accreditation status to a professional body, the body should undertake to:

- Co-operate fully with the IRBA in the monitoring activities carried out by the IRBA in respect of the accreditation standards;
- Inform the IRBA timeously of any anticipated changes in the professional body that might affect the extent to which it continues to meet accreditation standards;
- Inform the IRBA of any anticipated intention to renounce its accreditation;
- Bring to the attention of the IRBA, any circumstances that may affect the accreditation or continued accreditation of the professional body;
- Respond to correspondence from the IRBA in matters relating to accreditation within a reasonable period;
- Demonstrate a commitment to the accreditation process by remaining informed about the process and by participating in the process to improve it through co-operation; and
- Demonstrate commitment to a continuous improvement process by performing regular self-evaluations against stated objectives.

## 8 CONTINUING PROFESSIONAL DEVELOPMENT

Continuing Professional Development (CPD) is the means by which members of a profession maintain, improve and broaden their knowledge and skills and develop the personal qualities required in their professional lives to achieve excellence. The International Federation of Accountants' (IFAC) International Education Standard (IES) 7 emphasises the profession's commitment to serving the worldwide public interest and presents CPD as a key means of meeting this commitment. IES 7 prescribes mandatory CPD for all members of the profession, including those in public practice. It also calls on IFAC member bodies to facilitate access to CPD opportunities and resources to assist professional accountants in meeting their responsibility for life long learning. Further, IES 8 prescribes competency requirements for audit professionals including those working in specific environments and industries. According to IFAC, the responsibility for the development and assessment of the required competence is shared by IFAC member bodies, audit organisations, regulatory authorities and other third parties.

Although the IRBA is not an IFAC member body, it takes cognisance of the IFAC standards in its policies.

All RAs are required to undertake CPD and report on their CPD activities annually to the IRBA.

**3**

**DISCIPLINARY RULES**

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# DISCIPLINARY RULES

## REPEAL OF THE DISCIPLINARY RULES MADE UNDER THE PUBLIC ACCOUNTANTS' AND AUDITORS' ACT, 80 OF 1991 AND ADOPTION OF NEW DISCIPLINARY RULES ON 7 JUNE 2007

Having published its intention to do so for comment in the *Government Gazette* on 26 April 2007, the Board now resolves under section 10(1) of the Auditing Profession Act, 26 of 2005 (**"the Act"**) read with section 4(1)(a)(i), (ii) and (iii) of the Act to (i) the repeal of the Disciplinary Regulations referred to in section 59(8)(b) of the Act and (ii) the prescription by the Board of the following Disciplinary Rules:

### 1. DEFINITIONS

- 1.1 1.1.1 **"the Act"** means the Auditing Profession Act, 26 of 2005 and any expression used in these Rules which is defined in the Act bears, unless the context indicates the contrary, the meaning assigned to it in the Act;
- 1.1.2 **"the Board"** means the Independent Regulatory Board for Auditors established by section 3;
- 1.1.3 **"the CEO"** means the person appointed by the Board as Chief Executive Officer under section 9(a) or any person acting in that capacity;
- 1.1.4 **"the chairperson of the Disciplinary Committee"** means the retired judge or senior advocate who is appointed by the Board as such and includes a deputy chairperson of the Disciplinary Committee acting as chairperson at a meeting of the Disciplinary Committee where the chairperson is absent or for any reason unable to perform his or her functions;<sup>1</sup>
- 1.1.5 **"the Code"** means the *Code of Professional Conduct* prescribed by the Board under section 4(1)(c) and includes the *Code of Professional Conduct* referred to in section 59(8)(c), until it has been repealed by the Board;
- 1.1.6 **"the Director: Legal"** means the person designated as such, who is an employee of the Board, or any person acting in that capacity, or any employee of the Board, notwithstanding his or her designation, who is appointed or charged by the Board to perform the functions performed by the Director: Legal as at the promulgation of these rules;

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<sup>1</sup> Section 24(2)(a) read with the resolutions by the Board on 20 June 2006

- 1.1.7 **“the Disciplinary Advisory Committee”** means a sub-committee of the Board established by the Board on 20 June 2006 under section 20(1);
- 1.1.8 **“the Disciplinary Committee”** means the committee established by the Board under section 20(2)(f);
- 1.1.9 **“firm”**, in the context of these Rules, means a partnership, company or sole proprietor referred to in section 38;<sup>2</sup>
- 1.1.10 **“the Investigating Committee”** means the committee established by the Board under section 20(2)(e);
- 1.1.11 **“pro forma complainant”** means the person appointed under section 50(2)(a) to present the charge to the Disciplinary Committee;
- 1.1.12 **“registered auditor”**, in the context of these Rules, means an individual or firm registered as an auditor with the Board or who was so registered at the time that the alleged improper conduct took place, whether that registered auditor is or was in public practice or not, and includes the duly authorised representative of the registered auditor if the registered auditor concerned is a firm;
- 1.1.13 **“the respondent”** means a registered auditor whose conduct is the subject of any proceedings (of whatsoever nature, including a complaint or a decision whether or not to refer such conduct to investigation) under these Rules as well as the legal representative of such a registered auditor, if any; and
- 1.1.14 **“these Rules”** means the *Disciplinary Rules* prescribed under section 10(1) and includes these definitions; and
- 1.2 any reference to any section in these Rules is a reference to the corresponding section of the Act;
- 1.3 these Rules shall, wherever possible, be construed in conformity with the Act; and
- 1.4 the headings to and any footnotes in these Rules shall be taken into account in the interpretation of these Rules.

## 2. COMMENCEMENT OF AN INQUIRY INTO ALLEGED IMPROPER CONDUCT

- 2.1 If an allegation of improper conduct against a registered auditor comes to the attention of the Director: Legal or the CEO, he or she must refer it to the Investigating Committee if –

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<sup>2</sup> Section 1 v. “firm”

- 2.1.1 the allegations are in the public domain and he or she on reasonable grounds (including a report from a foreign regulator) suspects that a respondent has committed an act which may render such respondent guilty of improper conduct; or
- 2.1.2 the allegations are referred to him or her by the Inspection Committee established under section 20(2)(d); or
- 2.1.3 a court or appropriate regulator sends (or directs to be sent) a record or report under section 48(2); or
- 2.1.4 a member of the public lodges a complaint with him or her and he or she:
  - 2.1.4.1 establishes that the person or firm complained about is a registered auditor;
  - 2.1.4.2 establishes that the complaint falls within the jurisdiction of the Board; and
  - 2.1.4.3 is of the opinion that the complaint of improper conduct appears to be justified.<sup>3</sup>
- 2.2 Members of the public who wish to lodge a complaint of improper conduct against a registered auditor shall do so on affidavit, unless the Director: Legal or the CEO decides otherwise. A complaint shall set out clearly and concisely the specific acts or failures to act giving rise to the complaint of improper conduct.
- 2.3 In order to establish whether the grounds for referral to the Investigating Committee referred to in 2.1.1 or 2.1.4 are present, the Director: Legal or the CEO may, in his or her discretion:
  - 2.3.1 notify the respondent in writing of the nature of the complaint and call upon that respondent to furnish a written explanation in answer to the complaint within 30 days of such notice; and
  - 2.3.2 request a complainant to provide further particulars on any aspect of the complaint.

### **3. INVESTIGATION OF A COMPLAINT OR ALLEGATIONS OF IMPROPER CONDUCT**

- 3.1 When a complaint or allegation of improper conduct against a respondent is referred to the Investigating Committee, the Investigating Committee must investigate such complaint or allegation<sup>4</sup> and may:

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<sup>3</sup> Section 48(1) and (2)

<sup>4</sup> Section 48(3)

- 3.1.1 take any steps which are not prohibited by law to gather information with regard to the complaint or allegation<sup>5</sup>;
- 3.1.2 request a complainant to provide further particulars on any aspect of the complaint;
- 3.1.3 request the respondent to appear before the Investigating Committee<sup>6</sup> in order to assist it to formulate its recommendations to the Board<sup>7</sup> by notice specifying the time and place of the meeting of the Investigating Committee, provided that the notice shall inform the respondent:
  - 3.1.3.1 that the respondent has the right to be assisted or represented by another person;<sup>8</sup>
  - 3.1.3.2 that any statement made by the respondent to the Investigating Committee may be used in evidence<sup>9</sup> and that the proceedings of the Investigating Committee will be recorded; and
  - 3.1.3.3 that section 51(4) of the Act provides that a respondent may be ordered to pay the reasonable costs incurred by the Investigating Committee and the Disciplinary Committee in connection with an investigation and hearing, if appropriate, and that a failure to appear before the Investigating Committee may increase the costs likely to be incurred by the Investigating Committee and the Disciplinary Committee;
- 3.1.4 require, by notice in writing, the registered auditor to whom the complaint or allegation of improper conduct relates or any other person to produce to the Investigating Committee at a time and place stipulated in the notice any information including, but not limited to, any working papers, statements, correspondence, books or other documents, which is in the possession or under the control of that registered auditor or other person and which relates to the subject matter of the charge(s), including specifically, but without limitation, any working papers of the registered auditor;<sup>10</sup>
- 3.1.5 request the CEO to institute legal action<sup>11</sup> against any person who fails to produce to the Investigating Committee the information referred to in 3.1.4 at the time and place stipulated in the notice; and

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<sup>5</sup> Section 48(3)(b)

<sup>6</sup> Section 48(4)

<sup>7</sup> Section 48(7)

<sup>8</sup> Section 48(4)(a)

<sup>9</sup> Section 48(4)(b)

<sup>10</sup> Section 48(5)(a)(i)

<sup>11</sup> Section 9(n) read with the Board's resolutions on 20 June 2006

- 3.1.6 inspect and, if the Investigating Committee considers it appropriate, retain any information obtained pursuant to 3.1.4 and 3.1.5 and make copies of and take extracts from such information.<sup>12</sup>
- 3.2 Notwithstanding the provisions in 3.1.3.1 and 3.1.3.2, the Investigating Committee and the respondent may agree to declare any appearance or part of an appearance of the respondent before the Committee to be “without prejudice”. In such a case:
  - 3.2.1 The evidence presented or the discussions at such appearance or part of the appearance will not be recorded;
  - 3.2.2 the discussions between the Investigating Committee and the respondent will not be used in evidence against the respondent; and
  - 3.2.3 the respondent and the Investigating Committee may agree that the respondent would not be assisted or represented by any other person.
- 3.3 The Investigating Committee shall not be obliged to disclose the source of a complaint.
- 3.4 If, in the course of its investigations, the respondent admits to the Investigating Committee that the respondent is guilty of improper conduct and the Investigating Committee and the respondent agree on a punishment to be imposed for such improper conduct, or if it appears to the Investigating Committee be appropriate, the Investigating Committee may recommend to the Board that a specific sanction is imposed on, and the payment of a specific amount in costs is required from, the respondent and that the name of, charge(s) against and finding in respect of the respondent is published by the Board or not.

## **RECOMMENDATION TO DAC**

- 3.5 After investigating the allegations of improper conduct against the respondent, the Investigating Committee:
  - 3.5.1 shall report and recommend to the Disciplinary Advisory Committee whether or not the respondent should be charged with improper conduct.<sup>13</sup> If the Investigating Committee recommends to the Disciplinary Advisory Committee that the respondent should not be charged with improper conduct, it should state its finding whether:
    - 3.5.1.1 the respondent is not guilty of improper conduct; or
    - 3.5.1.2 there is a reasonable explanation for the respondent’s conduct; or

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<sup>12</sup> Section 48(5)(a)(ii) and (iii)

<sup>13</sup> Section 48(7) read with the Board’s resolutions on 20 June 2006

- 3.5.1.3 the conduct of which the respondent may be guilty is of negligible nature or consequence; or
  - 3.5.1.4 there are no reasonable prospects of success to succeed with a charge of improper conduct against the respondent; or
  - 3.5.1.5 in all the circumstances it is not appropriate to charge the respondent with improper conduct; and
- 3.5.2 may make a recommendation under 3.4 to the Disciplinary Advisory Committee.

#### **4. DECISION WHETHER TO CHARGE A REGISTERED AUDITOR WITH IMPROPER CONDUCT**

- 4.1 When the Disciplinary Advisory Committee receives a recommendation under 3.5 from the Investigating Committee, it shall consider this and:
  - 4.1.1 if the Investigating Committee recommended that the respondent should be charged, shall formally charge the respondent;<sup>14</sup>
  - 4.1.2 if the Investigating Committee recommended that the respondent should not be charged, the Disciplinary Advisory Committee may:
    - 4.1.2.1 refer the recommendation to be considered by the Board;  
or
    - 4.1.2.2 decline to prefer any charge(s) against the respondent.
- 4.2 Should the Disciplinary Advisory Committee refer the matter to the Board, the Board may:
  - 4.2.1 formally charge the respondent with such charge(s) as it may formulate in its discretion;<sup>15</sup> or
  - 4.2.2 decline to prefer any charge(s) against the respondent.
- 4.3 If the Disciplinary Advisory Committee or the Board, as the case may be, decides not to charge a respondent whose conduct was the subject of an investigation with improper conduct, the Director: Legal or the CEO must notify the respondent, and may notify the complainant, in writing of this decision.
- 4.4 If a respondent is formally charged with any charge(s) of improper conduct, the Disciplinary Advisory Committee shall cause a notification (if applicable) and a charge sheet to be furnished to the respondent by hand (whether by service by sheriff or on the respondent's legal representatives or otherwise) or by registered mail to the respondent's address or last known address.<sup>16</sup>

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<sup>14</sup> Section 49(1) read with the Board's resolutions on 20 June 2006

<sup>15</sup> Section 49(1) read with section 19(4) and the Board's resolutions on 20 June 2006

<sup>16</sup> Section 49(2)

## THE NOTIFICATION

- 4.5 When a respondent is formally charged with any charge(s) of improper conduct, such respondent shall receive a notice of the time and place at which a hearing of the charges under Rule 6 and Rule 7 (if applicable) will be conducted, unless the Investigating Committee made a recommendation under 3.4.
- 4.6 Subject to 6.3.11, 6.3.12 and 6.4, a hearing under Rule 6 and / or Rule 7 is conducted at such time and place as is determined by the Director: Legal or the CEO.
- 4.7 The notice shall state:
- 4.7.1 that, at the hearing under Rule 6 and Rule 7 (if applicable), the respondent:
- 4.7.1.1 may be assisted or represented by another person in conducting a defence;
  - 4.7.1.2 has the right to be heard;
  - 4.7.1.3 may call witnesses;
  - 4.7.1.4 may cross-examine any person called as a witness by the *pro forma* complainant;
  - 4.7.1.5 may have access to documents produced in evidence; and
  - 4.7.1.6 may admit at any time before the conclusion of the disciplinary hearing under Rule 6 that the respondent is guilty of the charge(s) referred to the Disciplinary Committee despite the fact that the respondent denied such charge(s) or failed to admit or deny such charge(s); and
  - 4.7.1.7 will be regarded as guilty of the charge(s) to which the respondent admitted guilt under 4.7.1.6;
- 4.7.2 that the respondent must inform the Director: Legal or the CEO at least one (1) month before the date for the hearing under Rule 6 and Rule 7 (if applicable) is determined under 4.6, or on good cause shown, such shorter period as the Director: Legal or CEO may determine, of the names, physical addresses and postal addresses of any witness(es) that the respondent wishes to give evidence at the hearing under Rule 6 and Rule 7 (if applicable).

## SUBPOENAS

- 4.8 The Director: Legal or the CEO must cause subpoenas in the prescribed form to be served on the witness(es), if any, nominated by the respondent and may cause such subpoenas to be served on such witness(es), if any, whom the *pro forma* complainant and the Disciplinary Committee wish to call.

## THE CHARGE SHEET

- 4.9 A charge sheet may contain more than one charge of improper conduct, whether formulated cumulatively or in the alternative.
- 4.10 The charge sheet shall:
- 4.10.1 set out the nature of the charge(s);<sup>17</sup>
  - 4.10.2 set out the relevant facts upon which the charge(s) are based with sufficient particularity as to allow the respondent to plead;
  - 4.10.3 inform the respondent that the respondent may, in writing, admit or deny the charge(s);<sup>18</sup>
  - 4.10.4 inform the respondent that the respondent may, together with the admission or denial referred to in 4.10.3, submit a written explanation regarding the charge(s);<sup>19</sup>
  - 4.10.5 inform the respondent of the date by which the respondent must admit or deny the charge(s), which date must give the respondent a reasonable time (but not exceeding 60 days) to respond;<sup>20</sup>
  - 4.10.6 inform the respondent that:
    - 4.10.6.1 should the respondent not admit or deny the charge(s) by the date referred to in 4.10.5, the respondent would be considered to have denied those charge(s) and that those charge(s) would be referred to a disciplinary hearing under Rule 6; or
    - 4.10.6.2 should the respondent deny the charge(s), but fail to submit a written explanation, together with the denial, the charge(s) would be referred to a disciplinary hearing under Rule 6 without such an explanation;
  - 4.10.7 inform the respondent that section 51(4) of the Act provides that a respondent may be ordered to pay the reasonable costs incurred by the Investigating Committee and the Disciplinary Committee in connection with an investigation and hearing and that a failure to submit a plea under 4.10.3 or a written explanation under 4.10.4 may increase the costs likely to be incurred by the Disciplinary Committee.

## AMENDMENT OF CHARGE SHEET PRIOR TO HEARING

- 4.11 The Disciplinary Advisory Committee may at any time after a charge sheet or amended charge sheet was furnished to a respondent under 4.4 and before the commencement of a hearing under Rule 6 further amend such charge sheet

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<sup>17</sup> Section 49(3)(a)

<sup>18</sup> Section 49(3)(b)

<sup>19</sup> Section 49(3)(c)

<sup>20</sup> Section 49(3)(d)

or amended charge sheet.<sup>21</sup> Amendments may include, but are not limited to, the addition or deletion of charges.

- 4.12 The amendment shall be effected by furnishing an amended charge sheet which meets the requirements set out in 4.10 to the respondent under 4.4.
- 4.13 The provisions of Rule 5 apply *mutatis mutandis* to a respondent after receipt of an amended charge sheet even if the respondent has pleaded to the original charge sheet.

## **5. THE PLEA AND CONSEQUENCES OF AN ADMISSION OR DENIAL OF GUILT**

- 5.1 A respondent that is formally charged must in writing plead to all of the charges before or on the date referred to in 4.10.5.
- 5.2 Should the respondent not plead to the charge(s) before or on the date referred to in 4.10.5, the respondent will be considered to have denied the charge(s) and such charge(s) will be referred to a hearing on the merits under Rule 6.
- 5.3 If a respondent pleads guilty to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet, the respondent must notify the Director: Legal or the CEO. In such a case, the respondent is considered to be guilty of that charge(s)<sup>22</sup> and:
  - 5.3.1 if the Investigating Committee has recommended that a specific sanction is imposed on, the payment of a specific amount in costs is required from, and a specific arrangement regarding publication is made with respect to, a respondent, the Director: Legal or the CEO will automatically impose that sanction on the respondent, order the respondent to pay that amount in costs and implement that arrangement with regard to publication<sup>23</sup>;
  - 5.3.2 if the Investigating Committee did not recommend that a specific sanction is imposed on, and the payment of a specific amount in costs is required from, a respondent, the matter will be referred to the Disciplinary Committee to act under Rule 7 at the hearing determined under 4.6.
- 5.4 If a respondent pleads guilty to one or more, but not all, of the charges in the charge sheet (should there have been more), the respondent must notify the Director: Legal or the CEO, clearly indicating in respect of which charge(s) the respondent admits and denies guilt.

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<sup>21</sup> The powers of the Disciplinary Committee to amend a charge sheet is dealt with in 6.3.8

<sup>22</sup> Section 49(4)

<sup>23</sup> See the Board's Resolutions on 20 June 2006 and the resolution of the Disciplinary Committee on 16 September 2006

- 5.5 If a respondent denies guilt to one or more of the charges in a charge sheet, and the Investigating Committee has made no recommendation under 3.4, that charge(s) to which such respondent has denied guilt will be referred to the Disciplinary Committee for a hearing on the merits under Rule 6, unless the charge sheet is amended by the DAC under 4.11 to remove the charge(s) to which the respondent denied guilt. The respondent will be considered to be guilty of those charges to which the respondent admitted guilt, which will be referred to the Disciplinary Committee to act under Rule 7.
- 5.6 If a respondent denies guilt to one or more of the charges in a charge sheet, and the Investigating Committee has made a recommendation under 3.4:
- 5.6.1 the Disciplinary Advisory Committee may exercise its powers under 4.11, in which case 4.12 and 4.13 will apply *mutatis mutandis*. Should there be no charges in the charge sheet, as amended, to which the respondent pleads not guilty, the charges to which the respondent pleaded guilty are referred to the CEO or the Director: Legal to act in terms of 5.3.1;
- 5.6.2 if the Disciplinary Advisory Committee does not exercise its powers under 4.11, or if – despite its exercise of its powers under 4.11 – there are charges in the charge sheet as amended to which the respondent pleads not guilty, 4.5 to 4.8 will apply *mutatis mutandis* and all charge(s) in the charge sheet will be referred to the Disciplinary Committee. That charge(s) to which the respondent denied guilt will be referred for a hearing on the merits under Rule 6. The respondent will be considered to be guilty of those charges to which the respondent admitted guilt, which will be referred to the Disciplinary Committee to act under Rule 7.

## 6. THE HEARING ON THE MERITS

### 6.1 General matters

- 6.1.1 The Disciplinary Committee may upon good cause shown and in the interests of justice sanction or condone any departure from these Rules or from the strict rules of evidence which is not prohibited by the Act. Unless any departure from these Rules or from the strict rules of evidence is raised at a hearing, it shall not be necessary for the Disciplinary Committee formally to sanction or condone such departure and such departure shall not in and of itself invalidate any action or decision taken, or purportedly taken, under these Rules.
- 6.1.2 If a respondent who is formally charged with any charge(s) of improper conduct under 4.1.1 or 4.2.1, does not in writing admit or deny the charge(s) before or on the date referred to in 4.10.5 or should that

respondent deny the charge (if there is only one or) or one or more of the charges (if there are more than one), the Director: Legal or the CEO shall refer the charge(s) which were denied or to which the respondent did not plead, together with the plea and written explanation (if any) to the Disciplinary Committee for a hearing under this Rule, subject to 5.5 and 5.6.

- 6.1.3 Pursuant to a referral under 6.1.2, the Director: Legal or the CEO shall appoint any person (“the *pro forma* complainant”), in his or her discretion, to present the charge(s) to the Disciplinary Committee at the hearing under this Rule and under Rule 7 (if any). The *pro forma* complainant may be assisted by one or more persons with legal or auditing experience.

## 6.2 Documents to be adduced in evidence

- 6.2.1 The Director: Legal or the CEO shall cause bundles of documents to be adduced in evidence in the hearing under this Rule and under Rule 7 (if any) to be distributed to such members of the Disciplinary Committee who indicated that they would attend the hearing under this Rule, to the respondent and to the *pro forma complainant*.

- 6.2.2 The bundles shall comprise:

- 6.2.2.1 the notice and charge sheet(s) sent to the respondent under 4.4;
- 6.2.2.2 any plea(s) and written explanation(s) furnished by the respondent;
- 6.2.2.3 any documents which the *pro forma* complainant and the respondent may agree are admissible in evidence;
- 6.2.2.4 at the discretion of the *pro forma* complainant, a certified copy of the record of the trial and conviction of the respondent if the respondent is charged with improper conduct which amounts to the offence of which the respondent was convicted, unless the conviction has been set aside by a superior court.

- 6.2.3 Nothing in 6.2 shall prevent any evidence not included in any bundle referred to in those sub-rules from being adduced at the hearing under this Rule or Rule 7.

## 6.3 The conduct of the hearing

- 6.3.1 Should the respondent not be present at the place and time for the hearing determined under 4.6 and still not be present within thirty (30) minutes from the time set for the start of the hearing, the hearing under this Rule and Rule 7 (if any) may proceed in the respondent’s absence if the Disciplinary Committee is satisfied that the notice under 4.4 was

served on the respondent by hand (whether by service by sheriff or otherwise) or by registered mail.

- 6.3.2 This Rule shall apply *mutatis mutandis* to the situation where a hearing proceeds in a respondent's absence.
- 6.3.3 If a registered auditor is not present at a hearing, a registered auditor may only be represented by another person at the hearing if the registered auditor has authorised such person in writing to do so.
- 6.3.4 Any application for the hearing under this Rule, or any part of the hearing, to be held *in camera* shall be brought at the outset of the hearing unless the chairperson of the Disciplinary Committee determines otherwise.<sup>24</sup>
- 6.3.5 Any witness at a hearing shall give evidence after the chairperson of the Disciplinary Committee or a person designated by him or her administered an oath or affirmation to such witness.
- 6.3.6 The order of procedure at a hearing under this Rule shall be as follows:
  - 6.3.6.1 The chairperson of the Disciplinary Committee shall read the notice and charge sheet referred to in 4.4 to the respondent, unless the respondent agrees to dispense with the reading of such notice and charge sheet.
  - 6.3.6.2 The chairperson of the Disciplinary Committee shall ask the respondent to confirm which of the charges set out in the charge sheet (or in the charge sheet as amended) the respondent admits or denies, provided that the Disciplinary Committee shall not ask such confirmation with respect to any charge(s) that the respondent may have admitted under 5.3.
  - 6.3.6.3 The respondent will be considered to be guilty as charged to any charge(s) to which such respondent admits guilt under 6.3.6.2 and such charge(s) will be heard by the Disciplinary Committee under Rule 7.
  - 6.3.6.4 Should the respondent not admit or deny the charge(s) when asked to do under 6.3.6.2 or should it appear to the Chairperson that the respondent may admit the facts but may not admit the charge(s) or should the respondent not be present at the hearing under this Rule, the respondent will be considered to have denied the charge(s).

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<sup>24</sup> Section 50(4) provides that a hearing before the Disciplinary Committee is open to the public except where, in the opinion of the chairperson of the Disciplinary Committee, any part of the hearing should be held *in camera*.

- 6.3.6.5 The *pro forma* complainant shall state his or her case with regard to the charge(s) denied under 6.3.6.2 and 6.3.6.4 and produce evidence in support of it.
- 6.3.6.6 The respondent may cross-examine any witnesses produced by the *pro forma* complainant and may have access to any documents adduced in evidence by the *pro forma* complainant.
- 6.3.6.7 The *pro forma* complainant may re-examine any witnesses cross-examined by the respondent.
- 6.3.6.8 At the conclusion of the case presented by the *pro forma* complainant, the respondent shall state the case with regard to the charge(s) denied under 6.3.6.2 and 6.3.6.4 and produce evidence in support of it.
- 6.3.6.9 The *pro forma* complainant may cross-examine any witnesses produced on behalf of the respondent (including the respondent registered auditor if that registered auditor has elected to give evidence) and may have access to any documents adduced in evidence by the respondent.
- 6.3.6.10 The respondent may re-examine any witnesses cross-examined by the *pro forma* complainant.
- 6.3.6.11 At the conclusion of the case presented by the respondent,
  - (i) the *pro forma* complainant may address the Disciplinary Committee on the case generally;
  - (ii) the respondent may reply to the *pro forma* complainant; and
  - (iii) the *pro forma* complainant may reply to any new matter raised by the respondent.
- 6.3.7 The Disciplinary Committee shall not hear any further evidence from the *pro forma* complainant or from the respondent after the conclusion of their case unless the interests of justice so dictates, in which case 6.3.6.5 to 6.3.6.11 shall apply *mutatis mutandis*.
- 6.3.8 The Disciplinary Committee may at any time after the *pro forma* complainant started to state his or her case and prior to the conclusion of the hearing under this Rule amend the charge sheet in accordance with section 50(3) after which it may regulate its proceedings as it deems fit in the interests of justice.<sup>25</sup>

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<sup>25</sup> See also 4.11

- 6.3.9 The respondent may at any time after the *pro forma* complainant started to state his or her case and prior to the conclusion of the hearing under this Rule admit guilt to any charge(s) which has not previously been admitted, upon which such respondent will be considered to be guilty of such charge(s). Such charge(s) will be heard by the Disciplinary Committee under Rule 7. The Disciplinary Committee may regulate its proceedings with respect to any remaining charge(s) to which guilt has not been admitted as it deems fit in the interests of justice.
- 6.3.10 The *pro forma* complainant may, with the leave of the Disciplinary Committee, at any time after he or she started to state his or her case and prior to the conclusion of the hearing withdraw any charge(s) against the respondent. The Disciplinary Committee may regulate its proceedings with respect to any remaining charge(s) as it deems fit in the interests of justice.
- 6.3.11 If the Disciplinary Committee is not seized of any further charge(s) as a result of an admission under 6.3.9 or a withdrawal under 6.3.10, and if the respondent is guilty of any charge(s) under section 49(4)<sup>26</sup> or section 50(8)(b)(ii)<sup>27</sup>, the Disciplinary Committee shall proceed to hear such charge(s) of which the respondent is guilty under Rule 7, or, in exceptional circumstances, shall determine anew a place and time (not more than 30 days from the date of the announcement) at which the Disciplinary committee will hear such charge(s) under Rule 7.
- 6.3.12 The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing order the postponement of the remainder of the hearing under this Rule to a time and place determined or to be determined in its discretion, provided that only members present at the commencement of the hearing under this Rule may take part in the remainder of the hearing under this Rule.
- 6.3.13 The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule call as a witness any person the evidence of whom it considers material and who has not been called by the *pro forma* complainant or the respondent. The Disciplinary Committee may regulate its proceedings with respect to the cross-examination of such witness and the right to address the Disciplinary Committee on the evidence given by such witness as it deems fit in the interests of justice.

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<sup>26</sup> This is the case when a registered auditor admitted guilt to one or more charges in a reply to the charge sheet before a hearing.

<sup>27</sup> This is the case when a registered auditor admitted guilt to one or more charges at a hearing on the merits of the matter.

6.3.14 Any member of the Disciplinary Committee taking part in the hearing under this Rule may, with the permission of the chairperson of the Disciplinary Committee, put a question to any witness, to the respondent registered auditor (if such registered auditor elected to give evidence), to the *pro forma* complainant and to the legal representative of the respondent registered auditor (if any).

6.3.15 The Disciplinary Committee may make any decision with regard to any matter arising in connection with, or in the course of a hearing under this Rule, *in camera*.

#### 6.4 Conclusion of hearing under this Rule

At the conclusion of a hearing under this Rule, the chairperson of the Disciplinary Committee shall announce when and in which manner the Disciplinary Committee will inform the respondent of its finding as to the guilt or innocence of the respondent on the charge(s) with which the Disciplinary Committee is still seized at the conclusion of the hearing under this Rule. The Disciplinary Committee may inform the respondent of its finding on the day of the hearing under this Rule or, in exceptional circumstances, later, but in any event not more than 30 days<sup>28</sup> after the conclusion of the hearing under this Rule.

## 7. HEARING ON SENTENCING<sup>29</sup>

### 7.1 Application of this rule

7.1.1 This rule does not apply when a respondent admitted guilt to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet, and the Director: Legal or the CEO automatically imposed a sanction on the respondent under 5.3.1<sup>30</sup>.

7.1.2 Subject to 7.1.1, this rule applies when a respondent is found guilty of any charge(s) under section 49(4)<sup>31</sup>, 50(8)(b)(ii)<sup>32</sup> or 51(1)(a)<sup>33</sup> regardless of whether a hearing under Rule 6 took place.

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<sup>28</sup> See section 51(1)

<sup>29</sup> It is envisaged that a hearing on the merits and on sentencing would normally take place at the same time. In exceptional circumstances, however, the Disciplinary Committee may determine otherwise: see 6.3.11, 6.3.12 and 6.4

<sup>30</sup> See the Board's Resolutions on 20 June 2006 and the resolution of the Disciplinary Committee on 16 September 2006

<sup>31</sup> This is the case when a registered auditor admitted guilt to one or more charges in a reply to the charge sheet before a hearing.

<sup>32</sup> This is the case when a registered auditor admitted guilt to one or more charges at a hearing on the merits of the matter.

<sup>33</sup> This is the case when the Disciplinary Committee finds a registered auditor guilty after a hearing on the merits of the matter.

## 7.2 Hearing under this Rule when a hearing under Rule 6 took place

If a respondent is found guilty of a charge(s) under section 49(4)<sup>34</sup>, 50(8)(b)(ii)<sup>35</sup> or 51(1)(a)<sup>36</sup> and a hearing under Rule 6 took place, the Disciplinary Committee will hold a hearing under this Rule:

7.2.1 at the time and place appointed by the chairperson of the Disciplinary Committee under 6.3.11 or 6.4;

7.2.2 as a continuation of the hearing under Rule 6; and

7.2.3 with only such members of the Disciplinary Committee as took part in the hearing under Rule 6 taking part in the hearing under this Rule.

## 7.3 Hearing under this Rule when a hearing under Rule 6 did not take place<sup>37</sup>

The provisions of this sub-Rule 7.3 apply only if a respondent is guilty of a charge(s) and a hearing under Rule 6 did not take place. In such a case,

7.3.1 the Director: Legal or the CEO may appoint a *pro forma* complainant, in his or her discretion, to present any aggravating or mitigating circumstances to the Disciplinary Committee at the hearing under this Rule. The *pro forma* complainant may be assisted by one or more persons with legal or auditing experience;

7.3.2 the Disciplinary Committee conducts the hearing under this Rule at such time and place as is determined by the Director: Legal or the CEO under 4.6.

## 7.4 General power relating to hearing under Rule 7

The Disciplinary Committee may upon good cause shown and in the interests of justice sanction or condone any departure from these Rules or from the strict rules of evidence which is not prohibited by the Act. Unless any departure from these Rules or from the strict rules of evidence is raised at a hearing, it shall not be necessary for the Disciplinary Committee formally to sanction or condone such departure and such departure shall not in and of itself invalidate any action or decision taken, or purportedly taken, under these Rules.

## 7.5 The conduct of the hearing

7.5.1 Should the respondent not be present at the place and time for the hearing determined under 6.3.11, 6.4 or 7.3.2 and still not be present within thirty (30) minutes from the time set for the start of the hearing,

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<sup>34</sup> See fn 31 above.

<sup>35</sup> See fn 32 above.

<sup>36</sup> See fn 33 above.

<sup>37</sup> This is the case when a registered auditor admits guilt to the charge (should there be only one), or all the charges (should there be more than one), contained in the charge sheet and the Investigating Committee did not recommend that a specific sanction is imposed.

the hearing under this Rule may proceed in the respondent's absence, provided that if the place and time for the hearing was determined under 7.3.2, the hearing under this Rule may only proceed in the respondent's absence if the Disciplinary Committee is satisfied that the notice under 4.4 was served on the respondent by hand (whether by service by sheriff or otherwise) or by registered mail.

- 7.5.2 This Rule shall apply *mutatis mutandis* to the situation where a hearing proceeds in a respondent's absence.
- 7.5.3 If a registered auditor is not present at a hearing, a registered auditor may only be represented by another person at the hearing, if the registered auditor has authorised such person in writing to do so.
- 7.5.4 Any application for the hearing under this Rule, or any part of the hearing, to be held *in camera* shall be brought at the outset of the hearing unless good cause, in the opinion of the chairperson of the Disciplinary Committee, is shown.<sup>38</sup>
- 7.5.5 Any witness at a hearing shall give evidence after the chairperson of the Disciplinary Committee or a person designated by him or her administered an oath or affirmation to such witness.
- 7.5.6 The order of procedure at a hearing under this Rule shall be as follows:
  - 7.5.6.1 The chairperson of the Disciplinary Committee shall read the charge(s) of which the respondent are guilty, unless the respondent agrees to dispense with the reading of the charge(s).
  - 7.5.6.2 The *pro forma* complainant shall state his or her case with regard to mitigating or aggravating circumstances in respect of the charge(s) of which the respondent are guilty and produce evidence in support of it (if any).
  - 7.5.6.3 The respondent may cross-examine any witnesses produced by the *pro forma* complainant and may have access to any documents adduced in evidence by the *pro forma* complainant.
  - 7.5.6.4 The *pro forma* complainant may re-examine any witnesses cross-examined by the respondent.

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<sup>38</sup> Section 50(4) provides that a hearing before the Disciplinary Committee is open to the public except where, in the opinion of the chairperson of the Disciplinary Committee, any part of the hearing should be held *in camera*.

- 7.5.6.5 At the conclusion of the case presented by the *pro forma* complainant, the respondent shall state the case with regard to mitigating or aggravating circumstances in respect of the charge(s) of which the respondent are guilty and produce evidence in support of it (if any).
- 7.5.6.6 The *pro forma* complainant may cross-examine any witnesses produced on behalf of the respondent (including the respondent registered auditor if that registered auditor has elected to give evidence) and may have access to any documents adduced in evidence by the respondent.
- 7.5.6.7 The respondent may re-examine any witnesses cross-examined by the *pro forma* complainant.
- 7.5.6.8 At the conclusion of the case presented by the respondent,
- (i) the *pro forma* complainant may address the Disciplinary Committee with respect to mitigating or aggravating circumstances;
  - (ii) the respondent may reply to the *pro forma* complainant; and
  - (iii) the *pro forma* complainant may reply to any new matter raised by the respondent.
- 7.5.7 The Disciplinary Committee shall not hear any further evidence from the *pro forma* complainant or from the respondent after the conclusion of their case on mitigating or aggravating circumstances unless the interests of justice so dictate, in which case 7.5.6.2 to 7.5.6.8 shall apply *mutatis mutandis*.
- 7.5.8 The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule order the postponement of the remainder of the hearing under this Rule to a time and place determined or to be determined in its discretion, provided that only members present at the commencement of the hearing under this Rule may take part in the remainder of the hearing under this Rule.
- 7.5.9 The Disciplinary Committee may at any time after the commencement and before the conclusion of the hearing under this Rule call as a witness any person the evidence of whom it considers material and who has not been called by the *pro forma* complainant or the respondent. The Disciplinary Committee may regulate its proceedings with respect to the cross-examination of such witness and the right to address the Disciplinary Committee on the evidence given by such witness as it deems fit in the interests of justice.

7.5.10 Any member of the Disciplinary Committee taking part in the hearing under this Rule may, with the permission of the chairperson of the Disciplinary Committee, put a question to any witness, to the respondent registered auditor (if such registered auditor elected to give evidence), to the *pro forma* complainant and to the representative of the respondent registered auditor (if any).

7.5.11 The Disciplinary Committee may make any decision with regard to any matter arising in connection with, or in the course of a hearing under this Rule, *in camera*.

## 7.6 Conclusion of hearing under this Rule

At the conclusion of a hearing under this Rule, the chairperson of the Disciplinary Committee shall announce when and in which manner the Disciplinary Committee will inform the respondent of its finding as to the sentence of the respondent. The Disciplinary Committee may inform the respondent of its finding on the day of the hearing under this Rule or, in exceptional circumstances, later, but in any event not more than 30 days after the conclusion of the hearing under Rule 6 (if any) or more than 30 days after the conclusion of the hearing under this Rule, whichever is the earlier.<sup>39</sup>

## 8. COMPETENT SENTENCES, PUBLICATION, COSTS AND NOTICE TO THE BOARD

8.1 If a respondent is found guilty of a charge of improper conduct, one or more of the following sentences may be imposed under 5.3.1 or 7.6 with respect to each charge of which the respondent is found guilty<sup>40</sup>:

8.1.1 a caution or reprimand; and

8.1.2 a fine which shall not exceed either R100 000 or such higher amount as may be applicable from time to time under section 51(3)(a)(ii); and

8.1.3 a suspension of the right to practice as a registered auditor for a specific period; and

8.1.4 the cancellation of the registration of the respondent with the Board and the removal of the name of the respondent from the register referred to in section 6.

8.2 A sentence under 8.1 may be suspended for a specific period and / or made subject to any lawful conditions set in the sentence.

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<sup>39</sup> See section 51(1)

<sup>40</sup> See section 51(3)(a)

- 8.3 If a respondent is found guilty of a charge of improper conduct, an order made under 5.3.1 or 7.6 may include:
- 8.3.1 that the name of the respondent; and / or
  - 8.3.2 the name of the respondent's firm (if applicable); and / or
  - 8.3.3 the charge against and finding in respect of the respondent; and / or
  - 8.3.4 any other information that is considered appropriate is published by the Board or not, as the case may be.<sup>41</sup>
- 8.4 A respondent:
- 8.4.1 upon whom a sanction was imposed under 5.3.1; or;
  - 8.4.2 whose conduct was the subject of a hearing under Rule 6, may be ordered to pay such reasonable costs as have been incurred by the Investigating Committee and the Disciplinary Committee in connection with the investigation and hearing in question, or such part thereof as may be considered just.

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<sup>41</sup> Section 51(5)

**4**  
**RULES REGARDING**  
**IMPROPER CONDUCT**  
**AND CODE OF**  
**PROFESSIONAL CONDUCT**

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# RULES REGARDING IMPROPER CONDUCT

These Rules Regarding Improper Conduct (“**these Rules**”) repeal and replace the “Old” Disciplinary Rules 2.1 referred to in section 59(8)(c). These Rules are prescribed by the Board under section 4(1)(c) with effect from **1 January 2011**.

## 1. DEFINITIONS

In these Rules the terms below have the meanings assigned to them and any reference to any section in these Rules is a reference to the corresponding section in the Act -

- 1.1 “**the Act**” means the Auditing Profession Act, No. 26 of 2005 and any expression used in these Rules which is defined in the Act bears, unless the context indicates the contrary, the meaning assigned to it in the Act;
- 1.2 “**Regulatory Board**” means the Independent Regulatory Board for Auditors established by section 3<sup>1</sup>;
- 1.3 “**the Code**” means the Code of Professional Conduct prescribed by the Regulatory Board in terms of section 4(1)(c);
- 1.4 “**firm**”, in the context of these Rules, means:
  - (a) a partnership, company or sole proprietor referred to in section 38<sup>2</sup>;
  - (b) An entity that controls the parties in (a), through ownership, management or other means; and
  - (c) An entity controlled by the parties in (a), through ownership, management or other means.
- 1.5 “**professional services**” in the context of these Rules, means services requiring accountancy or related skills performed by a registered auditor including accounting, auditing, review, other assurance and related services, taxation, management consulting and financial management services. These include but are not limited to:
  - (a) *Audit, review, other assurance and related services:*
    - (i) Financial statement audits, reviews, other assurance services and related services such as regulatory reporting, sustainability, compliance and performance reporting;
    - (ii) Company accounting advisory services such as preparation of accounting records and financial statements in accordance with recognised financial reporting standards and applicable statutes; and
    - (iii) Company statutory services;

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<sup>1</sup> Section 1 v. “Regulatory Board”

<sup>1</sup> Section 1 v. “firm”

- (b) *Taxation services:*
  - (i) Tax return preparation and submission;
  - (ii) Tax calculations for the purpose of preparing accounting entries;
  - (iii) Tax planning and other tax advisory services; and
  - (iv) Assistance in the resolution of tax disputes;
- (c) *Advisory services:*
  - (i) Accounting advisory and financial management advisory services: accounting support, conversion services for new and revised accounting standards, financial modeling and project management;
  - (ii) Business performance services: business effectiveness, people and change management, operational and business finance;
  - (iii) Internal audit: risk and compliance services, review and monitoring of internal controls, risk management, compliance services, corporate governance and audit committee advisory services;
  - (iv) Corporate finance services: mergers and acquisitions, valuations, infrastructure financing, debt and capital markets - due diligence reviews, transaction services and designated advisor services to listed companies;
  - (v) Corporate recovery services: liquidation and insolvency administration, curator bonis, administration of deceased estates, judicial management and trusteeships;
  - (vi) Financial risk management services: actuarial services, banking and risk advisory, regulatory and compliance services, technical accounting;
  - (vii) Information technology (IT) Advisory: security, privacy and continuity, enterprise resource planning; information system audit services, IT project advisory, governance and performance;
  - (viii) Forensic services: dispute advisory and resolution, ethics and integrity monitoring, fraud risk management, intellectual property and other investigations and regulatory compliance.

1.6 “**public practice**” means the practice of a registered auditor who places professional services at the disposal of the public for reward, and “practice” has a similar meaning<sup>3</sup>.

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<sup>3</sup> Section 1 v. “public practice”

- 1.7 “**registered auditor**” means an individual or firm registered as an auditor with the Regulatory Board<sup>4</sup>.
- 1.8 “**registered auditor in public practice**”, in the context of these Rules, means a registered auditor that provides professional services.
- 1.9 “**training contract**” means a written training contract entered into in the prescribed form and registered with the Regulatory Board whereby a prospective registered auditor is duly bound to serve a registered auditor for a specified period and is entitled to receive training in the practice and profession of a registered auditor<sup>5</sup>.
- 1.10 These Rules shall, wherever possible, be construed in conformity with the Act and any footnote in these Rules shall be taken into account in the interpretation of these Rules.

## 2. IMPROPER CONDUCT

The Regulatory Board is obliged by section 48 to consider and, where it appears justified, investigate and deal with any complaint, charge or allegation of improper conduct against a registered auditor which may be laid before it, and is empowered to impose any of the prescribed sanctions set out in section 51(3) and Disciplinary Rule 8.1 and 8.2, in respect of any improper conduct. While the acts or omissions specified in the following paragraphs are not intended to be a complete list of acts or omissions which might constitute improper conduct on the part of a registered auditor and which are punishable in accordance with the provisions of the Act and Disciplinary Rules, a registered auditor shall be guilty of improper conduct if such registered auditor without reasonable cause or excuse –

- 2.1 contravenes or fails to comply with any provision of the Act with which it is the registered auditor’s duty to comply;
- 2.2 contravenes or fails to comply with any provision of any other Act with which it is the registered auditor’s duty to comply in providing professional services;
- 2.3 has been found guilty in some other forum, including a Court, of any offence involving dishonesty, and in particular (but without prejudice to the generality of the foregoing) theft, fraud, forgery or uttering a forged document, perjury, bribery or corruption;
- 2.4 is dishonest in the performance of any work or duties devolving upon the registered auditor in relation to –
  - 2.4.1 any professional services performed by a registered auditor; or

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<sup>4</sup> Section 1 v. “registered auditor”

<sup>5</sup> Section 1 v. “training contract”

- 2.4.2 any office of trust which the registered auditor has undertaken or accepted;
- 2.5 contravenes or fails to comply with any requirements in Auditing Pronouncements prescribed by the Regulatory Board;
- 2.6 contravenes or fails to comply with any requirements in the Code;
- 2.7 fails to perform any professional services or duties with such a degree of professional competence, due care and skill as in the opinion of the Regulatory Board may reasonably be expected, or fails to perform the professional services or duties at all;
- 2.8 with intent to evade or to assist any other person to evade any tax, duty, levy or rate whatsoever –
  - 2.8.1 knowingly or recklessly prepares or makes, or assists any other person to prepare or make, any false statement (whether such statement be oral or in writing); or
  - 2.8.2 signs any false statement in relation thereto recklessly or knowing it to be false; or
  - 2.8.3 knowingly or recklessly prepares or maintains any false books of accounts or other records;
- 2.9 permits the registered auditor's name to be used in connection with any estimate of earnings contingent upon future transactions in a manner which may lead to the belief that the registered auditor vouches for the accuracy of the estimate; or in circumstances in which the registered auditor knew, or ought reasonably to have known, that the registered auditor's name was being or would be used in connection with any such estimate of earnings, or failed, within a reasonable time from acquiring such knowledge or from the time when the registered auditor ought reasonably have known of those facts, to take reasonable steps to distance the registered auditor from such estimate and/or to dispel the belief that the registered auditor vouched for the accuracy of the estimate;
- 2.10 seeks, either before or during the period of a training contract of a prospective registered auditor, to impose any restraint whatever on the prospective registered auditor concerned which will apply after the date of termination of the training contract period, or threatens or attempts to enforce any such restraints after such date. The provisions of this rule will not, however, apply so as to prohibit a registered auditor from seeking to restrain a prospective registered auditor, for a period of not longer than one year from the date of the prospective registered auditor's ceasing to be employed by the registered auditor, from soliciting for professional services from an existing client of that

registered auditor or from accepting an engagement of any kind from an existing client of that registered auditor;

- 2.11 directly or indirectly stipulates or receives from a prospective registered auditor who is or has been serving under a training contract, or from any other person, any payment, reward, compensation or consideration for agreeing to the cancellation of such training contract - provided that it shall not be deemed a breach of this rule if a registered auditor requires to be or is reimbursed in respect of disbursements actually made by them to the Regulatory Board in connection with a training contract which is subsequently cancelled, and of which disbursements they are able to produce proof to the satisfaction of the Regulatory Board;
- 2.12 fails to answer or to deal with appropriately within a reasonable time any correspondence or other communication from the Regulatory Board or any other person which reasonably requires a reply or other response;
- 2.13 fails to comply within a reasonable time with an order, requirement or request of the Regulatory Board;
- 2.14 fails to resign from a professional appointment when requested by the client to do so and/or fails to transfer all books and papers that are the property of the client and which are or which may come into the registered auditor's possession to the client or to a newly appointed accountant or auditor when requested by the client to do so;
- 2.15 fails after demand to pay any subscription or any fee, levy or other charge payable to the Regulatory Board;
- 2.16 abandons the registered auditor's public practice without previous notice to the registered auditor's clients and without arranging with the clients for the despatch of the clients' business or the care of the clients' property in the registered auditor's possession or under the registered auditor's control; or
- 2.17 behaves in a manner which tends to bring the auditing profession into disrepute.

# CODE OF PROFESSIONAL CONDUCT

## 1. STATUS OF THE CODE

- 1.1 In terms of the powers granted to it by sections 4 and 21 of the Act, the Regulatory Board has published this Code of Professional Conduct for Registered Auditors ("this Code") to establish the fundamental principles of ethical conduct and provide a conceptual framework that assists registered auditors in complying with the ethical requirements of this Code and meeting their responsibility to act in the public interest. It replaces the existing IRBA Code of Professional Conduct which is repealed and replaced with effect from 1 January 2011. Transitional provisions at the end of this Code provide for later effective dates for specific sections. This Code does not restrict the scope of the Act or the Rules Regarding Improper Conduct.
- 1.2 The Code is applicable to all registered auditors. A contravention of, or failure to comply with any requirements in the Code, may be regarded as improper conduct within the ambit of section 21 of the Act or of the *Rules Regarding Improper Conduct* and as such may be investigated and if appropriate the registered auditor might be charged in terms of section 48 of the Act.
- 1.3 This Code is based on Parts A and B of the *Code of Ethics for Professional Accountants* of the International Ethics Standards Board of Accountants (the "IESBA Code") published by the International Federation of Accountants (IFAC) in April 2010 and is used with permission of IFAC. Adaptations to Parts A and B are underlined and in italics in this Code.

## 2. DEFINITIONS

For the purpose of this Code the terms below have the meanings assigned to them and any reference to any section in this Code is a reference to the corresponding section in the Act.

In this Code, the following expressions or terms have the meanings assigned to them.

Acceptable level      A level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the registered auditor at that time, that compliance with the fundamental principles is not compromised.

Act                      *The Auditing Profession Act, 2005 (Act No. 26 of 2005).*

Advertising            The communication to the public of information as to the services or skills provided by registered auditors with a view to procuring professional business.

|                      |  |
|----------------------|--|
| Assurance client     | <p>The responsible party that is the person (or persons) who:</p> <ul style="list-style-type: none"> <li>(a) In a direct reporting engagement, is responsible for the subject matter; or</li> <li>(b) In an assertion-based engagement, is responsible for the subject matter information and may be responsible for the subject matter.</li> </ul>  |
| Assurance engagement | <p>An engagement in which a <u>registered auditor</u> in public practice expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.</p> <p>(For guidance on assurance engagements see the International Framework for Assurance Engagements issued by the International Auditing and Assurance Standards Board which describes the elements and objectives of an assurance engagement and identifies engagements to which International Standards on Auditing (ISAs), International Standards on Review Engagements (ISREs) and International Standards on Assurance Engagements (ISAEs) apply.)</p>  |
| Assurance team       | <ul style="list-style-type: none"> <li>(a) All members of the engagement team for the assurance engagement;</li> <li>(b) All others within a firm who can directly influence the outcome of the assurance engagement, including: <ul style="list-style-type: none"> <li>(i) those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the assurance engagement partner in connection with the performance of the assurance engagement;</li> <li>(ii) those who provide consultation regarding technical or industry specific issues, transactions or events for the assurance engagement; and</li> <li>(iii) those who provide quality control for the assurance engagement, including those who perform the engagement quality control review for the assurance engagement.</li> </ul> </li> </ul> |
| Audit client         | <p>An entity in respect of which a firm conducts an audit engagement. When the client is a listed entity, audit client will always include its related entities. When the audit client is not a listed entity, audit client includes those related entities over which the client has direct or indirect control.</p>  |

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| Audit engagement        | A reasonable assurance engagement in which a <u>registered auditor</u> in public practice expresses an opinion whether financial statements are prepared, in all material respects (or give a true and fair view or are presented fairly, in all material respects,) in accordance with an applicable financial reporting framework, such as an engagement conducted in accordance with International Standards on Auditing. This includes a Statutory Audit, which is an audit required by legislation or other regulation.  |
| Audit team              | <p>(a) All members of the engagement team for the audit engagement;</p> <p>(b) All others within a firm who can directly influence the outcome of the audit engagement, including:</p> <ul style="list-style-type: none"> <li>(i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner in connection with the performance of the audit engagement including those at all successively senior levels above the engagement partner through to the individual who is the firm’s Senior or Managing Partner (Chief Executive or equivalent);</li> <li>(ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and</li> <li>(iii) Those who provide quality control for the engagement, including those who perform the engagement quality control review for the engagement; and</li> </ul> <p>(c) All those within a network firm who can directly influence the outcome of the audit engagement.</p> |
| <u>Regulatory Board</u> | <u>The Independent Regulatory Board for Auditors established by section 3<sup>1</sup></u>   |
| <u>Client account</u>   | <u>A bank account which is used solely for the banking of clients’ monies.</u>  |
| <u>Client monies</u>    | <u>Any monies, including documents of title to money such as bills of exchange and promissory notes, as well as documents of title which can be converted into money such as bearer bonds, received by a registered auditor to be held or paid out on the instruction of the person from whom or on whose behalf they are received.</u>   |

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<sup>1</sup> Section 1 v. “Regulatory Board”

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|-----------------------------------|---|
| Close family                      | A parent, child or sibling who is not an immediate family member.   |
| Contingent fee                    | A fee calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm. A fee that is established by a court or other public authority is not a contingent fee.   |
| Direct financial interest         | A financial interest: <ul style="list-style-type: none"> <li>(a) Owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others); or</li> <li>(b) Beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control, or the ability to influence investment decisions.</li> </ul> |
| Director or officer               | Those charged with the governance of an entity, or acting in an equivalent capacity, regardless of their title, which may vary from jurisdiction to jurisdiction.   |
| Engagement partner                | The partner or other person in the firm who is responsible for the engagement and its performance, and for the report that is issued on behalf of the firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body.   |
| Engagement quality control review | A process designed to provide an objective evaluation, on or before the report is issued, of the significant judgments the engagement team made and the conclusions it reached in formulating the report.   |
| Engagement team                   | All partners and staff performing the engagement, and any individuals engaged by the firm or a network firm who perform assurance procedures on the engagement. This excludes external experts engaged by the firm or a network firm.   |
| Existing auditor                  | A <u>registered auditor</u> in public practice currently holding an audit appointment or carrying out accounting, taxation, consulting or similar professional services for a client  |
| External expert                   | An individual (who is not a partner or a member of the professional staff, including temporary staff, of the firm or a network firm) or organisation possessing skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the <u>registered auditor</u> in obtaining sufficient appropriate evidence.   |

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| Financial interest  | An interest in equity, or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.   |
| Financial statements  | A structured representation of historical financial information, including related notes, intended to communicate an entity's economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The term can relate to a complete set of financial statements, but it can also refer to a single financial statement, for example, a balance sheet, or a statement of revenues and expenses, and related explanatory notes. |
| Financial statements on which the <u>registered auditor</u> will express an opinion | In the case of a single entity, the financial statements of that entity. In the case of consolidated financial statements, also referred to as group financial statements, the consolidated financial statements.  |
| Firm  | <ul style="list-style-type: none"> <li>(a) A partnership, company or sole proprietor referred to in section 38<sup>2</sup> ;</li> <li>(b) An entity that controls the parties in (a), through ownership, management or other means; and</li> <li>(c) An entity controlled by the parties in (a), through ownership, management or other means.</li> </ul>  |
| Historical financial information  | Information expressed in financial terms in relation to a particular entity, derived primarily from that entity's accounting system, about economic events occurring in past time periods or about economic conditions or circumstances at points in time in the past.   |
| Immediate family  | A spouse (or equivalent) or dependent.   |
| Independence  | <p>Independence is:</p> <ul style="list-style-type: none"> <li>(a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism;</li> </ul>   |

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<sup>2</sup> Section 1 v. "firm"

|                             |   |
|-----------------------------|---|
|                             | (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm’s, or a member of the audit or assurance team’s, integrity, objectivity or professional scepticism has been compromised.   |
| Indirect financial interest | A financial interest beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has no control or ability to influence investment decisions.   |
| Key audit partner           | The engagement partner, the individual responsible for the engagement quality control review, and other audit partners, if any, on the engagement team who make key decisions or judgments on significant matters with respect to the audit of the financial statements on which the firm will express an opinion. Depending upon the circumstances and the role of the individuals on the audit, “other audit partners” may include, for example, audit partners responsible for significant subsidiaries or divisions.  |
| Listed entity               | An entity whose shares, stock or debt are quoted or listed on a recognized stock exchange, or are marketed under the regulations of a recognized stock exchange or other equivalent body.   |
| Network                     | A larger structure: <ul style="list-style-type: none"> <li>(a) That is aimed at co-operation; and</li> <li>(b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.</li> </ul>   |
| Network firm                | A firm or entity that belongs to a network.   |
| Office                      | A distinct sub-group, whether organized on geographical or practice lines.  |
| Professional services       | Services requiring accountancy or related skills performed by a <u>registered auditor</u> including accounting, auditing, <u>review, other assurance and related services</u> , taxation, management consulting and financial management services. <u>These include but are not limited to:</u> <ul style="list-style-type: none"> <li>(a) <u>Audit, review, other assurance and related services:</u> <ul style="list-style-type: none"> <li>(i) <u>Financial statement audits and reviews, other assurance and related services such as regulatory</u></li> </ul> </li> </ul> |

reporting, sustainability, compliance and performance reporting;

- (ii) Company accounting advisory services such as preparation of accounting records and financial statements in accordance with recognised financial reporting standards and applicable statutes; and
  - (iii) Company statutory services;
- (b) Taxation services:
- (i) Tax return preparation and submission,
  - (ii) Tax calculations for the purpose of preparing accounting entries,
  - (iii) Tax planning and other tax advisory services, and
  - (iv) Assistance in the resolution of tax disputes;
- (c) Advisory services:
- (i) Accounting advisory and financial management advisory services: accounting support, conversion services for new and revised accounting standards, financial modeling and project management;
  - (ii) Business performance services: business effectiveness, people and change management, operational and business finance;
  - (iii) Internal audit: risk and compliance services, review and monitoring of internal controls, risk management, compliance services, corporate governance and audit committee advisory services;
  - (iv) Corporate finance services: mergers and acquisitions, valuations, infrastructure financing, debt and capital markets, due diligence reviews, transaction services and designated advisor services to listed companies;
  - (v) Corporate recovery services: liquidation and insolvency administration, curator bonis, administration of deceased estates, judicial management and trusteeships;
  - (vi) Financial risk management services: actuarial services, banking and risk advisory, regulatory and compliance services, technical accounting;

- (vii) Information technology (IT) Advisory: security, privacy and continuity, enterprise resource planning; information system audit services, IT project advisory, governance and performance;
- (viii) Forensic services: dispute advisory and resolution, ethics and integrity monitoring, fraud risk management, intellectual property and other investigations and regulatory compliance.

Public practice      The practice of a registered auditor who places professional services at the disposal of the public for reward, and “practice” has a similar meaning<sup>3</sup>.

- Public interest entity
- (a) A listed entity; and
  - (b) An entity
    - (i) defined by regulation or legislation as a public interest entity; or
    - (ii) for which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of listed entities. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

Registered auditor      An individual or firm registered as an auditor with the Regulatory Board.

Registered auditor in public practice      A registered auditor that provides professional services.

- Related entity
- An entity that has any of the following relationships with the client:
- (a) An entity that has direct or indirect control over the client if the client is material to such entity;
  - (b) An entity with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity;
  - (c) An entity over which the client has direct or indirect control;
  - (d) An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest that gives it significant influence over such entity and the interest is material to the client and its related entity in (c); and

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<sup>3</sup> Section 1 v. “public practice”

|                                      |  |
|--------------------------------------|--|
|                                      | (e) An entity which is under common control with the client (a "sister entity") if the sister entity and the client are both material to the entity that controls both the client and sister entity.   |
| Review client                        | An entity in respect of which a firm conducts a review engagement.   |
| Review engagement                    | An assurance engagement, conducted in accordance with International Standards on Review Engagements or equivalent, in which a <u>registered auditor</u> in public practice expresses a conclusion on whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the <u>registered auditor's</u> attention that causes the <u>registered auditor</u> to believe that the financial statements are not prepared, in all material respects, in accordance with an applicable financial reporting framework.   |
| Review team                          | <p>(a) All members of the engagement team for the review engagement; and</p> <p>(b) All others within a firm who can directly influence the outcome of the review engagement, including:</p> <p>(i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner in connection with the performance of the review engagement including those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent);</p> <p>(ii) Those who provide consultation regarding technical or industry specific issues, transactions or events for the engagement; and</p> <p>(iii) Those who provide quality control for the engagement, including those who perform the engagement quality control review for the engagement; and</p> <p>(c) All those within a network firm who can directly influence the outcome of the review engagement.</p> |
| Special purpose financial statements | Financial statements prepared in accordance with a financial reporting framework designed to meet the financial information needs of specified users.  |
| Those charged with governance        | The persons with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process.  |

**PART A—GENERAL APPLICATION OF THE CODE**

|  |             |
|--|-------------|
| <b>Section 100 Introduction and Fundamental Principles</b> | <b>4-18</b> |
| <b>Section 110 Integrity</b>                               | <b>4-22</b> |
| <b>Section 120 Objectivity</b>                             | <b>4-23</b> |
| <b>Section 130 Professional Competence and Due Care</b>    | <b>4-23</b> |
| <b>Section 140 Confidentiality</b>                         | <b>4-24</b> |
| <b>Section 150 Professional Behaviour</b>                  | <b>4-26</b> |

## SECTION 100

### INTRODUCTION AND FUNDAMENTAL PRINCIPLES

- 100.1 A distinguishing mark of the auditing profession is its acceptance of the responsibility to act in the public interest. Therefore, a registered auditor's responsibility is not exclusively to satisfy the needs of an individual client. In acting in the public interest, a registered auditor shall observe and comply with this Code. If a registered auditor is prohibited from complying with certain parts of this Code by law or regulation, the registered auditor shall comply with all other parts of this Code.
- 100.2 This Code contains two parts. Part A establishes the fundamental principles of professional ethics for registered auditors and provides a conceptual framework that registered auditors shall apply to:
- (a) Identify threats to compliance with the fundamental principles;
  - (b) Evaluate the significance of the threats identified; and
  - (c) Apply safeguards, when necessary, to eliminate the threats or reduce them to an acceptable level. Safeguards are necessary when the registered auditor determines that the threats are not at a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the registered auditor at that time, that compliance with the fundamental principles is not compromised.
- A registered auditor shall use professional judgment in applying this conceptual framework.
- 100.3 Part B describes how the conceptual framework applies in certain situations. It provides examples of safeguards that may be appropriate to address threats to compliance with the fundamental principles. It also describes situations where safeguards are not available to address the threats, and consequently, the circumstance or relationship creating the threats shall be avoided. Part B applies to registered auditors in public practice.
- 100.4 The use of the word "shall" in this Code imposes a requirement on the registered auditor to comply with the specific provision in which "shall" has been used. Compliance is required unless an exception is permitted by this Code.

#### Fundamental Principles

- 100.5 A registered auditor shall comply with the following fundamental principles:
- (a) *Integrity* – to be straightforward and honest in all professional and business relationships.
  - (b) *Objectivity* – to not allow bias, conflict of interest or undue influence of others to override professional or business judgments.

- (c) *Professional Competence and Due Care* – to maintain professional knowledge and skill at the level required to ensure that a client receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.
- (d) *Confidentiality* – to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the registered auditor or third parties.
- (e) *Professional Behaviour* – to comply with relevant laws and regulations and avoid any action that discredits the auditing profession.

Each of these fundamental principles is discussed in more detail in Sections 110–150.

### **Conceptual Framework Approach**

- 100.6 The circumstances in which registered auditors operate may create specific threats to compliance with the fundamental principles. It is impossible to define every situation that creates threats to compliance with the fundamental principles and specify the appropriate action. In addition, the nature of engagements and work assignments may differ and, consequently, different threats may be created, requiring the application of different safeguards. Therefore, this Code establishes a conceptual framework that requires a registered auditor to identify, evaluate, and address threats to compliance with the fundamental principles. The conceptual framework approach assists registered auditors in complying with the ethical requirements of this Code and meeting their responsibility to act in the public interest. It accommodates many variations in circumstances that create threats to compliance with the fundamental principles and can deter a registered auditor from concluding that a situation is permitted if it is not specifically prohibited.
- 100.7 When a registered auditor identifies threats to compliance with the fundamental principles and, based on an evaluation of those threats, determines that they are not at an acceptable level, the registered auditor shall determine whether appropriate safeguards are available and can be applied to eliminate the threats or reduce them to an acceptable level. In making that determination, the registered auditor shall exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the registered auditor at the time, would be likely to conclude that the threats would be eliminated or reduced to an acceptable level by the application of the safeguards, such that compliance with the fundamental principles is not compromised.

- 100.8 A registered auditor shall evaluate any threats to compliance with the fundamental principles when the registered auditor knows, or could reasonably be expected to know, of circumstances or relationships that may compromise compliance with the fundamental principles.
- 100.9 A registered auditor shall take qualitative as well as quantitative factors into account when evaluating the significance of a threat. When applying the conceptual framework, a registered auditor may encounter situations in which threats cannot be eliminated or reduced to an acceptable level, either because the threat is too significant or because appropriate safeguards are not available or cannot be applied. In such situations, the registered auditor shall decline or discontinue the specific professional service involved or, when necessary, resign from the engagement.
- 100.10 A registered auditor may inadvertently violate a provision of this Code. Depending on the nature and significance of the matter, such an inadvertent violation may be deemed not to compromise compliance with the fundamental principles provided, once the violation is discovered, the violation is corrected promptly and any necessary safeguards are applied.
- 100.11 When a registered auditor encounters unusual circumstances in which the application of a specific requirement of the Code would result in a disproportionate outcome or an outcome that may not be in the public interest, it is recommended that the registered auditor consult with the Regulatory Board or the individual registered auditor's professional institute.

## **Threats and Safeguards**

- 100.12 Threats may be created by a broad range of relationships and circumstances. When a relationship or circumstance creates a threat, such a threat could compromise, or could be perceived to compromise, a registered auditor's compliance with the fundamental principles. A circumstance or relationship may create more than one threat, and a threat may affect compliance with more than one fundamental principle. Threats fall into one or more of the following categories:
- (a) Self-interest threat - the threat that a financial or other interest will inappropriately influence the registered auditor's judgment or behaviour;
  - (b) Self-review threat - the threat that a registered auditor will not appropriately evaluate the results of a previous judgment made or service performed by the registered auditor, or by another individual within the registered auditor's firm, on which the registered auditor will rely when forming a judgment as part of providing a current service;
  - (c) Advocacy threat - the threat that a registered auditor will promote a client's position to the point that the registered auditor's objectivity is compromised;

- (d) Familiarity threat - the threat that due to a long or close relationship with a client, a registered auditor will be too sympathetic to their interests or too accepting of their work; and
- (e) Intimidation threat - the threat that a registered auditor will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the registered auditor.

Part B of this Code explains how these categories of threats may be created for registered auditors.

- 100.13 Safeguards are actions or other measures that may eliminate threats or reduce them to an acceptable level. They fall into two broad categories:
  - (a) Safeguards created by the profession, legislation or regulation; and
  - (b) Safeguards in the work environment.
- 100.14 Safeguards created by the profession, legislation or regulation include:
  - Educational, training and experience requirements for entry into the profession.
  - Continuing professional development requirements.
  - Corporate governance legislation or regulations.
  - Professional standards.
  - Professional or regulatory monitoring and disciplinary procedures.
  - External review by a legally empowered third party of the reports, returns, communications or information produced by a registered auditor.
- 100.15 Part B of this Code discusses safeguards in the work environment for registered auditors.
- 100.16 Certain safeguards may increase the likelihood of identifying or deterring unethical behaviour. Such safeguards, which may be created by the auditing profession, legislation or regulation include:
  - Effective, well-publicised complaint systems operated by the profession or a regulator, which enable colleagues, employers and members of the public to draw attention to unprofessional or unethical behaviour.
  - An explicitly stated duty to report breaches of ethical requirements.

### **Ethical Conflict Resolution**

- 100.17 A registered auditor may be required to resolve a conflict in complying with the fundamental principles.
- 100.18 When initiating either a formal or informal conflict resolution process, the following factors, either individually or together with other factors, may be relevant to the resolution process:
  - (a) Relevant facts;

- (b) Ethical issues involved;
- (c) Fundamental principles related to the matter in question;
- (d) Established internal procedures; and
- (e) Alternative courses of action.

Having considered the relevant factors, a registered auditor shall determine the appropriate course of action, weighing the consequences of each possible course of action. If the matter remains unresolved, the registered auditor may wish to consult with other appropriate persons within the firm for help in obtaining resolution.

- 100.19 Where a matter involves a conflict with, or within, an organisation, a registered auditor shall determine whether to consult with those charged with governance of the organisation, such as the board of directors or the audit committee.
- 100.20 It may be in the best interests of the registered auditor to document the substance of the issue, the details of any discussions held, and the decisions made concerning that issue.
- 100.21 If a significant conflict cannot be resolved, a registered auditor may consider obtaining professional advice from the Regulatory Board, from a relevant professional body or from legal advisors. The registered auditor generally can obtain guidance on ethical issues without breaching the fundamental principle of confidentiality if the matter is discussed with the relevant professional body on an anonymous basis or with a legal advisor under the protection of legal privilege. Instances in which the registered auditor may consider obtaining legal advice vary. For example, a registered auditor may have encountered a fraud, the reporting of which could breach the registered auditor's responsibility to respect confidentiality. The registered auditor may consider obtaining legal advice in that instance to determine whether there is a requirement to report.
- 100.22 If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a registered auditor shall, where possible, refuse to remain associated with the matter creating the conflict. The registered auditor shall determine whether, in the circumstances, it is appropriate to withdraw from the engagement team or specific assignment, or to resign altogether from the engagement or the firm.

## SECTION 110

### INTEGRITY

- 110.1 The principle of integrity imposes an obligation on all registered auditors to be straightforward and honest in all professional and business relationships. Integrity implies fair dealing and truthfulness.

110.2 A registered auditor shall not knowingly be associated with reports, returns, communications or other information where the registered auditor believes that the information:

- (a) Contains a materially false or misleading statement;
- (b) Contains statements or information furnished recklessly; or
- (c) Omits or obscures information required to be included where such omission or obscurity would be misleading.

When a registered auditor becomes aware that the registered auditor has been associated with such information, the registered auditor shall take steps to be disassociated from that information.

110.3 A registered auditor will be deemed not to be in breach of paragraph 110.2 if the registered auditor provides a modified report in respect of a matter contained in paragraph 110.2.

## SECTION 120

### OBJECTIVITY

120.1 The principle of objectivity imposes an obligation on all registered auditors not to compromise their professional or business judgment because of bias, conflict of interest or the undue influence of others.

120.2 A registered auditor may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. A registered auditor shall not perform a professional service if a circumstance or relationship biases or unduly influences the registered auditor's professional judgment with respect to that service.

## SECTION 130

### PROFESSIONAL COMPETENCE AND DUE CARE

130.1 The principle of professional competence and due care imposes the following obligations on all registered auditors:

- (a) To maintain professional knowledge and skill at the level required to ensure that clients receive competent professional service; and
- (b) To act diligently in accordance with applicable technical and professional standards when providing professional services.

130.2 Competent professional service requires the exercise of sound judgment in applying professional knowledge and skill in the performance of such service. Professional competence may be divided into two separate phases:

- (a) Attainment of professional competence; and
  - (b) Maintenance of professional competence.
- 130.3 The maintenance of professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continuing professional development enables a registered auditor to develop and maintain the capabilities to perform competently within the professional environment.
- 130.4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.
- 130.5 A registered auditor shall take reasonable steps to ensure that those working under the registered auditor's authority in a professional capacity have appropriate training and supervision.
- 130.6 Where appropriate, a registered auditor shall make clients, employers or other users of the registered auditor's professional services aware of the limitations inherent in the services.
- 130.7 A registered auditor shall not undertake or continue with any engagement which the registered auditor is not competent to perform, unless the registered auditor obtains advice and assistance which enables the registered auditor to carry out the engagement satisfactorily.

## SECTION 140

### CONFIDENTIALITY

- 140.1 The principle of confidentiality imposes an obligation on all registered auditors to refrain from:
- (a) Disclosing outside the firm confidential information acquired as a result of professional and business relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and
  - (b) Using confidential information acquired as a result of professional and business relationships to their personal advantage or the advantage of third parties.
- 140.2 A registered auditor shall maintain confidentiality, including in a social environment, being alert to the possibility of inadvertent disclosure, particularly to a close business associate or a close or immediate family member.
- 140.3 A registered auditor shall maintain confidentiality of information disclosed by a prospective client.
- 140.4 A registered auditor shall maintain confidentiality of information within the firm.

- 140.5 A registered auditor shall take reasonable steps to ensure that staff under the registered auditor's control and persons from whom advice and assistance is obtained respect the registered auditor's duty of confidentiality.
- 140.6 The need to comply with the principle of confidentiality continues even after the end of relationships between a registered auditor and a client. When a registered auditor acquires a new client, the registered auditor is entitled to use prior experience. The registered auditor shall not, however, use or disclose any confidential information either acquired or received as a result of a professional or business relationship.
- 140.7 The following are circumstances where registered auditors are or may be required to disclose confidential information or when such disclosure may be appropriate:
- (a) Disclosure is permitted by law and is authorised by the client;
  - (b) Disclosure is required by law, for example:
    - (i) Production of documents or other provision of evidence in the course of legal proceedings; or
    - (ii) Disclosure to the appropriate public authorities of infringements of the law that come to light, including disclosures of reportable irregularities reported to the Regulatory Board as required by section 45 of the Act; and
  - (c) There is a professional duty or right to disclose, when not prohibited by law:
    - (i) To comply with the quality review of the Regulatory Board or a professional body;
    - (ii) To respond to an inquiry or investigation by the Regulatory Board or other regulatory body;
    - (iii) To protect the professional interests of a registered auditor in legal proceedings;
    - (iv) To comply with technical standards and the requirements of this Code.
- 140.8 In deciding whether to disclose confidential information, relevant factors to consider include:
- (a) Whether the interests of all parties, including third parties whose interests may be affected, could be harmed if the client consents to the disclosure of information by the registered auditor;
  - (b) Whether all the relevant information is known and substantiated, to the extent it is practicable. When the situation involves unsubstantiated facts, incomplete information or unsubstantiated conclusions, professional

- judgment shall be used in determining the type of disclosure to be made, if any;
- (c) The type of communication that is expected and to whom it is addressed; and
  - (d) Whether the parties to whom the communication is addressed are appropriate recipients.

## SECTION 150

### PROFESSIONAL BEHAVIOUR

- 150.1 The principle of professional behaviour imposes an obligation on all registered auditors to comply with relevant laws and regulations and avoid any action that the registered auditor knows or should know may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the registered auditor at that time, would be likely to conclude adversely affects the good reputation of the profession.
- 150.2 In marketing and promoting themselves and their work, registered auditors shall not bring the profession into disrepute. Registered auditors shall be honest and truthful and not:
- (a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or
  - (b) Make disparaging references or unsubstantiated comparisons to the work of others.

### Multiple firms

- 150.3 An individual registered auditor is permitted to be a member of more than one registered audit firm and some other type of professional firm providing professional services. It is also permissible to practice under different firm names for different offices, provided this does not mislead.
- 150.4 Individual registered auditors who are members of registered audit firms as well as being members of other accounting or consulting firms that provide professional services and have individual members who are not registered auditors, must ensure there is a clear distinction between the different firms and the members thereof, and that they do not unwittingly contravene section 41(2) of the Act, or cause it to be contravened by the members of those other accounting or consulting firms who are not individual registered auditors.

### Signing convention for Reports or Certificates

- 150.5 A registered auditor shall not delegate to any person who is not a partner, or fellow director, the power to sign audit, review or other assurance reports or

certificates that are required, in terms of any law or regulation, to be signed by the, registered auditor responsible for the engagement. In specific cases where emergencies of sufficient gravity arise, however, this prohibition may be relaxed, provided the full circumstances giving rise to the need for delegation are reported both to the client of the registered auditor concerned and to the Regulatory Board.

150.6 The individual registered auditor responsible for the audit, review or other assurance engagement<sup>4</sup> shall, when signing any audit, review or other assurance report or certificate, reflect the following:

- (a) the individual registered auditor's full name;
- (b) if not a sole proprietor, the capacity in which they are signing, namely as the 'partner' or 'director';
- (c) the designation 'Registered Auditor' underneath their name; and
- (d) if not set out on the firm's letterhead, the name of the registered auditor's firm.

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<sup>4</sup> Section 44(1)(a)

## PART B—REGISTERED AUDITORS IN PUBLIC PRACTICE

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## SECTION 200

### INTRODUCTION

- 200.1 This Part of the Code describes how the conceptual framework contained in Part A applies in certain situations to registered auditors. This Part does not describe all of the circumstances and relationships that could be encountered by a registered auditor that create or may create threats to compliance with the fundamental principles. Therefore, the registered auditor is encouraged to be alert for such circumstances and relationships.
- 200.2 A registered auditor shall not knowingly engage in any business, occupation, or activity that impairs or might impair integrity, objectivity or the good reputation of the profession and as a result would be incompatible with the fundamental principles.

### Threats and Safeguards

- 200.3 Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances and relationships. The nature and significance of the threats may differ depending on whether they arise in relation to the provision of services to an audit client and whether the audit client is a public interest entity, to an assurance client that is not an audit client, or to a non-assurance client.

Threats fall into one or more of the following categories:

- (a) Self-interest;
- (b) Self-review;
- (c) Advocacy;
- (d) Familiarity; and
- (e) Intimidation.

These threats are discussed further in Part A of this Code.

- 200.4 Examples of circumstances that create self-interest threats for a registered auditor include:
- A member of the assurance team having a direct financial interest in the assurance client.
  - A firm having undue dependence on total fees from a client.
  - A member of the assurance team having a significant close business relationship with an assurance client.
  - A firm being concerned about the possibility of losing a significant client.
  - A member of the audit team entering into employment negotiations with the audit client.

- A firm entering into a contingent fee arrangement relating to an assurance engagement.
- A registered auditor discovering a significant error when evaluating the results of a previous professional service performed by a member of the registered auditor's firm.

200.5 Examples of circumstances that create self-review threats for a registered auditor include:

- A firm issuing an assurance report on the effectiveness of the operation of financial systems after designing or implementing the systems.
- A firm having prepared the original data used to generate records that are the subject matter of the assurance engagement.
- A member of the assurance team being, or having recently been, a director or officer of the client.
- A member of the assurance team being, or having recently been, employed by the client in a position to exert significant influence over the subject matter of the engagement.
- The firm performing a service for an assurance client that directly affects the subject matter information of the assurance engagement.

200.6 Examples of circumstances that create advocacy threats for a registered auditor include:

- The firm promoting shares in an audit client.
- A registered auditor acting as an advocate on behalf of an audit client in litigation or disputes with third parties.

200.7 Examples of circumstances that create familiarity threats for a registered auditor include:

- A member of the engagement team having a close or immediate family member who is a director or officer of the client.
- A member of the engagement team having a close or immediate family member who is an employee of the client who is in a position to exert significant influence over the subject matter of the engagement.
- A director or officer of the client or an employee in a position to exert significant influence over the subject matter of the engagement having recently served as the engagement partner.
- A registered auditor accepting gifts or preferential treatment from a client, unless the value is trivial or inconsequential.
- Senior personnel having a long association with the assurance client.

200.8 Examples of circumstances that create intimidation threats for a registered auditor include:

- A firm being threatened with dismissal from a client engagement.

- An audit client indicating that it will not award a planned non-assurance contract to the firm if the firm continues to disagree with the client's accounting treatment for a particular transaction.
- A firm being threatened with litigation by the client.
- A firm being pressured to reduce inappropriately the extent of work performed in order to reduce fees.
- A registered auditor feeling pressured to agree with the judgment of a client employee because the employee has more expertise on the matter in question.
- A registered auditor being informed by a partner of the firm that a planned promotion will not occur unless the registered auditor agrees with an audit client's inappropriate accounting treatment.

200.9 Safeguards that may eliminate or reduce threats to an acceptable level fall into two broad categories:

- (a) Safeguards created by the profession, legislation or regulation; and
- (b) Safeguards in the work environment.

Examples of safeguards created by the profession, legislation or regulation are described in paragraph 100.14 of Part A of this Code.

200.10 A registered auditor shall exercise judgment to determine how best to deal with threats that are not at an acceptable level, whether by applying safeguards to eliminate the threat or reduce it to an acceptable level or by terminating or declining the relevant engagement. In exercising this judgment, a registered auditor shall consider whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the registered auditor at that time, would be likely to conclude that the threats would be eliminated or reduced to an acceptable level by the application of safeguards, such that compliance with the fundamental principles is not compromised. This consideration will be affected by matters such as the significance of the threat, the nature of the engagement and the structure of the firm.

200.11 In the work environment, the relevant safeguards will vary depending on the circumstances. Work environment safeguards comprise firm-wide safeguards and engagement-specific safeguards.

200.12 Examples of firm-wide safeguards in the work environment include:

- Leadership of the firm that stresses the importance of compliance with the fundamental principles.
- Leadership of the firm that establishes the expectation that members' of an assurance team will act in the public interest.
- Policies and procedures to implement and monitor quality control of engagements.

- Documented policies regarding the need to identify threats to compliance with the fundamental principles, evaluate the significance of those threats, and apply safeguards to eliminate or reduce the threats to an acceptable level or, when appropriate safeguards are not available or cannot be applied, terminate or decline the relevant engagement.
- Documented internal policies and procedures requiring compliance with the fundamental principles.
- Policies and procedures that will enable the identification of interests or relationships between the firm or members of engagement teams and clients.
- Policies and procedures to monitor and, if necessary, manage the reliance on revenue received from a single client.
- Using different partners and engagement teams with separate reporting lines for the provision of non-assurance services to an assurance client.
- Policies and procedures to prohibit individuals who are not members of an engagement team from inappropriately influencing the outcome of the engagement.
- Timely communication of a firm's policies and procedures, including any changes to them, to all partners and professional staff, and appropriate training and education on such policies and procedures.
- Designating a member of senior management to be responsible for overseeing the adequate functioning of the firm's quality control system.
- Advising partners and professional staff of assurance clients and related entities from which independence is required.
- A disciplinary mechanism to promote compliance with policies and procedures.
- Published policies and procedures to encourage and empower staff to communicate to senior levels within the firm any issue relating to compliance with the fundamental principles that concerns them.

200.13 Examples of engagement-specific safeguards in the work environment include:

- Having a registered auditor who was not involved with the non-assurance service review the non-assurance work performed or otherwise advise as necessary.
- Having a registered auditor who was not a member of the assurance team review the assurance work performed or otherwise advise as necessary.
- Consulting an independent third party, such as a committee of independent directors, a professional regulatory body or another registered auditor.
- Discussing ethical issues with those charged with governance of the client.

- Disclosing to those charged with governance of the client the nature of services provided and extent of fees charged.
- Involving another firm to perform or re-perform part of the engagement.
- Rotating senior assurance team personnel.

200.14 Depending on the nature of the engagement, a registered auditor may also be able to rely on safeguards that the client has implemented. However it is not possible to rely solely on such safeguards to reduce threats to an acceptable level.

200.15 Examples of safeguards within the client's systems and procedures include:

- The client requires persons other than management to ratify or approve the appointment of a firm to perform an engagement. The client has competent employees with experience and seniority to make managerial decisions.
- The client has implemented internal procedures that ensure objective choices in commissioning non-assurance engagements.
- The client has a corporate governance structure that provides appropriate oversight and communications regarding the firm's services.

## SECTION 210

### PROFESSIONAL APPOINTMENT

#### Client Acceptance

210.1 Before accepting a new client relationship, a registered auditor shall determine whether acceptance would create any threats to compliance with the fundamental principles. Potential threats to integrity or professional behaviour may be created from, for example, questionable issues associated with the client (its owners, management or activities).

210.2 Client issues that, if known, could threaten compliance with the fundamental principles include, for example, client involvement in illegal activities (such as money laundering), dishonesty or questionable financial reporting practices.

210.3 A registered auditor shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level.

Examples of such safeguards include:

- Obtaining knowledge and understanding of the client, its owners, managers and those responsible for its governance and business activities;  
or
- Securing the client's commitment to improve corporate governance practices or internal controls.

- 210.4 Where it is not possible to reduce the threats to an acceptable level, the registered auditor shall decline to enter into the client relationship.
- 210.5 It is recommended that a registered auditor periodically review acceptance decisions for recurring client engagements.

### **Engagement Acceptance**

- 210.6 The fundamental principle of professional competence and due care imposes an obligation on a registered auditor to provide only those services that the registered auditor is competent to perform. Before accepting a specific client engagement, a registered auditor shall determine whether acceptance would create any threats to compliance with the fundamental principles. For example, a self-interest threat to professional competence and due care is created if the engagement team does not possess, or cannot acquire, the competencies necessary to properly carry out the engagement.
- 210.7 A registered auditor shall evaluate the significance of threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level. Examples of such safeguards include:
- Acquiring an appropriate understanding of the nature of the client's business, the complexity of its operations, the specific requirements of the engagement and the purpose, nature and scope of the work to be performed.
  - Acquiring knowledge of relevant industries or subject matters.
  - Possessing or obtaining experience with relevant regulatory or reporting requirements.
  - Assigning sufficient staff with the necessary competencies.
  - Using experts where necessary.
  - Agreeing on a realistic time frame for the performance of the engagement.
  - Complying with quality control policies and procedures designed to provide reasonable assurance that specific engagements are accepted only when they can be performed competently.
- 210.8 When a registered auditor intends to rely on the advice or work of an expert, the registered auditor shall determine whether such reliance is warranted. Factors to consider include: reputation, expertise, resources available and applicable professional and ethical standards. Such information may be gained from prior association with the expert or from consulting others.

### **Changes in a Professional Appointment**

- 210.9 A registered auditor who is asked to replace another registered auditor, or who is considering tendering for an engagement currently held by another

registered auditor, shall determine whether there are any reasons, professional or otherwise, for not accepting the engagement, such as circumstances that create threats to compliance with the fundamental principles that cannot be eliminated or reduced to an acceptable level by the application of safeguards. For example, there may be a threat to professional competence and due care if a registered auditor accepts the engagement before knowing all the pertinent facts.

210.10 A registered auditor shall evaluate the significance of any threats. Depending on the nature of the engagement, this may require direct communication with the existing auditor to establish the facts and circumstances regarding the proposed change so that the registered auditor can decide whether it would be appropriate to accept the engagement. For example, the apparent reasons for the change in appointment may not fully reflect the facts and may indicate disagreements with the existing auditor that may influence the decision to accept the appointment.

210.11 Safeguards shall be applied when necessary to eliminate any threats or reduce them to an acceptable level. Examples of such safeguards include:

- When replying to requests to submit tenders, stating in the tender that, before accepting the engagement, contact with the existing auditor will be requested so that inquiries may be made as to whether there are any professional or other reasons why the appointment should not be accepted;
- Asking the existing auditor to provide known information on any facts or circumstances that, in the existing auditor's opinion, the proposed auditor needs to be aware of before deciding whether to accept the engagement;  
or
- Obtaining necessary information from other sources.

When the threats cannot be eliminated or reduced to an acceptable level through the application of safeguards, a registered auditor shall, unless there is satisfaction as to necessary facts by other means, decline the engagement.

210.12 A registered auditor may be asked to undertake work that is complementary or additional to the work of the existing auditor. Such circumstances may create threats to professional competence and due care resulting from, for example, a lack of or incomplete information. The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is notifying the existing auditor of the proposed work, which would give the existing auditor the opportunity to provide any relevant information needed for the proper conduct of the work.

210.13 An existing auditor is bound by confidentiality. Whether that registered auditor is permitted or required to discuss the affairs of a client with a proposed auditor will depend on the nature of the engagement and on:

- (a) Whether the client's permission to do so has been obtained; or
- (b) The legal or ethical requirements relating to such communications and disclosure.

*The proposed auditor shall treat in the strictest confidence any information provided by the existing auditor.* Circumstances where the registered auditor is or may be required to disclose confidential information or where such disclosure may otherwise be appropriate are set out in Section 140 of Part A of the Code.

210.14 A registered auditor will generally need to obtain the client's permission, preferably in writing, to initiate discussion with an existing auditor. Once that permission is obtained, the existing auditor shall comply with relevant legal and other regulations governing such requests. Where the existing auditor provides information, it shall be provided honestly and unambiguously. If the proposed auditor is unable to communicate with the existing auditor, the proposed auditor shall take reasonable steps to obtain information about any possible threats by other means, such as through inquiries of third parties or background investigations of senior management or those charged with governance of the client.

210.15 *Where the proposed client refuses to give permission for the proposed auditor to communicate with the existing auditor, or fails to do so, the proposed auditor shall decline the appointment, unless there are exceptional circumstances of which the proposed auditor has full knowledge, and the proposed auditor is satisfied regarding all relevant facts, by some other means.*

## SECTION 220

### CONFLICTS OF INTEREST

220.1 A registered auditor shall take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may create threats to compliance with the fundamental principles. For example, a threat to objectivity may be created when a registered auditor competes directly with a client or has a joint venture or similar arrangement with a major competitor of a client. A threat to objectivity or confidentiality may also be created when a registered auditor performs services for clients whose interests are in conflict or the clients are in dispute with each other in relation to the matter or transaction in question.

220.2 A registered auditor shall evaluate the significance of any threats and apply safeguards when necessary to eliminate the threats or reduce them to an

acceptable level. Before accepting or continuing a client relationship or specific engagement, the registered auditor shall evaluate the significance of any threats created by business interests or relationships with the client or a third party.

- 220.3 Depending upon the circumstances giving rise to the conflict, application of one of the following safeguards is generally necessary:
- (a) Notifying the client of the firm's business interest or activities that may represent a conflict of interest and obtaining their consent in writing to act in such circumstances; or
  - (b) Notifying all known relevant parties that the registered auditor is acting for two or more parties in respect of a matter where their respective interests are in conflict and obtaining their consent to so act; or
  - (c) Notifying the client that the registered auditor does not act exclusively for any one client in the provision of proposed services (for example, in a particular market sector or with respect to a specific service) and obtaining their consent to so act.
- 220.4 The registered auditor shall also determine whether to apply one or more of the following additional safeguards:
- (a) The use of separate engagement teams;
  - (b) Procedures to prevent access to information (e.g., strict physical separation of such teams, confidential and secure data filing);
  - (c) Clear guidelines for members of the engagement team on issues of security and confidentiality;
  - (d) The use of confidentiality agreements signed by employees and partners of the firm; and
  - (e) Regular review of the application of safeguards by a senior individual not involved with relevant client engagements.
- 220.5 Where a conflict of interest creates a threat to one or more of the fundamental principles, including objectivity, confidentiality, or professional behaviour, that cannot be eliminated or reduced to an acceptable level through the application of safeguards, the registered auditor shall not accept a specific engagement or shall resign from one or more conflicting engagements.
- 220.6 Where a registered auditor has requested consent from a client to act for another party (which may or may not be an existing client) in respect of a matter where the respective interests are in conflict and that consent has been refused by the client, the registered auditor shall not continue to act for one of the parties in the matter giving rise to the conflict of interest.

## SECTION 230

### SECOND OPINIONS

- 230.1 Situations where a registered auditor is asked to provide a second opinion on the application of accounting, auditing, reporting or other standards or principles to specific circumstances or transactions by or on behalf of a company or an entity that is not an existing client may give rise to threats to compliance with the fundamental principles. For example, there may be a threat to professional competence and due care in circumstances where the second opinion is not based on the same set of facts that were made available to the existing auditor or is based on inadequate evidence. The existence and significance of any threat will depend on the circumstances of the request and all the other available facts and assumptions relevant to the expression of a professional judgment.
- 230.2 When asked to provide such an opinion, a registered auditor shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level. Examples of such safeguards include seeking client permission to contact the existing auditor describing the limitations surrounding any opinion in communications with the client and providing the existing auditor with a copy of the opinion.
- 230.3 If the company or entity seeking the opinion will not permit communication with the existing auditor, a registered auditor shall determine whether, taking all the circumstances into account, it is appropriate to provide the opinion sought.

## SECTION 240

### FEES AND OTHER TYPES OF REMUNERATION

- 240.1 When entering into negotiations regarding professional services, a registered auditor may quote whatever fee is deemed appropriate. The fact that one registered auditor may quote a fee lower than another is not in itself unethical. Nevertheless, there may be threats to compliance with the fundamental principles arising from the level of fees quoted. For example, a self-interest threat to professional competence and due care is created if the fee quoted is so low that it may be difficult to perform the engagement in accordance with applicable technical and professional standards for that price.
- 240.2 The existence and significance of any threats created will depend on factors such as the level of fee quoted and the services to which it applies. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Making the client aware of the terms of the engagement and, in particular, the basis on which fees are charged and which services are covered by the quoted fee.
- Assigning appropriate time and qualified staff to the task.

240.3 Contingent fees are widely used for certain types of non-assurance engagements<sup>5</sup>. They may, however, create threats to compliance with the fundamental principles in certain circumstances. They may create a self-interest threat to objectivity. The existence and significance of such threats will depend on factors including:

- The nature of the engagement.
- The range of possible fee amounts.
- The basis for determining the fee.
- Whether the outcome or result of the transaction is to be reviewed by an independent third party.

240.4 The significance of any such threats shall be evaluated and safeguards applied when necessary to eliminate or reduce them to an acceptable level. Examples of such safeguards include:

- An advance written agreement with the client as to the basis of remuneration.
- Disclosure to intended users of the work performed by the registered auditor and the basis of remuneration.
- Quality control policies and procedures.
- Review by an independent third party of the work performed by the registered auditor.

240.4A Notwithstanding paragraphs 240.3 and 240.4, a registered auditor shall not charge contingent fees for assurance services provided to clients, or for the preparation of an original or amended tax return, as these services are regarded as creating a self interest threat to objectivity for which appropriate safeguards cannot be applied to eliminate the threats or reduce them to an acceptable level.

240.5 In certain circumstances, a registered auditor may receive a referral fee or commission relating to a client. For example, where the registered auditor does not provide the specific service required, a fee may be received for referring a continuing client to another registered auditor or other expert. A registered auditor may receive a commission from a third party (e.g., a software vendor) in connection with the sale of goods or provision of services to a client. Accepting

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<sup>5</sup> Contingent fees for non-assurance services provided to audit clients and other assurance clients are discussed in Sections 290 and 291 of this Part of the Code

such a referral fee or commission creates a self-interest threat to objectivity and professional competence and due care.

240.6 A registered auditor may also pay a referral fee to obtain a client, for example, where the client continues as a client of another registered auditor but requires specialist services not offered by the existing auditor. The payment of such a referral fee also creates a self-interest threat to objectivity and professional competence and due care.

240.7 The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Disclose to the client *in advance, in writing*, any arrangements to pay a referral fee to another registered auditor for the work referred.
- Disclose to the client *in advance, in writing*, any arrangements to receive a referral fee for referring the client to another registered auditor.
- Obtain agreement *in advance, in writing*, from the client for commission arrangements in connection with the sale by a third party of goods or services to the client.

240.8 A registered auditor may purchase all or part of another firm on the basis that payments will be made to individuals formerly owning the firm or to their heirs or estates. Such payments are not regarded as commissions or referral fees for the purpose of paragraphs 240.5–240.7 above.

## SECTION 250

### MARKETING PROFESSIONAL SERVICES

250.1 When a registered auditor solicits new work through advertising or other forms of marketing, there may be a threat to compliance with the fundamental principles. For example, a self-interest threat to compliance with the principle of professional behaviour is created if services, achievements, or products are marketed in a way that is inconsistent with that principle.

250.2 A registered auditor shall not bring the profession into disrepute when marketing professional services. The registered auditor shall be honest and truthful and *shall* not:

- (a) Make exaggerated claims for services offered, qualifications possessed, or experience gained; or
- (b) Make disparaging references or unsubstantiated comparisons to the work of another.

If the registered auditor is in doubt about whether a proposed form of advertising or marketing is appropriate, the registered auditor shall consider consulting with the Regulatory Board or relevant professional body.

## SECTION 260

### GIFTS AND HOSPITALITY

- 260.1 A registered auditor, or an immediate or close family member, may be offered gifts and hospitality from a client. Such an offer may create threats to compliance with the fundamental principles. For example, a self-interest or familiarity threat to objectivity may be created if a gift from a client is accepted; an intimidation threat to objectivity may result from the possibility of such offers being made public.
- 260.2 The existence and significance of any threat will depend on the nature, value, and intent of the offer. Where gifts or hospitality are offered that a reasonable and informed third party, weighing all the specific facts and circumstances, would consider trivial and inconsequential, a registered auditor may conclude that the offer is made in the normal course of business without the specific intent to influence decision making or to obtain information. In such cases, the registered auditor may generally conclude that any threat to compliance with the fundamental principles is at an acceptable level.
- 260.3 A registered auditor shall evaluate the significance of any threats and apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level. When the threats cannot be eliminated or reduced to an acceptable level through the application of safeguards, a registered auditor shall not accept such an offer.

## SECTION 270

### CUSTODY OF CLIENT ASSETS

- 270.1 A registered auditor shall not assume custody of client monies or other assets unless permitted to do so by law and, if so, in compliance with any additional legal duties imposed on a registered auditor holding such assets.
- 270.2 The holding of client assets creates threats to compliance with the fundamental principles. For example, there is a self-interest threat to professional behaviour and may be a self interest threat to objectivity arising from holding client assets. A registered auditor entrusted with money (or other assets) belonging to others shall therefore:
- Keep such assets separately from personal or firm assets;
  - Use such assets only for the purpose for which they are intended;
  - At all times be ready to account for those assets and any income, dividends, or gains generated, to any persons entitled to such accounting; and
  - Comply with all relevant laws and regulations relevant to the holding of and accounting for such assets.

270.3 As part of client and engagement acceptance procedures for services that may involve the holding of client assets, a registered auditor shall make appropriate inquiries about the source of such assets and consider legal and regulatory obligations. For example, if the registered auditor has reason to believe that the assets were derived from illegal activities, such as money laundering, a threat to compliance with the fundamental principles would be created. In such situations, the registered auditor shall not accept or hold the client monies and may consider seeking legal advice, inter alia, with regard to regulatory reporting responsibilities.

270.4 When a registered auditor in the course of providing professional services is entrusted with client monies, or property other than monies belonging to others, the registered auditor shall –

- (a) for all clients monies which come into the registered auditor's possession or under the registered auditor's control, and for which the registered auditor is liable to account to a client or any other person:
  - (i) maintain one or more bank accounts with an institution or institutions registered in terms of the Banks Act, 1990 (Act 94 of 1990) that are separate from the registered auditor's own bank account; and
  - (ii) appropriately designate such accounts (which account or accounts may be a general account in the registered auditor's name or specific accounts operated in the names of the relevant clients or any other person to whom the registered auditor is accountable); and
  - (iii) deposit client monies without delay to the credit of such client account indicated in (a) (i) and (a) (ii) above; and
- (b) for property other than money which comes into the registered auditor's possession or under the registered auditor's control and for which the registered auditor is liable to account to a client or to any other person (including, but without limitation, trust property which is expressly registered in the name of the registered auditor, or jointly in the name of the registered auditor and any other person, in their capacity as administrator, trustee, curator or agent, as the case may be), the registered auditor shall -
  - (i) maintain such records as may be reasonably expected to ensure that the property can readily be identified as being the property of such client or other person; and
  - (ii) if the property is in the form of documents of title to money, or documents of title that can be converted into money, shall make such arrangements as may be appropriate in the circumstances to safeguard such documents against unauthorised use.

## SECTION 280

### OBJECTIVITY—ALL SERVICES

- 280.1 A registered auditor shall determine when providing any professional service whether there are threats to compliance with the fundamental principle of objectivity resulting from having interests in, or relationships with, a client or its directors, officers or employees. For example, a familiarity threat to objectivity may be created from a family or close personal or business relationship.
- 280.2 A registered auditor who provides an assurance service shall be independent of the assurance client. Independence of mind and in appearance is necessary to enable the registered auditor to express a conclusion, and be seen to express a conclusion, without bias, conflict of interest, or undue influence of others. Sections 290 and 291 provide specific guidance on independence requirements for registered auditors when performing assurance engagements.
- 280.3 The existence of threats to objectivity when providing any professional service will depend upon the particular circumstances of the engagement and the nature of the work that the registered auditor is performing.
- 280.4 A registered auditor shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level. Examples of such safeguards include:
- Withdrawing from the engagement team.
  - Supervisory procedures.
  - Terminating the financial or business relationship giving rise to the threat.
  - Discussing the issue with higher levels of management within the firm.
  - Discussing the issue with those charged with governance of the client.
- If safeguards cannot eliminate or reduce the threat to an acceptable level, the registered auditor shall decline or terminate the relevant engagement.

SECTION 290  
INDEPENDENCE – AUDIT AND REVIEW ENGAGEMENTS

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## STRUCTURE OF SECTION

- 290.1 This section addresses the independence requirements for audit engagements and review engagements, which are assurance engagements in which a registered auditor expresses a conclusion on financial statements. Such engagements comprise audit and review engagements to report on a complete set of financial statements and a single financial statement. Independence requirements for assurance engagements that are not audit or review engagements are addressed in Section 291.
- 290.2 In certain circumstances involving audit engagements where the audit report includes a restriction on use and distribution and provided certain conditions are met, the independence requirements in this section may be modified as provided in paragraphs 290.500 to 290.514. The modifications are not permitted in the case of an audit of financial statements required by law or regulation.
- 290.3 In this section, the term(s):
- “Audit,” “audit team,” “audit engagement,” “audit client” and “audit report” includes review, review team, review engagement, review client and review report; and
  - “Firm” includes network firm, except where otherwise stated.

## A CONCEPTUAL FRAMEWORK APPROACH TO INDEPENDENCE

- 290.4 In the case of audit engagements, it is in the public interest and, therefore, required by this Code, that members of audit teams, firms and network firms shall be independent of audit clients.
- 290.5 The objective of this section is to assist firms and members of audit teams in applying the conceptual framework approach described below to achieving and maintaining independence.
- 290.6 Independence comprises:

### **Independence of Mind**

The state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional scepticism.

### **Independence in Appearance**

The avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm’s or a member of the audit team’s, integrity, objectivity or professional scepticism has been compromised.

- 290.7 The conceptual framework approach shall be applied by registered auditors to:
- (a) Identify threats to independence;
  - (b) Evaluate the significance of the threats identified; and
  - (c) Apply safeguards, when necessary, to eliminate the threats or reduce them to an acceptable level.

When the registered auditor determines that appropriate safeguards are not available or cannot be applied to eliminate the threats or reduce them to an acceptable level, the registered auditor shall eliminate the circumstance or relationship creating the threats or decline or terminate the audit engagement. A registered auditor shall use professional judgment in applying this conceptual framework.

- 290.8 Many different circumstances, or combinations of circumstances, may be relevant in assessing threats to independence. It is impossible to define every situation that creates threats to independence and to specify the appropriate action. Therefore, this Code establishes a conceptual framework that requires firms and members of audit teams to identify, evaluate, and address threats to independence. The conceptual framework approach assists registered auditors in practice in complying with the ethical requirements in this Code. It accommodates many variations in circumstances that create threats to independence and can deter a registered auditor from concluding that a situation is permitted if it is not specifically prohibited.

- 290.9 Paragraphs 290.100 and onwards describe how the conceptual framework approach to independence is to be applied. These paragraphs do not address all the circumstances and relationships that create or may create threats to independence.

- 290.10 In deciding whether to accept or continue an engagement, or whether a particular individual may be a member of the audit team, a firm shall identify and evaluate threats to independence. If the threats are not at an acceptable level, and the decision is whether to accept an engagement or include a particular individual on the audit team, the firm shall determine whether safeguards are available to eliminate the threats or reduce them to an acceptable level. If the decision is whether to continue an engagement, the firm shall determine whether any existing safeguards will continue to be effective to eliminate the threats or reduce them to an acceptable level or whether other safeguards will need to be applied or whether the engagement needs to be terminated. Whenever new information about a threat to independence comes to the attention of the firm during the engagement, the firm shall evaluate the significance of the threat in accordance with the conceptual framework approach.

- 290.11 Throughout this section, reference is made to the significance of threats to independence. In evaluating the significance of a threat, qualitative as well as quantitative factors shall be taken into account.
- 290.12 This section does not, in most cases, prescribe the specific responsibility of individuals within the firm for actions related to independence because responsibility may differ depending on the size, structure and organisation of a firm. The firm is required by International Standards on Quality Control to establish policies and procedures designed to provide it with reasonable assurance that independence is maintained when required by relevant ethical requirements. In addition, International Standards on Auditing require the engagement partner to form a conclusion on compliance with the independence requirements that apply to the engagement.

## **NETWORKS AND NETWORK FIRMS**

- 290.13 If a firm is deemed to be a network firm, the firm shall be independent of the audit clients of the other firms within the network (unless otherwise stated in this Code). The independence requirements in this section that apply to a network firm shall apply to any entity, such as a consulting practice or professional law practice, that meets the definition of a network firm irrespective of whether the entity itself meets the definition of a firm.
- 290.14 To enhance their ability to provide professional services, firms frequently form larger structures with other firms and entities. Whether these larger structures create a network depends on the particular facts and circumstances and does not depend on whether the firms and entities are legally separate and distinct. For example, a larger structure may be aimed only at facilitating the referral of work, which in itself does not meet the criteria necessary to constitute a network. Alternatively, a larger structure might be such that it is aimed at co-operation and the firms share a common brand name, a common system of quality control, or significant professional resources and consequently is deemed to be a network.
- 290.15 The judgment as to whether the larger structure is a network shall be made in light of whether a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that the entities are associated in such a way that a network exists. This judgment shall be applied consistently throughout the network.
- 290.16 Where the larger structure is aimed at co-operation and it is clearly aimed at profit or cost sharing among the entities within the structure, it is deemed to be a network. However, the sharing of immaterial costs does not in itself create a network. In addition, if the sharing of costs is limited only to those costs related to the development of audit methodologies, manuals, or training courses, this

would not in itself create a network. Further, an association between a firm and an otherwise unrelated entity to jointly provide a service or develop a product does not in itself create a network.

- 290.17 Where the larger structure is aimed at cooperation and the entities within the structure share common ownership, control or management, it is deemed to be a network. This could be achieved by contract or other means.
- 290.18 Where the larger structure is aimed at co-operation and the entities within the structure share common quality control policies and procedures, it is deemed to be a network. For this purpose, common quality control policies and procedures are those designed, implemented and monitored across the larger structure.
- 290.19 Where the larger structure is aimed at co-operation and the entities within the structure share a common business strategy, it is deemed to be a network. Sharing a common business strategy involves an agreement by the entities to achieve common strategic objectives. An entity is not deemed to be a network firm merely because it co-operates with another entity solely to respond jointly to a request for a proposal for the provision of a professional service.
- 290.20 Where the larger structure is aimed at co-operation and the entities within the structure share the use of a common brand name, it is deemed to be a network. A common brand name includes common initials or a common name. A firm is deemed to be using a common brand name if it includes, for example, the common brand name as part of, or along with, its firm name, when a partner of the firm signs an audit report.
- 290.21 Even though a firm does not belong to a network and does not use a common brand name as part of its firm name, it may give the appearance that it belongs to a network if it makes reference in its stationery or promotional materials to being a member of an association of firms. Accordingly, if care is not taken in how a firm describes such memberships, a perception may be created that the firm belongs to a network.
- 290.22 If a firm sells a component of its practice, the sales agreement sometimes provides that, for a limited period of time, the component may continue to use the name of the firm, or an element of the name, even though it is no longer connected to the firm. In such circumstances, while the two entities may be practicing under a common name, the facts are such that they do not belong to a larger structure aimed at co-operation and are, therefore, not network firms. Those entities shall determine how to disclose that they are not network firms when presenting themselves to outside parties.
- 290.23 Where the larger structure is aimed at co-operation and the entities within the structure share a significant part of professional resources, it is deemed to be a network. Professional resources include:
- Common systems that enable firms to exchange information such as client data, billing and time records;

- Partners and staff;
- Technical departments that consult on technical or industry specific issues, transactions or events for assurance engagements;
- Audit methodology or audit manuals; and
- Training courses and facilities.

290.24 The determination of whether the professional resources shared are significant, and therefore the firms are network firms, shall be made based on the relevant facts and circumstances. Where the shared resources are limited to common audit methodology or audit manuals, with no exchange of personnel or client or market information, it is unlikely that the shared resources would be significant. The same applies to a common training endeavor. Where, however, the shared resources involve the exchange of people or information, such as where staff are drawn from a shared pool, or a common technical department is created within the larger structure to provide participating firms with technical advice that the firms are required to follow, a reasonable and informed third party is more likely to conclude that the shared resources are significant.

## **PUBLIC INTEREST ENTITIES**

290.25 Section 290 contains additional provisions that reflect the extent of public interest in certain entities. For the purpose of this section, public interest entities are:

- (a) All listed entities; and
- (b) Any entity:
  - i. defined by regulation or legislation as a public interest entity; or
  - ii. for which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of listed entities. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

290.26 Firms are encouraged to determine whether to treat additional entities, or certain categories of entities, as public interest entities because they have a large number and wide range of stakeholders. Factors to be considered include:

- The nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders. Examples may include financial institutions, such as banks and insurance companies, and pension funds;
- Size; and
- Number of employees.

## RELATED ENTITIES

290.27 In the case of an audit client that is a listed entity, references to an audit client in this section include related entities of the client (unless otherwise stated). For all other audit clients, references to an audit client in this section include related entities over which the client has direct or indirect control. When the audit team knows or has reason to believe that a relationship or circumstance involving another related entity of the client is relevant to the evaluation of the firm's independence from the client, the audit team shall include that related entity when identifying and evaluating threats to independence and applying appropriate safeguards.

## THOSE CHARGED WITH GOVERNANCE

290.28 Even when not required by the Code, applicable auditing standards, law or regulation, regular communication is encouraged between the firm and those charged with governance of the audit client regarding relationships and other matters that might, in the firm's opinion, reasonably bear on independence. Such communication enables those charged with governance to:

- (a) consider the firm's judgments in identifying and evaluating threats to independence;
- (b) consider the appropriateness of safeguards applied to eliminate them or reduce them to an acceptable level; and
- (c) take appropriate action. Such an approach can be particularly helpful with respect to intimidation and familiarity threats.

## DOCUMENTATION

290.29 Documentation provides evidence of the registered auditor's judgments in forming conclusions regarding compliance with independence requirements. The absence of documentation is not a determinant of whether a firm considered a particular matter or whether it is independent.

The registered auditor shall document conclusions regarding compliance with independence requirements, and the substance of any relevant discussions that support those conclusions. Accordingly:

- (a) When safeguards are required to reduce a threat to an acceptable level, the registered auditor shall document the nature of the threat and the safeguards in place or applied that reduce the threat to an acceptable level; and
- (b) When a threat required significant analysis to determine whether safeguards were necessary and the registered auditor concluded that

they were not because the threat was already at an acceptable level, the registered auditor shall document the nature of the threat and the rationale for the conclusion.

## ENGAGEMENT PERIOD

- 290.30 Independence from the audit client is required both during the engagement period and the period covered by the financial statements. The engagement period starts when the audit team begins to perform audit services. The engagement period ends when the audit report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has terminated or the issuance of the final audit report.
- 290.31 When an entity becomes an audit client during or after the period covered by the financial statements on which the firm will express an opinion, the firm shall determine whether any threats to independence are created by:
- Financial or business relationships with the audit client during or after the period covered by the financial statements but before accepting the audit engagement; or
  - Previous services provided to the audit client.
- 290.32 If a non-assurance service was provided to the audit client during or after the period covered by the financial statements but before the audit team begins to perform audit services and the service would not be permitted during the period of the audit engagement, the firm shall evaluate any threat to independence created by the service. If a threat is not at an acceptable level, the audit engagement shall only be accepted if safeguards are applied to eliminate any threats or reduce them to an acceptable level. Examples of such safeguards include:
- Not including personnel who provided the non-assurance service as members of the audit team;
  - Having a registered auditor review the audit and non-assurance work as appropriate; or
  - Engaging another firm to evaluate the results of the non-assurance service or having another firm re-perform the non-assurance service to the extent necessary to enable it to take responsibility for the service.

## MERGERS AND ACQUISITIONS

- 290.33 When, as a result of a merger or acquisition, an entity becomes a related entity of an audit client, the firm shall identify and evaluate previous and current interests and relationships with the related entity that, taking into account

available safeguards, could affect its independence and therefore its ability to continue the audit engagement after the effective date of the merger or acquisition.

290.34 The firm shall take steps necessary to terminate, by the effective date of the merger or acquisition, any current interests or relationships that are not permitted under this Code. However, if such a current interest or relationship cannot reasonably be terminated by the effective date of the merger or acquisition, for example, because the related entity is unable by the effective date to effect an orderly transition to another service provider of a non-assurance service provided by the firm, the firm shall evaluate the threat that is created by such interest or relationship. The more significant the threat, the more likely the firm's objectivity will be compromised and it will be unable to continue as auditor. The significance of the threat will depend upon factors such as:

- The nature and significance of the interest or relationship;
- The nature and significance of the related entity relationship (for example, whether the related entity is a subsidiary or parent); and
- The length of time until the interest or relationship can reasonably be terminated.

The firm shall discuss with those charged with governance the reasons why the interest or relationship cannot reasonably be terminated by the effective date of the merger or acquisition and the evaluation of the significance of the threat.

290.35 If those charged with governance request the firm to continue as auditor, the firm shall do so only if:

- (a) the interest or relationship will be terminated as soon as reasonably possible and in all cases within six months of the effective date of the merger or acquisition;
- (b) any individual who has such an interest or relationship, including one that has arisen through performing a non-assurance service that would not be permitted under this section, will not be a member of the engagement team for the audit or the individual responsible for the engagement quality control review; and
- (c) appropriate transitional measures will be applied, as necessary, and discussed with those charged with governance. Examples of transitional measures include:
  - Having a registered auditor review the audit or non-assurance work as appropriate;
  - Having a registered auditor, who is not a member of the firm expressing the opinion on the financial statements, perform a review that is equivalent to an engagement quality control review; or

- Engaging another firm to evaluate the results of the non-assurance service or having another firm re-perform the non-assurance service to the extent necessary to enable it to take responsibility for the service.

290.36 The firm may have completed a significant amount of work on the audit prior to the effective date of the merger or acquisition and may be able to complete the remaining audit procedures within a short period of time. In such circumstances, if those charged with governance request the firm to complete the audit while continuing with an interest or relationship identified in 290.33, the firm shall do so only if it:

- (a) Has evaluated the significance of the threat created by such interest or relationship and discussed the evaluation with those charged with governance;
- (b) Complies with the requirements of paragraph 290.35 (a) and (b); and
- (c) Ceases to be the auditor no later than the issuance of the audit report.

290.37 When addressing previous and current interests and relationships covered by paragraphs 290.33 to 290.36, the firm shall determine whether, even if all the requirements could be met, the interests and relationships create threats that would remain so significant that objectivity would be compromised and, if so, the firm shall cease to be the auditor.

290.38 The registered auditor shall document any interests or relationships covered by paragraphs 290.34 and 36 that will not be terminated by the effective date of the merger or acquisition and the reasons why they will not be terminated, the transitional measures applied, the results of the discussion with those charged with governance, and the rationale as to why the previous and current interests and relationships do not create threats that would remain so significant that objectivity would be compromised.

## **OTHER CONSIDERATIONS**

290.39 There may be occasions when there is an inadvertent violation of this section. If such an inadvertent violation occurs, it generally will be deemed not to compromise independence provided the firm has appropriate quality control policies and procedures in place, equivalent to those required by International Standards on Quality Control, to maintain independence and, once discovered, the violation is corrected promptly and any necessary safeguards are applied to eliminate any threat or reduce it to an acceptable level. The firm shall determine whether to discuss the matter with those charged with governance.

**Paragraphs 290.40 to 290.99 are intentionally left blank.**

## **APPLICATION OF THE CONCEPTUAL FRAMEWORK APPROACH TO INDEPENDENCE**

- 290.100 Paragraphs 290.102 to 290.231 describe specific circumstances and relationships that create or may create threats to independence. The paragraphs describe the potential threats and the types of safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level and identify certain situations where no safeguards could reduce the threats to an acceptable level. The paragraphs do not describe all of the circumstances and relationships that create or may create a threat to independence. The firm and the members of the audit team shall evaluate the implications of similar, but different, circumstances and relationships and determine whether safeguards, including the safeguards in paragraphs 200.12 to 200.15, can be applied when necessary to eliminate the threats to independence or reduce them to an acceptable level.
- 290.101 Paragraphs 290.102 to 290.126 contain references to the materiality of a financial interest, loan, or guarantee, or the significance of a business relationship. For the purpose of determining whether such an interest is material to an individual, the combined net worth of the individual and the individual's immediate family members may be taken into account.

## **FINANCIAL INTERESTS**

### **Introduction**

- 290.102 Holding a financial interest in an audit client may create a self-interest threat. The existence and significance of any threat created depends on: (a) the role of the person holding the financial interest, (b) whether the financial interest is direct or indirect, and (c) the materiality of the financial interest.
- 290.103 Financial interests may be held through an intermediary (e.g. a collective investment vehicle, estate or trust). The determination of whether such financial interests are direct or indirect will depend upon whether the beneficial owner has control over the investment vehicle or the ability to influence its investment decisions. When control over the investment vehicle or the ability to influence investment decisions exists, this Code defines that financial interest to be a direct financial interest. Conversely, when the beneficial owner of the financial interest has no control over the investment vehicle or ability to influence its investment decisions, this Code defines that financial interest to be an indirect financial interest.

### **Financial interest in an audit client**

- 290.104 If a member of the audit team, a member of that individual's immediate family or a firm has a direct financial interest or a material indirect financial interest in

the audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, none of the following shall have a direct financial interest or a material indirect financial interest in the client: a member of the audit team; a member of that individual's immediate family; or the firm.

### **Close family holding a financial interest in an audit client**

290.105 When a member of the audit team has a close family member who the audit team member knows has a direct financial interest or a material indirect financial interest in the audit client, a self-interest threat is created. The significance of the threat will depend on factors such as:

- The nature of the relationship between the member of the audit team and the close family member; and
- The materiality of the financial interest to the close family member.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- The close family member disposing, as soon as practicable, of all of the financial interest or disposing of a sufficient portion of an indirect financial interest so that the remaining interest is no longer material;
- Having a registered auditor review the work of the member of the audit team; or
- Removing the individual from the audit team.

### **Financial interest in an entity that is holding a financial interest in an audit client**

290.106 If a member of the audit team, a member of that individual's immediate family or a firm has a direct or material indirect financial interest in an entity that has a controlling interest in the audit client, and the client is material to the entity, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, none of the following shall have such a financial interest: a member of the audit team; a member of that individual's immediate family; and the firm.

### **Firm's retirement benefit plan holding a financial interest in an audit client**

290.107 The holding by a firm's retirement benefit plan of a direct or material indirect financial interest in an audit client creates a self-interest threat. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

### **Other partners holding a financial interest in an audit client**

290.108 If other partners in the office in which the engagement partner practices in connection with the audit engagement, or their immediate family members,

hold a direct financial interest or a material indirect financial interest in that audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, neither such partners nor their immediate family members shall hold any such financial interests in such an audit client.

290.109 The office in which the engagement partner practices in connection with the audit engagement is not necessarily the office to which that partner is assigned. Accordingly, when the engagement partner is located in a different office from that of the other members of the audit team, professional judgment shall be used to determine in which office the partner practices in connection with that engagement.

**Other partners and managerial employees providing non-audit services to an audit client and holding a direct or material indirect financial interest in that audit client**

290.110 If other partners and managerial employees who provide non-audit services to the audit client, except those whose involvement is minimal, or their immediate family members, hold a direct financial interest or a material indirect financial interest in the audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, neither such personnel nor their immediate family members shall hold any such financial interests in such an audit client.

290.111 Despite paragraphs 290.108 and 290.110, the holding of a financial interest in an audit client by an immediate family member of (a) a partner located in the office in which the engagement partner practices in connection with the audit engagement, or (b) a partner or managerial employee who provides non-audit services to the audit client, is deemed not to compromise independence if the financial interest is received as a result of the immediate family member's employment rights (e.g., through pension or share option plans) and, when necessary, safeguards are applied to eliminate any threat to independence or reduce it to an acceptable level. However, when the immediate family member has or obtains the right to dispose of the financial interest or, in the case of a stock option, the right to exercise the option, the financial interest shall be disposed of or forfeited as soon as practicable.

290.112 A self-interest threat may be created if the firm or a member of the audit team, or a member of that individual's immediate family, has a financial interest in an entity and an audit client also has a financial interest in that entity. However, independence is deemed not to be compromised if these interests are immaterial and the audit client cannot exercise significant influence over the entity. If such interest is material to any party, and the audit client can exercise significant influence over the other entity, no safeguards could reduce the threat to an

acceptable level. Accordingly, the firm shall not have such an interest and any individual with such an interest shall, before becoming a member of the audit team, either:

- (a) Dispose of the interest; or
- (b) Dispose of a sufficient amount of the interest so that the remaining interest is no longer material.

290.113 A self-interest, familiarity or intimidation threat may be created if a member of the audit team, or a member of that individual's immediate family, or the firm, has a financial interest in an entity when a director, officer or controlling owner of the audit client is also known to have a financial interest in that entity. The existence and significance of any threat will depend upon factors such as:

- The role of the professional on the audit team;
- Whether ownership of the entity is closely or widely held;
- Whether the interest gives the investor the ability to control or significantly influence the entity; and
- The materiality of the financial interest.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the member of the audit team with the financial interest from the audit team; and
- Having a registered auditor review the work of the member of the audit team.

### **Financial interest in an audit client as a trustee**

290.114 The holding by a firm, or a member of the audit team, or a member of that individual's immediate family, of a direct financial interest or a material indirect financial interest in the audit client as a trustee creates a self-interest threat. Similarly, a self-interest threat is created when:

- (a) A partner in the office in which the engagement partner practices in connection with the audit,
- (b) Other partners and managerial employees who provide non-assurance services to the audit client, except those whose involvement is minimal, or
- (c) their immediate family members hold a direct financial interest or a material indirect financial interest in the audit client as trustee.

Such an interest shall not be held unless:

- (a) Neither the trustee, nor an immediate family member of the trustee, nor the firm are beneficiaries of the trust;

- (b) The interest in the audit client held by the trust is not material to the trust;
- (c) The trust is not able to exercise significant influence over the audit client; and
- (d) The trustee, an immediate family member of the trustee, or the firm cannot significantly influence any investment decision involving a financial interest in the audit client.

### **Known financial interests in an audit client held by other individuals**

290.115 Members of the audit team shall determine whether a self-interest threat is created by any known financial interests in the audit client held by other individuals including:

- Partners and professional employees of the firm, other than those referred to above, or their immediate family members; and
- Individuals with a close personal relationship with a member of the audit team.

Whether these interests create a self-interest threat will depend on factors such as:

- The firm's organisational, operating and reporting structure; and
- The nature of the relationship between the individual and the member of the audit team.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the member of the audit team with the personal relationship from the audit team;
- Excluding the member of the audit team from any significant decision-making concerning the audit engagement; or
- Having a registered auditor review the work of the member of the audit team.

### **Financial interest received by way of an inheritance, gift or as a result of a merger**

290.116 If a firm or a partner or employee of the firm, or a member of that individual's immediate family, receives a direct financial interest or a material indirect financial interest in an audit client, for example, by way of an inheritance, gift or as a result of a merger and such interest would not be permitted to be held under this section, then:

- (a) If the interest is received by the firm, the financial interest shall be disposed of immediately, or a sufficient amount of an indirect financial interest shall be disposed of so that the remaining interest is no longer material;

- (b) If the interest is received by a member of the audit team, or a member of that individual's immediate family, the individual who received the financial interest shall immediately dispose of the financial interest, or dispose of a sufficient amount of an indirect financial interest so that the remaining interest is no longer material, or the individual shall be removed from the audit team; or
- (c) If the interest is received by an individual who is not a member of the audit team, or by an immediate family member of the individual, the financial interest shall be disposed of as soon as possible, or a sufficient amount of an indirect financial interest shall be disposed of so that the remaining interest is no longer material. Pending the disposal of the financial interest, a determination shall be made as to whether any safeguards are necessary.

### **Inadvertent violations**

290.117 When an inadvertent violation of this section as it relates to a financial interest in an audit client occurs, it is deemed not to compromise independence if:

- (a) The firm has established policies and procedures that require prompt notification to the firm of any breaches resulting from the purchase, inheritance or other acquisition of a financial interest in the audit client;
- (b) The actions in paragraph 290.116 (a)-(c) are taken as applicable; and
- (c) The firm applies other safeguards when necessary to reduce any remaining threat to an acceptable level. Examples of such safeguards include:
  - Having a registered auditor review the work of the member of the audit team; or
  - Excluding the individual from any significant decision-making concerning the audit engagement.

The firm shall determine whether to discuss the matter with those charged with governance.

## **LOANS AND GUARANTEES**

### **A loan or guarantee of a loan from an audit client that is a bank**

290.118 A loan or a guarantee of a loan, to a member of the audit team, or a member of that individual's immediate family, or the firm from an audit client that is a bank or a similar institution may create a threat to independence. If the loan or guarantee is not made under normal lending procedures, terms and conditions, a self-interest threat would be created that would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, neither a member of the audit team, a member of that individual's immediate family, nor a firm shall accept such a loan or guarantee.

290.119 If a loan to a firm from an audit client that is a bank or similar institution is made under normal lending procedures, terms and conditions, and it is material to the audit client or firm receiving the loan, it may be possible to apply safeguards to reduce the self-interest threat to an acceptable level. An example of such a safeguard is having the work reviewed by a registered auditor from a network firm that is neither involved with the audit nor received the loan.

290.120 A loan, or a guarantee of a loan, from an audit client that is a bank or a similar institution to a member of the audit team, or a member of that individual's immediate family, does not create a threat to independence if the loan or guarantee is made under normal lending procedures, terms and conditions. Examples of such loans include home mortgages, bank overdrafts, car loans and credit card balances.

### **A loan or guarantee of a loan from an audit client other than a bank**

290.121 If the firm or a member of the audit team, or a member of that individual's immediate family, accepts a loan from, or has a borrowing guaranteed by, an audit client, that is not a bank or similar institution, or any director or officer of the audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level, unless the loan or guarantee is immaterial to both (a) the firm or the member of the audit team and the immediate family member, and (b) the client.

### **A loan or guarantee of a loan made to an audit client**

290.122 Similarly, if the firm or a member of the audit team, or a member of that individual's immediate family, makes or guarantees a loan to an audit client or any director or officer of the audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level, unless the loan or guarantee is immaterial to both (a) the firm or the member of the audit team and the immediate family member, and (b) the client.

### **Deposits or brokerage accounts with an audit client**

290.123 If a firm or a member of the audit team, or a member of that individual's immediate family, has deposits or a brokerage account with an audit client that is a bank, broker or similar institution, a threat to independence is not created if the deposit or account is held under normal commercial terms.

## **BUSINESS RELATIONSHIPS**

290.124 A close business relationship between a firm, or a member of the audit team, or a member of that individual's immediate family, and the audit client or its management, arises from a commercial relationship or common financial

interest and may create self-interest or intimidation threats. Examples of such relationships include:

- Having a financial interest in a joint venture with either the client or a controlling owner, director, officer or other individual who performs senior managerial activities for that client.
- Arrangements to combine one or more services or products of the firm with one or more services or products of the client and to market the package with reference to both parties.
- Distribution or marketing arrangements under which the firm distributes or markets the client's products or services, or the client distributes or markets the firm's products or services.

Unless any financial interest is immaterial and the business relationship is insignificant to the firm and the client or its management, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, unless the financial interest is immaterial and the business relationship is insignificant, the business relationship shall not be entered into, or it shall be reduced to an insignificant level or terminated.

In the case of a member of the audit team, unless any such financial interest is immaterial and the relationship is insignificant to that member, the individual shall be removed from the audit team.

If the business relationship is between an immediate family member of a member of the audit team and the audit client or its management, the significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

290.125 A business relationship involving the holding of an interest by the firm, or a member of the audit team, or a member of that individual's immediate family, in a closely-held entity when the audit client or a director or officer of the client, or any group thereof, also holds an interest in that entity does not create threats to independence if:

- (a) The business relationship is insignificant to the firm, the member of the audit team and the immediate family member, and the client;
- (b) The financial interest is immaterial to the investor or group of investors; and
- (c) The financial interest does not give the investor, or group of investors, the ability to control the closely-held entity.

290.126 The purchase of goods and services from an audit client by the firm, or a member of the audit team, or a member of that individual's immediate family, does not generally create a threat to independence if the transaction is in the normal course of business and at arm's length. However, such transactions may be of such a nature or magnitude that they create a self-interest threat. The

significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Eliminating or reducing the magnitude of the transaction; or
- Removing the individual from the audit team.

## **FAMILY AND PERSONAL RELATIONSHIPS**

### **Introduction**

290.127 Family and personal relationships between a member of the audit team and a director or officer or certain employees (depending on their role) of the audit client may create self-interest, familiarity or intimidation threats. The existence and significance of any threats will depend on a number of factors, including the individual's responsibilities on the audit team, the role of the family member or other individual within the client and the closeness of the relationship.

### **Immediate family is a director or in a position to exert significant influence**

290.128 When an immediate family member of a member of the audit team is:

- (a) A director or officer of the audit client; or
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion,

or was in such a position during any period covered by the engagement or the financial statements, the threats to independence can only be reduced to an acceptable level by removing the individual from the audit team. The closeness of the relationship is such that no other safeguards could reduce the threat to an acceptable level. Accordingly, no individual who has such a relationship shall be a member of the audit team.

290.129 Threats to independence are created when an immediate family member of a member of the audit team is an employee in a position to exert significant influence over the client's financial position, financial performance or cash flows. The significance of the threats will depend on factors such as:

- The position held by the immediate family member; and
- The role of the professional on the audit team.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

Examples of such safeguards include:

- Removing the individual from the audit team; or
- Structuring the responsibilities of the audit team so that the professional does not deal with matters that are within the responsibility of the immediate family member.

### **Close family is a director or in a position to exert significant influence**

290.130 Threats to independence are created when a close family member of a member of the audit team is:

- (a) A director or officer of the audit client; or
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

The significance of the threats will depend on factors such as:

- The nature of the relationship between the member of the audit team and the close family member;
- The position held by the close family member; and
- The role of the professional on the audit team.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

Examples of such safeguards include:

- Removing the individual from the audit team; or
- Structuring the responsibilities of the audit team so that the professional does not deal with matters that are within the responsibility of the close family member.

### **Close relationship with a director or employee in a position to exert significant influence**

290.131 Threats to independence are created when a member of the audit team has a close relationship with a person who is not an immediate or close family member, but who is a director or officer or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion. A member of the audit team who has such a relationship shall consult in accordance with firm policies and procedures. The significance of the threats will depend on factors such as:

- The nature of the relationship between the individual and the member of the audit team;
- The position the individual holds with the client; and
- The role of the professional on the audit team.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level.

Examples of such safeguards include:

- Removing the professional from the audit team; or

- Structuring the responsibilities of the audit team so that the professional does not deal with matters that are within the responsibility of the individual with whom the professional has a close relationship.

### **Other personal or family relationships with a director or employee in a position to exert significant influence**

290.132 Self-interest, familiarity or intimidation threats may be created by a personal or family relationship between:

- (a) a partner or employee of the firm who is not a member of the audit team; and
- (b) a director or officer of the audit client or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

Partners and employees of the firm who are aware of such relationships shall consult in accordance with firm policies and procedures. The existence and significance of any threat will depend on factors such as:

- The nature of the relationship between the partner or employee of the firm and the director or officer or employee of the client;
- The interaction of the partner or employee of the firm with the audit team;
- The position of the partner or employee within the firm; and
- The position the individual holds with the client.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Structuring the partner's or employee's responsibilities to reduce any potential influence over the audit engagement; or
- Having a registered auditor review the relevant audit work performed.

### **Inadvertent violations**

290.133 When an inadvertent violation of this section as it relates to family and personal relationships occurs, it is deemed not to compromise independence if:

- (a) The firm has established policies and procedures that require prompt notification to the firm of any breaches resulting from changes in the employment status of their immediate or close family members or other personal relationships that create threats to independence;
- (b) The inadvertent violation relates to an immediate family member of a member of the audit team becoming a director or officer of the audit client or being in a position to exert significant influence over the preparation

of the client's accounting records or the financial statements on which the firm will express an opinion, and the relevant professional is removed from the audit team; and

- (c) The firm applies other safeguards when necessary to reduce any remaining threat to an acceptable level. Examples of such safeguards include:
- Having a registered auditor review the work of the member of the audit team; or
  - Excluding the relevant professional from any significant decision-making concerning the engagement.

The firm shall determine whether to discuss the matter with those charged with governance.

## **EMPLOYMENT WITH AN AUDIT CLIENT**

### **A former partner or member of the audit team joins an audit client**

290.134 Familiarity or intimidation threats may be created if a director or officer of the audit client, or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion, has been a member of the audit team or partner of the firm.

290.135 If a former member of the audit team or partner of the firm has joined the audit client in such a position and a significant connection remains between the firm and the individual, the threat would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, independence would be deemed to be compromised if a former member of the audit team or partner joins the audit client as a director or officer, or as an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion, unless:

- (a) The individual is not entitled to any benefits or payments from the firm, unless made in accordance with fixed pre-determined arrangements, and any amount owed to the individual is not material to the firm; and
- (b) The individual does not continue to participate or appear to participate in the firm's business or professional activities.

290.136 If a former member of the audit team or partner of the firm has joined the audit client in such a position, and no significant connection remains between the firm and the individual, the existence and significance of any familiarity or intimidation threats will depend on factors such as:

- The position the individual has taken at the client;
- Any involvement the individual will have with the audit team;

- The length of time since the individual was a member of the audit team or partner of the firm; and
- The former position of the individual within the audit team or firm, for example, whether the individual was responsible for maintaining regular contact with the client's management or those charged with governance.

The significance of any threats created shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level.

Examples of such safeguards include:

- Modifying the audit plan;
- Assigning individuals to the audit team who have sufficient experience in relation to the individual who has joined the client; or
- Having a registered auditor review the work of the former member of the audit team.

### **A former partner joins an entity that subsequently becomes an audit client**

290.137 If a former partner of the firm has previously joined an entity in such a position and the entity subsequently becomes an audit client of the firm, the significance of any threats to independence shall be evaluated and safeguards applied, when necessary, to eliminate the threat or reduce it to an acceptable level.

### **Audit team members entering into employment negotiations with an audit client**

290.138 A self-interest threat is created when a member of the audit team participates in the audit engagement while knowing that the member of the audit team will, or may, join the client sometime in the future. Firm policies and procedures shall require members of an audit team to notify the firm when entering employment negotiations with the client. On receiving such notification, the significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the individual from the audit team; or
- A review of any significant judgments made by that individual while on the team.

## **Audit Clients that are Public Interest Entities**

### **Key audit partner joins an audit client**

290.139 Familiarity or intimidation threats are created when a key audit partner joins the audit client that is a public interest entity as:

- (a) A director or officer of the entity; or

- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

Independence would be deemed to be compromised unless, subsequent to the partner ceasing to be a key audit partner, the public interest entity had issued audited financial statements covering a period of not less than twelve months and the partner was not a member of the audit team with respect to the audit of those financial statements.

### **Senior or Managing Partner (Chief Executive Officer) joins an audit client**

290.140 An intimidation threat is created when the individual who was the firm's Senior or Managing Partner (Chief Executive or equivalent) joins an audit client that is a public interest entity as:

- (a) an employee in a position to exert significant influence over the preparation of the entity's accounting records or its financial statements; or
- (b) a director or officer of the entity. Independence would be deemed to be compromised unless twelve months have passed since the individual was the Senior, or Managing Partner (Chief Executive or equivalent) of the firm.

290.141 Independence is deemed not to be compromised if, as a result of a business combination, a former key audit partner or the individual who was the firm's former Senior or Managing Partner is in a position as described in paragraphs 290.139 and 290.140, and:

- (a) The position was not taken in contemplation of the business combination;
- (b) Any benefits or payments due to the former partner from the firm have been settled in full, unless made in accordance with fixed pre-determined arrangements and any amount owed to the partner is not material to the firm;
- (c) The former partner does not continue to participate or appear to participate in the firm's business or professional activities; and
- (d) The position held by the former partner with the audit client is discussed with those charged with governance.

### **TEMPORARY STAFF ASSIGNMENTS**

290.142 The lending of staff by a firm to an audit client may create a self-review threat. Such assistance may be given, but only for a short period of time and the firm's personnel shall not be involved in:

- Providing non-assurance services that would not be permitted under this section; or

- Assuming management responsibilities.

In all circumstances, the audit client shall be responsible for directing and supervising the activities of the loaned staff.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Conducting an additional review of the work performed by the loaned staff;
- Not giving the loaned staff audit responsibility for any function or activity that the staff performed during the temporary staff assignment; or
- Not including the loaned staff as a member of the audit team.

## **RECENT SERVICE WITH AN AUDIT CLIENT**

290.143 Self-interest, self-review or familiarity threats may be created if a member of the audit team has recently served as a director, officer, or employee of the audit client. This would be the case when, for example, a member of the audit team has to evaluate elements of the financial statements for which the member of the audit team had prepared the accounting records while with the client.

290.144 If, during the period covered by the audit report, a member of the audit team had served as a director or officer of the audit client, or was an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Consequently, such individuals shall not be assigned to the audit team.

290.145 Self-interest, self-review or familiarity threats may be created if, before the period covered by the audit report, a member of the audit team had served as a director or officer of the audit client, or was an employee in a position to exert significant influence over the preparation of the client's accounting records or financial statements on which the firm will express an opinion. For example, such threats would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current audit engagement. The existence and significance of any threats will depend on factors such as:

- The position the individual held with the client;
- The length of time since the individual left the client; and
- The role of the professional on the audit team.

The significance of any threat shall be evaluated and safeguards applied when necessary to reduce the threat to an acceptable level. An example of such a

safeguard is conducting a review of the work performed by the individual as a member of the audit team.

## **SERVING AS A DIRECTOR OR OFFICER OF AN AUDIT CLIENT**

- 290.146 If a partner or employee of the firm serves as a director or officer of an audit client, the self-review and self-interest threats created would be so significant that no safeguards could reduce the threats to an acceptable level. Accordingly, no partner or employee shall serve as a director or officer of an audit client.
- 290.147 The position of Company Secretary has different implications in different jurisdictions. Duties may range from administrative duties, such as personnel management and the maintenance of company records and registers, to duties as diverse as ensuring that the company complies with regulations or providing advice on corporate governance matters. Generally, this position is seen to imply a close association with the entity.
- 290.148 If a partner or employee of the firm serves as Company Secretary for an audit client, self-review and advocacy threats are created that would generally be so significant that no safeguards could reduce the threats to an acceptable level. Despite paragraph 290.146, when this practice is specifically permitted under local law, professional rules or practice, and provided management makes all relevant decisions, the duties and activities shall be limited to those of a routine and administrative nature, such as preparing minutes and maintaining statutory returns. In those circumstances, the significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level.
- 290.149 Performing routine administrative services to support a company secretarial function or providing advice in relation to company secretarial administration matters does not generally create threats to independence, as long as client management makes all relevant decisions.

## **LONG ASSOCIATION OF SENIOR PERSONNEL (INCLUDING PARTNER ROTATION) WITH AN AUDIT CLIENT**

### **General Provisions**

- 290.150 Familiarity and self-interest threats are created by using the same senior personnel on an audit engagement over a long period of time. The significance of the threats will depend on factors such as:
- How long the individual has been a member of the audit team;
  - The role of the individual on the audit team;
  - The structure of the firm;

- The nature of the audit engagement;
- Whether the client’s management team has changed; and
- Whether the nature or complexity of the client’s accounting and reporting issues has changed.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level. Examples of such safeguards include:

- Rotating the senior personnel off the audit team;
- Having a registered auditor who was not a member of the audit team review the work of the senior personnel; or
- Regular independent internal or external quality reviews of the engagement.

### **Audit Clients that are Public Interest Entities**

290.151 In respect of an audit of a public interest entity, an individual shall not be a key audit partner for more than seven years or as otherwise determined by legislation or regulation. After such time, the individual shall not be a member of the engagement team or be a key audit partner for the client for two years. During that period, the individual shall not participate in the audit of the entity, provide quality control for the engagement, consult with the engagement team or the client regarding technical or industry-specific issues, transactions or events or otherwise directly influence the outcome of the engagement.

290.152 Despite paragraph 290.151, key audit partners whose continuity is especially important to audit quality may, in rare cases due to unforeseen circumstances outside the firm’s control, be permitted an additional year on the audit team as long as the threat to independence can be eliminated or reduced to an acceptable level by applying safeguards. For example, a key audit partner may remain on the audit team for up to one additional year in circumstances where, due to unforeseen events, a required rotation was not possible, as might be the case due to serious illness of the intended engagement partner.

290.153 The long association of other partners with an audit client that is a public interest entity creates familiarity and self-interest threats. The significance of the threats will depend on factors such as:

- How long any such partner has been associated with the audit client;
- The role, if any, of the individual on the audit team; and
- The nature, frequency and extent of the individual’s interactions with the client’s management or those charged with governance.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level. Examples of such safeguards include:

- rotating the partner off the audit team or otherwise ending the partner's association with the audit client; or
- Regular independent internal or external quality reviews of the engagement.

290.154 When an audit client becomes a public interest entity, the length of time the individual has served the audit client as a key audit partner before the client becomes a public interest entity shall be taken into account in determining the timing of the rotation. If the individual has served the audit client as a key audit partner for five years or less when the client becomes a public interest entity, the number of years the individual may continue to serve the client in that capacity before rotating off the engagement is seven years less the number of years already served. If the individual has served the audit client as a key audit partner for six or more years when the client becomes a public interest entity, the partner may continue to serve in that capacity for a maximum of two additional years before rotating off the engagement.

290.155 When a firm has only a few registered auditors with the necessary knowledge and experience to serve as a key audit partner on the audit of a public interest entity, rotation of key audit partners may not be an available safeguard. If an independent regulator in the relevant jurisdiction has provided an exemption from partner rotation in such circumstances, an individual may remain a key audit partner for more than seven years, in accordance with such regulation, provided that the independent regulator has specified alternative safeguards which are applied, such as a regular independent external review<sup>6</sup>.

## PROVISION OF NON-ASSURANCE SERVICES TO AUDIT CLIENTS

290.156 Firms have traditionally provided to their audit clients a range of non-assurance services that are consistent with their skills and expertise. Providing non-assurance services may, however, create threats to the independence of the firm or members of the audit team. The threats created are most often self-review, self-interest and advocacy threats.

290.157 New developments in business, the evolution of financial markets and changes in information technology make it impossible to draw up an all-inclusive list of non-assurance services that might be provided to an audit client. When specific guidance on a particular non-assurance service is not included in this section, the conceptual framework shall be applied when evaluating the particular circumstances.

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<sup>6</sup> The Regulatory Board has not yet provided such exemption from partner rotation or specified alternative safeguards.

- 290.158 Before the firm accepts an engagement to provide a non-assurance service to an audit client a determination shall be made as to whether providing such a service would create a threat to independence. In evaluating the significance of any threat created by a particular non-assurance service, consideration shall be given to any threat that the audit team has reason to believe is created by providing other related non-assurance services. If a threat is created that cannot be reduced to an acceptable level by the application of safeguards, the non-assurance service shall not be provided.
- 290.159 Providing certain non-assurance services to an audit client may create a threat to independence so significant that no safeguards could reduce the threat to an acceptable level. However, the inadvertent provision of such a service to a related entity, division or in respect of a discrete financial statement item of such a client will be deemed not to compromise independence if any threats have been reduced to an acceptable level by arrangements for that related entity, division or discrete financial statement item to be audited by another firm or when another firm re-performs the non-assurance service to the extent necessary to enable it to take responsibility for that service.
- 290.160 A firm may provide non-assurance services that would otherwise be restricted under this section to the following related entities of the audit client:
- (a) An entity, which is not an audit client, that has direct or indirect control over the audit client;
  - (b) An entity, which is not an audit client, with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity; or
  - (c) An entity, which is not an audit client, that is under common control with the audit client,
- if it is reasonable to conclude that:
- (a) the services do not create a self-review threat because the results of the services will not be subject to audit procedures; and
  - (b) any threats that are created by the provision of such services are eliminated or reduced to an acceptable level by the application of safeguards.
- 290.161 A non-assurance service provided to an audit client does not compromise the firm's independence when the client becomes a public interest entity if:
- (a) The previous non-assurance service complies with the provisions of this section that relate to audit clients that are not public interest entities;
  - (b) Services that are not permitted under this section for audit clients that are public interest entities are terminated before or as soon as practicable after the client becomes a public interest entity; and
  - (c) The firm applies safeguards when necessary to eliminate or reduce to an acceptable level any threats to independence arising from the service.

## Management Responsibilities

### General provisions

- 290.162 Management of an entity performs many activities in managing the entity in the best interests of stakeholders of the entity. It is not possible to specify every activity that is a management responsibility. However, management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.
- 290.163 Whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered a management responsibility include:
- Setting policies and strategic direction;
  - Directing and taking responsibility for the actions of the entity's employees;
  - Authorizing transactions;
  - Deciding which recommendations of the firm or other third parties to implement;
  - Taking responsibility for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework; and
  - Taking responsibility for designing, implementing and maintaining internal control.
- 290.164 Activities that are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. For example, executing an insignificant transaction that has been authorised by management or monitoring the dates for filing statutory returns and advising an audit client of those dates is deemed not to be a management responsibility. Further, providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility.
- 290.165 If a firm were to assume a management responsibility for an audit client, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level. For example, deciding which recommendations of the firm to implement will create self-review and self-interest threats. Further, assuming a management responsibility creates a familiarity threat because the firm becomes too closely aligned with the views and interests of management. Therefore, the firm shall not assume a management responsibility for an audit client.
- 290.166 To avoid the risk of assuming a management responsibility when providing non-assurance services to an audit client, the firm shall be satisfied that a member of

management is responsible for making the significant judgments and decisions that are the proper responsibility of management, evaluating the results of the service and accepting responsibility for the actions to be taken arising from the results of the service. This reduces the risk of the firm inadvertently making any significant judgments or decisions on behalf of management. The risk is further reduced when the firm gives the client the opportunity to make judgments and decisions based on an objective and transparent analysis and presentation of the issues.

## **Preparing Accounting Records and Financial Statements**

### *General Provisions*

290.167 Management is responsible for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework. These responsibilities include:

- Originating or changing journal entries, or determining the account classifications of transactions; and
- Preparing or changing source documents or originating data, in electronic or other form, evidencing the occurrence of a transaction (for example, purchase orders, payroll time records, and customer orders).

290.168 Providing an audit client with accounting and bookkeeping services, such as preparing accounting records or financial statements, creates a self-review threat when the firm subsequently audits the financial statements.

290.169 The audit process, however, necessitates dialogue between the firm and management of the audit client, which may involve:

- (a) the application of accounting standards or policies and financial statement disclosure requirements,
- (b) the appropriateness of financial and accounting control and the methods used in determining the stated amounts of assets and liabilities, or
- (c) proposing adjusting journal entries.

These activities are considered to be a normal part of the audit process and do not, generally, create threats to independence.

290.170 Similarly, the client may request technical assistance from the firm on matters such as resolving account reconciliation problems or analyzing and accumulating information for regulatory reporting. In addition, the client may request technical advice on accounting issues such as the conversion of existing financial statements from one financial reporting framework to another (for example, to comply with group accounting policies or to transition to a different financial reporting framework such as International Financial Reporting Standards). Such services do not, generally, create threats to independence provided the firm does not assume a management responsibility for the client.

### *Audit Clients that are Not Public Interest Entities*

290.171 The firm may provide services related to the preparation of accounting records and financial statements to an audit client that is not a public interest entity where the services are of a routine or mechanical nature, so long as any self-review threat created is reduced to an acceptable level. Examples of such services include:

- Providing payroll services based on client-originated data;
- Recording transactions for which the client has determined or approved the appropriate account classification;
- Posting transactions coded by the client to the general ledger;
- Posting client-approved entries to the trial balance; and
- Preparing financial statements based on information in the trial balance.

In all cases, the significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Arranging for such services to be performed by an individual who is not a member of the audit team; or
- If such services are performed by a member of the audit team, using a partner or senior staff member with appropriate expertise who is not a member of the audit team to review the work performed.

### *Audit Clients that are Public Interest Entities*

#### *General Provisions*

290.172 Except in emergency situations, a firm shall not provide to an audit client that is a public interest entity accounting and bookkeeping services, including payroll services, or prepare financial statements on which the firm will express an opinion or financial information which forms the basis of the financial statements.

290.173 Despite paragraph 290.172, a firm may provide accounting and bookkeeping services, including payroll services and the preparation of financial statements or other financial information, of a routine or mechanical nature for divisions or related entities of an audit client that is a public interest entity if the personnel providing the services are not members of the audit team and:

- The divisions or related entities for which the service is provided are collectively immaterial to the financial statements on which the registered auditor will express an opinion; or
- The services relate to matters that are collectively immaterial to the financial statements of the division or related entity.

## *Emergency Situations*

290.174 Accounting and bookkeeping services, which would otherwise not be permitted under this section, may be provided to audit clients in emergency or other unusual situations when it is impractical for the audit client to make other arrangements. This may be the case when:

- (a) only the firm has the resources and necessary knowledge of the client's systems and procedures to assist the client in the timely preparation of its accounting records and financial statements, and
- (b) a restriction on the firm's ability to provide the services would result in significant difficulties for the client (for example, as might result from a failure to meet regulatory reporting requirements).

In such situations, the following conditions shall be met:

- (a) Those who provide the services are not members of the audit team;
- (b) The services are provided for only a short period of time and are not expected to recur; and
- (c) The situation is discussed with those charged with governance.

## **Valuation Services**

### *General Provisions*

290.175 A valuation comprises the making of assumptions with regard to future developments, the application of appropriate methodologies and techniques, and the combination of both to compute a certain value, or range of values, for an asset, a liability or for a business as a whole.

290.176 Performing valuation services for an audit client may create a self-review threat. The existence and significance of any threat will depend on factors such as:

- Whether the valuation will have a material effect on the financial statements.
- The extent of the client's involvement in determining and approving the valuation methodology and other significant matters of judgment.
- The availability of established methodologies and professional guidelines.
- For valuations involving standard or established methodologies, the degree of subjectivity inherent in the item.
- The reliability and extent of the underlying data.
- The degree of dependence on future events of a nature that could create significant volatility inherent in the amounts involved.
- The extent and clarity of the disclosures in the financial statements.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Having a professional who was not involved in providing the valuation service review the audit or valuation work performed; or
- Making arrangements so that personnel providing such services do not participate in the audit engagement.

290.177 Certain valuations do not involve a significant degree of subjectivity. This is likely the case where the underlying assumptions are either established by law or regulation, or are widely accepted and when the techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation. In such circumstances, the results of a valuation performed by two or more parties are not likely to be materially different.

290.178 If a firm is requested to perform a valuation to assist an audit client with its tax reporting obligations or for tax planning purposes and the results of the valuation will not have a direct effect on the financial statements, the provisions included in paragraph 290.191 apply.

#### *Audit Clients that are Not Public Interest Entities*

290.179 In the case of an audit client that is not a public interest entity, if the valuation service has a material effect on the financial statements on which the registered auditor will express an opinion and the valuation involves a significant degree of subjectivity, no safeguards could reduce the self-review threat to an acceptable level. Accordingly a firm shall not provide such a valuation service to an audit client.

#### *Audit Clients that are Public Interest Entities*

290.180 A firm shall not provide valuation services to an audit client that is a public interest entity if the valuations would have a material effect, separately or in the aggregate, on the financial statements on which the firm will express an opinion.

### **Taxation Services**

290.181 Taxation services comprise a broad range of services, including:

- Tax return preparation;
- Tax calculations for the purpose of preparing the accounting entries;
- Tax planning and other tax advisory services; and
- Assistance in the resolution of tax disputes.

While taxation services provided by a firm to an audit client are addressed separately under each of these broad headings; in practice, these activities are often interrelated.

290.182 Performing certain tax services creates self-review and advocacy threats. The existence and significance of any threats will depend on factors such as

- the system by which the tax authorities assess and administer the tax in question and the role of the firm in that process,
- the complexity of the relevant tax regime and the degree of judgment necessary in applying it,
- the particular characteristics of the engagement, and
- the level of tax expertise of the client's employees.

#### *Tax Return Preparation*

290.183 Tax return preparation services involve assisting clients with their tax reporting obligations by drafting and completing information, including the amount of tax due (usually on standardized forms) required to be submitted to the applicable tax authorities. Such services also include advising on the tax return treatment of past transactions and responding on behalf of the audit client to the tax authorities' requests for additional information and analysis (including providing explanations of and technical support for the approach being taken). Tax return preparation services are generally based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice. Further, the tax returns are subject to whatever review or approval process the tax authority deems appropriate. Accordingly, providing such services do not generally create a threat to independence if management takes responsibility for the returns including any significant judgments made.

#### *Tax Calculations for the Purpose of Preparing Accounting Entries*

##### *Audit Clients that are Not Public Interest Entities*

290.184 Preparing calculations of current and deferred tax liabilities (or assets) for an audit client for the purpose of preparing accounting entries that will be subsequently audited by the firm creates a self-review threat. The significance of the threat will depend on:

- (a) the complexity of the relevant tax law and regulation and the degree of judgment necessary in applying them,
- (b) the level of tax expertise of the client's personnel, and
- (c) the materiality of the amounts to the financial statements.

Safeguards shall be applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service;

- If the service is performed by a member of the audit team, using a partner or senior staff member with appropriate expertise who is not a member of the audit team to review the tax calculations; or
- Obtaining advice on the service from an external tax professional.

*Audit Clients that are Public Interest Entities*

290.185 Except in emergency situations, in the case of an audit client that is a public interest entity, a firm shall not prepare tax calculations of current and deferred tax liabilities (or assets) for the purpose of preparing accounting entries that are material to the financial statements on which the firm will express an opinion.

290.186 The preparation of calculations of current and deferred tax liabilities (or assets) for an audit client for the purpose of the preparation of accounting entries, which would otherwise not be permitted under this section, may be provided to audit clients in emergency or other unusual situations when it is impractical for the audit client to make other arrangements. This may be the case when

- only the firm has the resources and necessary knowledge of the client's business to assist the client in the timely preparation of its calculations of current and deferred tax liabilities (or assets), and
- a restriction on the firm's ability to provide the services would result in significant difficulties for the client (for example, as might result from a failure to meet regulatory reporting requirements).

In such situations, the following conditions shall be met:

- Those who provide the services are not members of the audit team;
- The services are provided for only a short period of time and are not expected to recur; and
- The situation is discussed with those charged with governance.

*Tax Planning and Other Tax Advisory Services*

290.187 Tax planning or other tax advisory services comprise a broad range of services, such as advising the client how to structure its affairs in a tax efficient manner or advising on the application of a new tax law or regulation.

290.188 A self-review threat may be created where the advice will affect matters to be reflected in the financial statements. The existence and significance of any threat will depend on factors such as:

- The degree of subjectivity involved in determining the appropriate treatment for the tax advice in the financial statements;
- The extent to which the outcome of the tax advice will have a material effect on the financial statements;

- Whether the effectiveness of the tax advice depends on the accounting treatment or presentation in the financial statements and there is doubt as to the appropriateness of the accounting treatment or presentation under the relevant financial reporting framework;
- The level of tax expertise of the client's employees;
- The extent to which the advice is supported by tax law or regulation, other precedent or established practice; and
- Whether the tax treatment is supported by a private ruling or has otherwise been cleared by the tax authority before the preparation of the financial statements.

For example, providing tax planning and other tax advisory services where the advice is clearly supported by tax authority or other precedent, by established practice or has a basis in tax law that is likely to prevail does not generally create a threat to independence.

290.189 The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service;
- Having a tax professional, who was not involved in providing the tax service, advise the audit team on the service and review the financial statement treatment;
- Obtaining advice on the service from an external tax professional; or
- Obtaining pre-clearance or advice from the tax authorities.

290.190 Where the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements and:

- (a) The audit team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and
- (b) The outcome or consequences of the tax advice will have a material effect on the financial statements on which the firm will express an opinion;

the self-review threat would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm shall not provide such tax advice to an audit client.

290.191 In providing tax services to an audit client, a firm may be requested to perform a valuation to assist the client with its tax reporting obligations or for tax planning purposes. Where the result of the valuation will have a direct effect on the financial statements, the provisions included in paragraphs 290.175 to

290.180 relating to valuation services are applicable. Where the valuation is performed for tax purposes only and the result of the valuation will not have a direct effect on the financial statements (i.e. the financial statements are only affected through accounting entries related to tax), this would not generally create threats to independence if such effect on the financial statements is immaterial or if the valuation is subject to external review by a tax authority or similar regulatory authority. If the valuation is not subject to such an external review and the effect is material to the financial statements, the existence and significance of any threat created will depend upon factors such as:

- The extent to which the valuation methodology is supported by tax law or regulation, other precedent or established practice and the degree of subjectivity inherent in the valuation.
- The reliability and extent of the underlying data.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service;
- Having a professional review the audit work or the result of the tax service; or
- Obtaining pre-clearance or advice from the tax authorities.

#### *Assistance in the Resolution of Tax Disputes*

290.192 An advocacy or self-review threat may be created when the firm represents an audit client in the resolution of a tax dispute once the tax authorities have notified the client that they have rejected the client's arguments on a particular issue and either the tax authority or the client is referring the matter for determination in a formal proceeding, for example before a tribunal or court. The existence and significance of any threat will depend on factors such as:

- Whether the firm has provided the advice which is the subject of the tax dispute;
- The extent to which the outcome of the dispute will have a material effect on the financial statements on which the firm will express an opinion;
- The extent to which the matter is supported by tax law or regulation, other precedent, or established practice;
- Whether the proceedings are conducted in public; and
- The role management plays in the resolution of the dispute.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service;
- Having a tax professional, who was not involved in providing the tax service, advise the audit team on the services and review the financial statement treatment; or
- Obtaining advice on the service from an external tax professional.

290.193 Where the taxation services involve acting as an advocate for an audit client before a public tribunal or court in the resolution of a tax matter and the amounts involved are material to the financial statements on which the registered auditor will express an opinion, the advocacy threat created would be so significant that no safeguards could eliminate or reduce the threat to an acceptable level. Therefore, the firm shall not perform this type of service for an audit client. What constitutes a “public tribunal or court” shall be determined according to how tax proceedings are heard in the particular jurisdiction.

290.194 The firm is not, however, precluded from having a continuing advisory role (for example, responding to specific requests for information, providing factual accounts or testimony about the work performed or assisting the client in analysing the tax issues) for the audit client in relation to the matter that is being heard before a public tribunal or court.

## **Internal Audit Services**

### *General Provisions*

290.195 The scope and objectives of internal audit activities vary widely and depend on the size and structure of the entity and the requirements of management and those charged with governance. Internal audit activities may include:

- (a) Monitoring of internal control – reviewing controls, monitoring their operation and recommending improvements thereto;
- (b) Examination of financial and operating information – reviewing the means used to identify, measure, classify and report financial and operating information, and specific inquiry into individual items including detailed testing of transactions, balances and procedures;
- (c) Review of the economy, efficiency and effectiveness of operating activities including non-financial activities of an entity; and
- (d) Review of compliance with laws, regulations and other external requirements, and with management policies and directives and other internal requirements.

290.196 Internal audit services involve assisting the audit client in the performance of its internal audit activities. The provision of internal audit services to an audit client creates a self-review threat to independence if the firm uses the internal audit work in the course of a subsequent external audit. Performing a significant part

of the client's internal audit activities increases the possibility that firm personnel providing internal audit services will assume a management responsibility. If the firm's personnel assume a management responsibility when providing internal audit services to an audit client, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm's personnel shall not assume a management responsibility when providing internal audit services to an audit client.

290.197 Examples of internal audit services that involve assuming management responsibilities include:

- (a) Setting internal audit policies or the strategic direction of internal audit activities;
- (b) Directing and taking responsibility for the actions of the entity's internal audit employees;
- (c) Deciding which recommendations resulting from internal audit activities shall be implemented;
- (d) Reporting the results of the internal audit activities to those charged with governance on behalf of management;
- (e) Performing procedures that form part of the internal control, such as reviewing and approving changes to employee data access privileges;
- (f) Taking responsibility for designing, implementing and maintaining internal control; and
- (g) Performing outsourced internal audit services, comprising all or a substantial portion of the internal audit function, where the firm is responsible for determining the scope of the internal audit work and may have responsibility for one or more of the matters noted in (a)–(f).

290.198 To avoid assuming a management responsibility, the firm shall only provide internal audit services to an audit client if it is satisfied that:

- (a) The client designates an appropriate and competent resource, preferably within senior management, to be responsible at all times for internal audit activities and to acknowledge responsibility for designing, implementing, and maintaining internal control;
- (b) The client's management or those charged with governance reviews, assesses and approves the scope, risk and frequency of the internal audit services;
- (c) The client's management evaluates the adequacy of the internal audit services and the findings resulting from their performance;
- (d) The client's management evaluates and determines which recommendations resulting from internal audit services to implement and manages the implementation process; and

- (e) The client's management reports to those charged with governance the significant findings and recommendations resulting from the internal audit services.

290.199 When a firm uses the work of an internal audit function, International Standards on Auditing require the performance of procedures to evaluate the adequacy of that work. When a firm accepts an engagement to provide internal audit services to an audit client, and the results of those services will be used in conducting the external audit, a self-review threat is created because of the possibility that the audit team will use the results of the internal audit service without appropriately evaluating those results or exercising the same level of professional scepticism as would be exercised when the internal audit work is performed by individuals who are not members of the firm. The significance of the threat will depend on factors such as:

- The materiality of the related financial statement amounts;
- The risk of misstatement of the assertions related to those financial statement amounts; and
- The degree of reliance that will be placed on the internal audit service.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is using professionals who are not members of the audit team to perform the internal audit service.

#### *Audit Clients that are Public Interest Entities*

290.200 In the case of an audit client that is a public interest entity, a firm shall not provide internal audit services that relate to:

- (a) A significant part of the internal controls over financial reporting;
- (b) Financial accounting systems that generate information that is, separately or in the aggregate, significant to the client's accounting records or financial statements on which the firm will express an opinion; or
- (c) Amounts or disclosures that are, separately or in the aggregate, material to the financial statements on which the firm will express an opinion.

### **IT Systems Services**

#### *General Provisions*

290.201 Services related to information technology (IT) systems include the design or implementation of hardware or software systems. The systems may aggregate source data, form part of the internal control over financial reporting or generate information that affects the accounting records or financial statements, or the

systems may be unrelated to the audit client's accounting records, the internal control over financial reporting or financial statements. Providing systems services may create a self-review threat depending on the nature of the services and the IT systems.

290.202 The following IT systems services are deemed not to create a threat to independence as long as the firm's personnel do not assume a management responsibility:

- (a) Design or implementation of IT systems that are unrelated to internal control over financial reporting;
- (b) Design or implementation of IT systems that do not generate information forming a significant part of the accounting records or financial statements;
- (c) Implementation of "off-the-shelf" accounting or financial information reporting software that was not developed by the firm if the customization required to meet the client's needs is not significant; and
- (d) Evaluating and making recommendations with respect to a system designed, implemented or operated by another service provider or the client.

*Audit Clients that are Not Public Interest Entities*

290.203 Providing services to an audit client that is not a public interest entity involving the design or implementation of IT systems that

- (a) form a significant part of the internal control over financial reporting; or
- (b) generate information that is significant to the client's accounting records or financial statements on which the firm will express an opinion creates a self-review threat.

290.204 The self-review threat is too significant to permit such services unless appropriate safeguards are put in place ensuring that:

- (a) The client acknowledges its responsibility for establishing and monitoring a system of internal controls;
- (b) The client assigns the responsibility to make all management decisions with respect to the design and implementation of the hardware or software system to a competent employee, preferably within senior management;
- (c) The client makes all management decisions with respect to the design and implementation process;
- (d) The client evaluates the adequacy and results of the design and implementation of the system; and
- (e) The client is responsible for operating the system (hardware or software) and for the data it uses or generates.

290.205 Depending on the degree of reliance that will be placed on the particular IT systems as part of the audit, a determination shall be made as to whether to provide such non-assurance services only with personnel who are not members of the audit team and who have different reporting lines within the firm. The significance of any remaining threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is having a registered auditor review the audit or non-assurance work.

#### *Audit Clients that are Public Interest Entities*

290.206 In the case of an audit client that is a public interest entity, a firm shall not provide services involving the design or implementation of IT systems that

- (a) form a significant part of the internal control over financial reporting; or
- (b) generate information that is significant to the client's accounting records or financial statements on which the firm will express an opinion.

#### **Litigation Support Services**

290.207 Litigation support services may include activities such as acting as an expert witness, calculating estimated damages or other amounts that might become receivable or payable as the result of litigation or other legal dispute, and assistance with document management and retrieval. These services may create a self-review or advocacy threat.

290.208 If the firm provides a litigation support service to an audit client and the service involves estimating damages or other amounts that affect the financial statements on which the firm will express an opinion, the valuation service provisions included in paragraphs 290.175 to 290.180 shall be followed. In the case of other litigation support services, the significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

#### **Legal Services**

290.209 For the purpose of this section, legal services are defined as any services for which the person providing the services must either be admitted to practice law before the courts of the jurisdiction in which such services are to be provided or have the required legal training to practice law. Such legal services may include, depending on the jurisdiction, a wide and diversified range of areas including both corporate and commercial services to clients, such as contract support, litigation, mergers and acquisition legal advice and support and assistance to clients' internal legal departments. Providing legal services to an entity that is an audit client may create both self-review and advocacy threats.

290.210 Legal services that support an audit client in executing a transaction (e.g., contract support, legal advice, legal due diligence and restructuring) may

create self-review threats. The existence and significance of any threat will depend on factors such as:

- The nature of the service;
- Whether the service is provided by a member of the audit team; and
- The materiality of any matter in relation to the client's financial statements.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service; or
- Having a professional who was not involved in providing the legal services, provide advice to the audit team on the service and review any financial statement treatment.

290.211 Acting in an advocacy role for an audit client in resolving a dispute or litigation when the amounts involved are material to the financial statements on which the firm will express an opinion would create advocacy and self-review threats so significant that no safeguards could reduce the threat to an acceptable level. Therefore, the firm shall not perform this type of service for an audit client.

290.212 When a firm is asked to act in an advocacy role for an audit client in resolving a dispute or litigation when the amounts involved are not material to the financial statements on which the firm will express an opinion, the firm shall evaluate the significance of any advocacy and self-review threats created and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service; or
- Having a professional who was not involved in providing the legal services, advise the audit team on the service and review any financial statement treatment.

290.213 The appointment of a partner or an employee of the firm as a legal adviser for legal affairs of an audit client would create self-review and advocacy threats that are so significant that no safeguards could reduce the threats to an acceptable level. The position of a legal adviser is generally a senior management position with broad responsibility for the legal affairs of a company, and consequently, no member of the firm shall accept such an appointment for an audit client.

## **Recruiting Services**

### *General Provisions*

290.214 Providing recruiting services to an audit client may create self-interest, familiarity or intimidation threats. The existence and significance of any threat will depend on factors such as:

- The nature of the requested assistance; and
- The role of the person to be recruited.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. In all cases, the firm shall not assume management responsibilities, including acting as a negotiator on the client's behalf, and the hiring decision shall be left to the client.

The firm may generally provide such services as reviewing the professional qualifications of a number of applicants and providing advice on their suitability for the post. In addition, the firm may interview candidates and advise on a candidate's competence for financial accounting, administrative or control positions.

### *Audit Clients that are Public Interest Entities*

290.215 A firm shall not provide the following recruiting services to an audit client that is a public interest entity with respect to a director or officer of the entity or senior management in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion:

- Searching for or seeking out candidates for such positions; and
- Undertaking reference checks of prospective candidates for such positions.

## **Corporate Finance Services**

### *General Provisions*

290.216 Providing corporate finance services such as:

- assisting an audit client in developing corporate strategies;
- identifying possible targets for the audit client to acquire;
- advising on disposal transactions;
- assisting finance raising transactions; and
- providing structuring advice may create advocacy and self-review threats.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to provide the services; or
- Having a professional who was not involved in providing the corporate finance service advise the audit team on the service and review the accounting treatment and any financial statement treatment.

290.217 Providing a corporate finance service, for example advice on the structuring of a corporate finance transaction or on financing arrangements that will directly affect amounts that will be reported in the financial statements on which the firm will provide an opinion may create a self-review threat. The existence and significance of any threat will depend on factors such as:

- The degree of subjectivity involved in determining the appropriate treatment for the outcome or consequences of the corporate finance advice in the financial statements;
- The extent to which the outcome of the corporate finance advice will directly affect amounts recorded in the financial statements and the extent to which the amounts are material to the financial statements; and
- Whether the effectiveness of the corporate finance advice depends on a particular accounting treatment or presentation in the financial statements and there is doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Using professionals who are not members of the audit team to perform the service; or
- Having a professional who was not involved in providing the corporate finance service to the client advise the audit team on the service and review the accounting treatment and any financial statement treatment.

290.218 Where the effectiveness of corporate finance advice depends on a particular accounting treatment or presentation in the financial statements and:

- (a) The audit team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and
- (b) The outcome or consequences of the corporate finance advice will have a material effect on the financial statements on which the registered auditor will express an opinion;

the self-review threat would be so significant that no safeguards could reduce the threat to an acceptable level, in which case the corporate finance advice shall not be provided.

290.219 Providing corporate finance services involving promoting, dealing in, or underwriting an audit client's shares would create an advocacy or self-review threat that is so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm shall not provide such services to an audit client.

## FEES

### Fees - Relative Size

290.220 When the total fees from an audit client represent a large proportion of the total fees of the firm expressing the audit opinion, the dependence on that client and concern about losing the client creates a self-interest or intimidation threat. The significance of the threat will depend on factors such as:

- The operating structure of the firm;
- Whether the firm is well established or new; and
- The significance of the client qualitatively and/or quantitatively to the firm.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Reducing the dependency on the client;
- External quality control reviews; or
- Consulting a third party, such as the Regulatory Board or another registered auditor, on key audit judgments.

290.221 A self-interest or intimidation threat is also created when the fees generated from an audit client represent a large proportion of the revenue from an individual partner's clients or a large proportion of the revenue of an individual office of the firm. The significance of the threat will depend upon factors such as:

- The significance of the client qualitatively and/or quantitatively to the partner or office; and
- The extent to which the remuneration of the partner, or the partners in the office, is dependent upon the fees generated from the client.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Reducing the dependency on the audit client;
- Having a registered auditor review the work or otherwise advise as necessary; or
- Regular independent internal or external quality reviews of the engagement.

## *Audit Clients that are Public Interest Entities*

290.222 Where an audit client is a public interest entity and, for two consecutive years, the total fees from the client and its related entities (subject to the considerations in paragraph 290.27) represent more than 15% of the total fees received by the firm expressing the opinion on the financial statements of the client, the firm shall disclose to those charged with governance of the audit client the fact that the total of such fees represents more than 15% of the total fees received by the firm, and discuss which of the safeguards below it will apply to reduce the threat to an acceptable level, and apply the selected safeguard:

- Prior to the issuance of the audit opinion on the second year's financial statements, a registered auditor, who is not a member of the firm expressing the opinion on the financial statements, performs an engagement quality control review of that engagement or the Regulatory Board performs a review of that engagement that is equivalent to an engagement quality control review ("a pre-issuance review"); or
- After the audit opinion on the second year's financial statements has been issued, and before the issuance of the audit opinion on the third year's financial statements, a registered auditor, who is not a member of the firm expressing the opinion on the financial statements, or the Regulatory Board performs a review of the second year's audit that is equivalent to an engagement quality control review ("a post-issuance review").

When the total fees significantly exceed 15%, the firm shall determine whether the significance of the threat is such that a post-issuance review would not reduce the threat to an acceptable level and, therefore, a pre-issuance review is required. In such circumstances a pre-issuance review shall be performed.

Thereafter, when the fees continue to exceed 15%, each year, the disclosure to and discussion with those charged with governance shall occur and one of the above safeguards shall be applied. If the fees significantly exceed 15%, the firm shall determine whether the significance of the threat is such that a post-issuance review would not reduce the threat to an acceptable level and, therefore, a pre-issuance review is required. In such circumstances a pre-issuance review shall be performed.

## **Fees - Overdue**

290.223 A self-interest threat may be created if fees due from an audit client remain unpaid for a long time, especially if a significant part is not paid before the issue of the audit report for the following year. Generally the firm is expected to require payment of such fees before such audit report is issued. If fees remain unpaid after the report has been issued, the existence and significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard

is having an additional *registered auditor*, who did not take part in the audit engagement, provide advice or review the work performed. The firm shall determine whether the overdue fees might be regarded as being equivalent to a loan to the client and whether, because of the significance of the overdue fees, it is appropriate for the firm to be re-appointed or continue the audit engagement.

## **Contingent Fees**

290.224 Contingent fees are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm. For the purposes of this section, a fee is not regarded as being contingent if established by a court or other public authority.

290.225 A contingent fee charged directly or indirectly, for example through an intermediary, by a firm in respect of an audit engagement creates a self-interest threat that is so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm shall not enter into any such fee arrangement.

290.226 A contingent fee charged directly or indirectly, for example through an intermediary, by a firm in respect of a non-assurance service provided to an audit client may also create a self-interest threat. The threat created would be so significant that no safeguards could reduce the threat to an acceptable level if:

- (a) The fee is charged by the firm expressing the opinion on the financial statements and the fee is material or expected to be material to that firm;
- (b) The fee is charged by a network firm that participates in a significant part of the audit and the fee is material or expected to be material to that firm;  
or
- (c) The outcome of the non-assurance service, and therefore the amount of the fee, is dependent on a future or contemporary judgment related to the audit of a material amount in the financial statements.

Accordingly, such arrangements shall not be accepted.

290.227 For other contingent fee arrangements charged by a firm for a non-assurance service to an audit client, the existence and significance of any threats will depend on factors such as:

- The range of possible fee amounts;
- Whether an appropriate authority determines the outcome of the matter upon which the contingent fee will be determined;
- The nature of the service; and
- The effect of the event or transaction on the financial statements.

The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level. Examples of such safeguards include:

- Having a registered auditor review the relevant audit work or otherwise advise as necessary; or
- Using professionals who are not members of the audit team to perform the non-assurance service.

## COMPENSATION AND EVALUATION POLICIES

290.228 A self-interest threat is created when a member of the audit team is evaluated on or compensated for selling non-assurance services to that audit client. The significance of the threat will depend on:

- The proportion of the individual's compensation or performance evaluation that is based on the sale of such services;
- The role of the individual on the audit team; and
- Whether promotion decisions are influenced by the sale of such services.

The significance of the threat shall be evaluated and, if the threat is not at an acceptable level, the firm shall either revise the compensation plan or evaluation process for that individual or apply safeguards to eliminate the threat or reduce it to an acceptable level.

Examples of such safeguards include:

- Removing such members from the audit team; or
- Having a registered auditor review the work of the member of the audit team.

290.229 A key audit partner shall not be evaluated on or compensated based on that partner's success in selling non-assurance services to the partner's audit client. This is not intended to prohibit normal profit-sharing arrangements between partners of a firm.

## GIFTS AND HOSPITALITY

290.230 Accepting gifts or hospitality from an audit client may create self-interest and familiarity threats. If a firm or a member of the audit team accepts gifts or hospitality, unless the value is trivial and inconsequential, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level. Consequently, a firm or a member of the audit team shall not accept such gifts or hospitality.

## ACTUAL OR THREATENED LITIGATION

290.231 When litigation takes place, or appears likely, between the firm or a member of the audit team and the audit client, self-interest and intimidation threats are created. The relationship between client management and the members of the audit team must be characterized by complete candor and full disclosure regarding all aspects of a client's business operations. When the firm and the client's management are placed in adversarial positions by actual or threatened litigation, affecting management's willingness to make complete disclosures, self-interest and intimidation threats are created. The significance of the threats created will depend on such factors as:

- The materiality of the litigation; and
- Whether the litigation relates to a prior audit engagement.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level.

Examples of such safeguards include:

- If the litigation involves a member of the audit team, removing that individual from the audit team; or
- Having a professional review the work performed.

If such safeguards do not reduce the threats to an acceptable level, the only appropriate action is to withdraw from, or decline, the audit engagement.

**Paragraphs 290.232 to 290.499 are intentionally left blank.**

## REPORTS THAT INCLUDE A RESTRICTION ON USE AND DISTRIBUTION

### Introduction

290.500 The independence requirements in Section 290 apply to all audit engagements. However, in certain circumstances involving audit engagements where the report includes a restriction on use and distribution, and provided the conditions described in paragraphs 290.501 to 290.502 are met, the independence requirements in this section may be modified as provided in paragraphs 290.505 to 290.514. These paragraphs are only applicable to an audit engagement on special purpose financial statements:

- (a) that is intended to provide a conclusion in positive or negative form that the financial statements are prepared in all material respects, in accordance with the applicable financial reporting framework, including, in the case of a fair presentation framework, that the financial statements give a true and fair view or are presented fairly, in all material respects, in accordance with the applicable financial reporting framework, and

- (b) where the audit report includes a restriction on use and distribution. The modifications are not permitted in the case of an audit of financial statements required by law or regulation.

290.501 The modifications to the requirements of Section 290 are permitted if the intended users of the report

- (a) are knowledgeable as to the purpose and limitations of the report, and
- (b) explicitly agree to the application of the modified independence requirements.

Knowledge as to the purpose and limitations of the report may be obtained by the intended users through their participation, either directly or indirectly through their representative who has the authority to act for the intended users, in establishing the nature and scope of the engagement. Such participation enhances the ability of the firm to communicate with intended users about independence matters, including the circumstances that are relevant to the evaluation of the threats to independence and the applicable safeguards necessary to eliminate the threats or reduce them to an acceptable level, and to obtain their agreement to the modified independence requirements that are to be applied.

290.502 The firm shall communicate (for example, in an engagement letter) with the intended users regarding the independence requirements that are to be applied with respect to the provision of the audit engagement. Where the intended users are a class of users (for example, lenders in a syndicated loan arrangement) who are not specifically identifiable by name at the time the engagement terms are established, such users shall subsequently be made aware of the independence requirements agreed to by the representative *of the class of users* (for example, by the representative making the firm's engagement letter available to all users).

290.503 If the firm also issues an audit report that does not include a restriction on use and distribution for the same client, the provisions of paragraphs 290.500 to 290.514 do not change the requirement to apply the provisions of paragraphs 290.1 to 290.231 to that audit engagement.

290.504 The modifications to the requirements of Section 290 that are permitted in the circumstances set out above are described in paragraphs 290.505 to 290.514. Compliance in all other respects with the provisions of Section 290 is required.

### **Public Interest Entities**

290.505 When the conditions set out in paragraphs 290.500 to 290.502 are met, it is not necessary to apply the additional requirements in paragraphs 290.100 to 290.232 that apply to audit engagements for public interest entities.

## **Related Entities**

290.506 When the conditions set out in paragraphs 290.500 to 290.502 are met, references to audit client do not include its related entities. However, when the audit team knows or has reason to believe that a relationship or circumstance involving a related entity of the client is relevant to the evaluation of the firm's independence of the client, the audit team shall include that related entity when identifying and evaluating threats to independence and applying appropriate safeguards.

## **Networks and Network Firms**

290.507 When the conditions set out in paragraphs 290.500 to 290.502 are met, reference to the firm does not include network firms. However, when the firm knows or has reason to believe that threats are created by any interests and relationships of a network firm, they shall be included in the evaluation of threats to independence.

## **Financial Interests, Loans and Guarantees, Close Business Relationships and Family and Personal Relationships**

290.508 When the conditions set out in paragraphs 290.500 to 290.502 are met, the relevant provisions set out in paragraphs 290.102 to 290.145 apply only to the members of the engagement team, their immediate family members and close family members.

290.509 In addition, a determination shall be made as to whether threats to independence are created by interests and relationships, as described in paragraphs 290.102 to 290.145, between the audit client and the following members of the audit team:

- (a) Those who provide consultation regarding technical or industry specific issues, transactions or events; and
- (b) Those who provide quality control for the engagement, including those who perform the engagement quality control review.

An evaluation shall be made of the significance of any threats that the engagement team has reason to believe are created by interests and relationships between the audit client and others within the firm who can directly influence the outcome of the audit engagement, including those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the audit engagement partner in connection with the performance of the audit engagement (including those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent)).

290.510 An evaluation shall also be made of the significance of any threats that the engagement team has reason to believe are created by financial interests in

the audit client held by individuals, as described in paragraphs 290.108 to 290.111 and paragraphs 290.113 to 290.115.

290.511 Where a threat to independence is not at an acceptable level, safeguards shall be applied to eliminate the threat or reduce it to an acceptable level.

290.512 In applying the provisions set out in paragraphs 290.106 and 290.115 to interests of the firm, if the firm has a material financial interest, whether direct or indirect, in the audit client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, the firm shall not have such a financial interest.

### **Employment with an Audit Client**

290.513 An evaluation shall be made of the significance of any threats from any employment relationships as described in paragraphs 290.134 to 290.138. Where a threat exists that is not at an acceptable level, safeguards shall be applied to eliminate the threat or reduce it to an acceptable level. Examples of safeguards that might be appropriate include those set out in paragraph 290.136.

### **Provision of Non-Assurance Services**

290.514 If the firm conducts an engagement to issue a restricted use and distribution report for an audit client and provides a non-assurance service to the audit client, the provisions of paragraphs 290.156 to 290.232 shall be complied with, subject to paragraphs 290.504 to 290.507.

SECTION 291  
INDEPENDENCE – OTHER ASSURANCE ENGAGEMENTS

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## STRUCTURE OF SECTION

- 291.1 This section addresses independence requirements for assurance engagements that are not audit or review engagements. Independence requirements for audit and review engagements are addressed in Section 290. If the assurance client is also an audit or review client, the requirements in Section 290 also apply to the firm, network firms and members of the audit or review team. In certain circumstances involving assurance engagements where the assurance report includes a restriction on use and distribution and provided certain conditions are met, the independence requirements in this section may be modified as provided in 291.21 to 291.27.
- 291.2 Assurance engagements are designed to enhance intended users' degree of confidence about the outcome of the evaluation or measurement of a subject matter against criteria. The International Framework for Assurance Engagements (the Assurance Framework) issued by the International Auditing and Assurance Standards Regulatory Board describes the elements and objectives of an assurance engagement and identifies engagements to which International Standards on Assurance Engagements (ISAEs) apply. For a description of the elements and objectives of an assurance engagement, refer to the Assurance Framework.
- 291.3 Compliance with the fundamental principle of objectivity requires being independent of assurance clients. In the case of assurance engagements, it is in the public interest and, therefore, required by this Code of Ethics, that members of assurance teams and firms be independent of assurance clients and that any threats that the firm has reason to believe are created by a network firm's interests and relationships be evaluated. In addition, when the assurance team knows or has reason to believe that a relationship or circumstance involving a related entity of the assurance client is relevant to the evaluation of the firm's independence from the client, the assurance team shall include that related entity when identifying and evaluating threats to independence and applying appropriate safeguards.

## A CONCEPTUAL FRAMEWORK APPROACH TO INDEPENDENCE

- 291.4 The objective of this section is to assist firms and members of assurance teams in applying the conceptual framework approach described below to achieving and maintaining independence.
- 291.5 Independence comprises:
- (a) *Independence of Mind*
- The state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby

allowing an individual to act with integrity and exercise objectivity and professional scepticism.

(b) *Independence in Appearance*

The avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm's, or a member of the assurance team's, integrity, objectivity or professional scepticism has been compromised.

291.6 The conceptual framework approach shall be applied by registered auditors to:

- (a) Identify threats to independence;
- (b) Evaluate the significance of the threats identified; and
- (c) Apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level.

When the registered auditor determines that appropriate safeguards are not available or cannot be applied to eliminate the threats or reduce them to an acceptable level, the registered auditor shall eliminate the circumstance or relationship creating the threats or decline or terminate the assurance engagement.

A registered auditor shall use professional judgment in applying this conceptual framework.

291.7 Many different circumstances, or combinations of circumstances, may be relevant in assessing threats to independence. It is impossible to define every situation that creates threats to independence and to specify the appropriate action. Therefore, this Code establishes a conceptual framework that requires firms and members of assurance teams to identify, evaluate, and address threats to independence. The conceptual framework approach assists registered auditors in complying with the ethical requirements in this Code. It accommodates many variations in circumstances that create threats to independence and can deter a registered auditor from concluding that a situation is permitted if it is not specifically prohibited.

291.8 Paragraphs 291.100 and onwards describe how the conceptual framework approach to independence is to be applied. These paragraphs do not address all the circumstances and relationships that create or may create threats to independence.

291.9 In deciding whether to accept or continue an engagement, or whether a particular individual may be a member of the assurance team, a firm shall identify and evaluate any threats to independence. If the threats are not at an acceptable level, and the decision is whether to accept an engagement or

include a particular individual on the assurance team, the firm shall determine whether safeguards are available to eliminate the threats or reduce them to an acceptable level. If the decision is whether to continue an engagement, the firm shall determine whether any existing safeguards will continue to be effective to eliminate the threats or reduce them to an acceptable level or whether other safeguards will need to be applied or whether the engagement needs to be terminated. Whenever new information about a threat comes to the attention of the firm during the engagement, the firm shall evaluate the significance of the threat in accordance with the conceptual framework approach.

- 291.10 Throughout this section, reference is made to the significance of threats to independence. In evaluating the significance of a threat, qualitative as well as quantitative factors shall be taken into account.
- 291.11 This section does not, in most cases, prescribe the specific responsibility of individuals within the firm for actions related to independence because responsibility may differ depending on the size, structure and organisation of a firm. The firm is required by International Standards on Quality Control to establish policies and procedures designed to provide it with reasonable assurance that independence is maintained when required by relevant ethical standards.

## ASSURANCE ENGAGEMENTS

- 291.12 As further explained in the Assurance Framework, in an assurance engagement the *registered auditor* expresses a conclusion designed to enhance the degree of confidence of the intended users (other than the responsible party) about the outcome of the evaluation or measurement of a subject matter against criteria.
- 291.13 The outcome of the evaluation or measurement of a subject matter is the information that results from applying the criteria to the subject matter. The term “subject matter information” is used to mean the outcome of the evaluation or measurement of a subject matter. For example, the Framework states that an assertion about the effectiveness of internal control (subject matter information) results from applying a framework for evaluating the effectiveness of internal control, such as COSO<sup>7</sup> or CoCo<sup>8</sup> (criteria), to internal control, a process (subject matter).
- 291.14 Assurance engagements may be assertion-based or direct reporting. In either case, they involve three separate parties: a *registered auditor*, a responsible party and intended users.

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<sup>7</sup> “Internal Control – Integrated Framework” The Committee of Sponsoring Organizations of the Treadway Commission

<sup>8</sup> “Guidance on Assessing Control – The CoCo Principles” Criteria of Control Board. The Canadian Institute of Chartered Accountants.

- 291.15 In an assertion-based assurance engagement, the evaluation or measurement of the subject matter is performed by the responsible party, and the subject matter information is in the form of an assertion by the responsible party that is made available to the intended users.
- 291.16 In a direct reporting assurance engagement, the registered auditor either directly performs the evaluation or measurement of the subject matter, or obtains a representation from the responsible party that has performed the evaluation or measurement that is not available to the intended users. The subject matter information is provided to the intended users in the assurance report.

## **ASSERTION-BASED ASSURANCE ENGAGEMENTS**

- 291.17 In an assertion-based assurance engagement, the members of the assurance team and the firm shall be independent of the assurance client (the party responsible for the subject matter information, and which may be responsible for the subject matter). Such independence requirements prohibit certain relationships between members of the assurance team and
- (a) directors or officers; and
  - (b) individuals at the client in a position to exert significant influence over the subject matter information.

Also, a determination shall be made as to whether threats to independence are created by relationships with individuals at the client in a position to exert significant influence over the subject matter of the engagement. An evaluation shall be made of the significance of any threats that the firm has reason to believe are created by network firm<sup>9</sup> interests and relationships.

- 291.18 In the majority of assertion-based assurance engagements, the responsible party is responsible for both the subject matter information and the subject matter. However, in some engagements, the responsible party may not be responsible for the subject matter. For example, when a registered auditor is engaged to perform an assurance engagement regarding a report that an environmental consultant has prepared about a company's sustainability practices for distribution to intended users, the environmental consultant is the responsible party for the subject matter information but the company is responsible for the subject matter (the sustainability practices).
- 291.19 In assertion-based assurance engagements where the responsible party is responsible for the subject matter information but not the subject matter, the members of the assurance team and the firm shall be independent of the party responsible for the subject matter information (the assurance client). In addition, an evaluation shall be made of any threats the firm has reason to believe are

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<sup>9</sup> See paragraphs 290.13 to 290.24 for guidance on what constitutes a network firm.

created by interests and relationships between a member of the assurance team, the firm, a network firm and the party responsible for the subject matter.

## **DIRECT REPORTING ASSURANCE ENGAGEMENTS**

291.20 In a direct reporting assurance engagement, the members of the assurance team and the firm shall be independent of the assurance client (the party responsible for the subject matter). An evaluation shall also be made of any threats the firm has reason to believe are created by network firm interests and relationships.

## **REPORTS THAT INCLUDE A RESTRICTION ON USE AND DISTRIBUTION**

291.21 In certain circumstances where the assurance report includes a restriction on use and distribution, and provided the conditions in this paragraph and in 291.22 are met, the independence requirements in this section may be modified. The modifications to the requirements of Section 291 are permitted if the intended users of the report:

- (a) are knowledgeable as to the purpose, subject matter information and limitations of the report; and
- (b) explicitly agree to the application of the modified independence requirements.

Knowledge as to the purpose, subject matter information, and limitations of the report may be obtained by the intended users through their participation, either directly or indirectly through their representative who has the authority to act for the intended users, in establishing the nature and scope of the engagement. Such participation enhances the ability of the firm to communicate with intended users about independence matters, including the circumstances that are relevant to the evaluation of the threats to independence and the applicable safeguards necessary to eliminate the threats or reduce them to an acceptable level, and to obtain their agreement to the modified independence requirements that are to be applied.

291.22 The firm shall communicate (for example, in an engagement letter) with the intended users regarding the independence requirements that are to be applied with respect to the provision of the assurance engagement. Where the intended users are a class of users (for example, lenders in a syndicated loan arrangement) who are not specifically identifiable by name at the time the engagement terms are established, such users shall subsequently be made aware of the independence requirements agreed to by the representative (for example, by the representative making the firm's engagement letter available to all users).

- 291.23 If the firm also issues an assurance report that does not include a restriction on use and distribution for the same client, the provisions of paragraphs 291.25 to 291.27 do not change the requirement to apply the provisions of paragraphs 291.1 to 291.159 to that assurance engagement. If the firm also issues an audit report, whether or not it includes a restriction on use and distribution, for the same client, the provisions of Section 290 shall apply to that audit engagement.
- 291.24 The modifications to the requirements of Section 291 that are permitted in the circumstances set out above are described in paragraphs 291.25 to 291.27. Compliance in all other respects with the provisions of Section 291 is required.
- 291.25 When the conditions set out in paragraphs 291.21 and 291.22 are met, the relevant provisions set out in paragraphs 291.104 to 291.134 apply to all members of the engagement team, and their immediate and close family members. In addition, a determination shall be made as to whether threats to independence are created by interests and relationships between the assurance client and the following other members of the assurance team:
- (a) Those who provide consultation regarding technical or industry specific issues, transactions or events; and
  - (b) Those who provide quality control for the engagement, including those who perform the engagement quality control review.
- An evaluation shall also be made, by reference to the provisions set out in paragraphs 291.104 to 291.134, of any threats that the engagement team has reason to believe are created by interests and relationships between the assurance client and others within the firm who can directly influence the outcome of the assurance engagement, including those who recommend the compensation, or who provide direct supervisory, management or other oversight, of the assurance engagement partner in connection with the performance of the assurance engagement.
- 291.26 Even though the conditions set out in paragraphs 291.21 to 291.22 are met, if the firm had a material financial interest, whether direct or indirect, in the assurance client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, the firm shall not have such a financial interest. In addition, the firm shall comply with the other applicable provisions of this section described in paragraphs 291.113 to 291.159.
- 291.27 An evaluation shall also be made of any threats that the firm has reason to believe are created by network firm interests and relationships.

## MULTIPLE RESPONSIBLE PARTIES

291.28 In some assurance engagements, whether assertion-based or direct reporting, there might be several responsible parties. In determining whether it is necessary to apply the provisions in this section to each responsible party in such engagements, the firm may take into account whether an interest or relationship between the firm, or a member of the assurance team, and a particular responsible party would create a threat to independence that is not trivial and inconsequential in the context of the subject matter information. This will take into account factors such as:

- The materiality of the subject matter information (or of the subject matter) for which the particular responsible party is responsible; and
- The degree of public interest associated with the engagement.

If the firm determines that the threat to independence created by any such interest or relationship with a particular responsible party would be trivial and inconsequential, it may not be necessary to apply all of the provisions of this section to that responsible party.

## Documentation

291.29 Documentation provides evidence of the registered auditor's judgments in forming conclusions regarding compliance with independence requirements. The absence of documentation is not a determinant of whether a firm considered a particular matter nor whether it is independent.

The registered auditor shall document conclusions regarding compliance with independence requirements, and the substance of any relevant discussions that support those conclusions. Accordingly:

- (a) When safeguards are required to reduce a threat to an acceptable level, the registered auditor shall document the nature of the threat and the safeguards in place or applied that reduce the threat to an acceptable level; and
- (b) When a threat required significant analysis to determine whether safeguards were necessary and the registered auditor concluded that they were not because the threat was already at an acceptable level, the registered auditor shall document the nature of the threat and the rationale for the conclusion.

## ENGAGEMENT PERIOD

291.30 Independence from the assurance client is required both during the engagement period and the period covered by the subject matter information.

The engagement period starts when the assurance team begins to perform assurance services with respect to the particular engagement. The engagement period ends when the assurance report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has terminated or the issuance of the final assurance report.

- 291.31 When an entity becomes an assurance client during or after the period covered by the subject matter information on which the firm will express a conclusion, the firm shall determine whether any threats to independence are created by:
- (a) Financial or business relationships with the assurance client during or after the period covered by the subject matter information but before accepting the assurance engagement; or
  - (b) Previous services provided to the assurance client.

- 291.32 If a non-assurance service was provided to the assurance client during or after the period covered by the subject matter information but before the assurance team begins to perform assurance services and the service would not be permitted during the period of the assurance engagement, the firm shall evaluate any threat to independence created by the service. If any threat is not at an acceptable level, the assurance engagement shall only be accepted if safeguards are applied to eliminate any threats or reduce them to an acceptable level. Examples of such safeguards include:

- Not including personnel who provided the non-assurance service as members of the assurance team;
- Having a registered auditor review the assurance and non-assurance work as appropriate; or
- Engaging another firm to evaluate the results of the non-assurance service or having another firm re-perform the non-assurance service to the extent necessary to enable it to take responsibility for the service.

However, if the non-assurance service has not been completed and it is not practical to complete or terminate the service before the commencement of professional services in connection with the assurance engagement, the firm shall only accept the assurance engagement if it is satisfied:

- (a) The non-assurance service will be completed within a short period of time; or
- (b) The client has arrangements in place to transition the service to another provider within a short period of time.

During the service period, safeguards shall be applied when necessary. In addition, the matter shall be discussed with those charged with governance.

## OTHER CONSIDERATIONS

291.33 There may be occasions when there is an inadvertent violation of this section. If such an inadvertent violation occurs, it generally will be deemed not to compromise independence provided the firm has appropriate quality control policies and procedures in place equivalent to those required by International Standards on Quality Control to maintain independence and, once discovered, the violation is corrected promptly and any necessary safeguards are applied to eliminate any threat or reduce it to an acceptable level. The firm shall determine whether to discuss the matter with those charged with governance.

**Paragraphs 291.34 to 291.99 are intentionally left blank.**

## APPLICATION OF THE CONCEPTUAL FRAMEWORK APPROACH TO INDEPENDENCE

291.100 Paragraphs 291.104 to 291.159 describe specific circumstances and relationships that create or may create threats to independence. The paragraphs describe the potential threats and the types of safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level and identify certain situations where no safeguards could reduce the threats to an acceptable level. The paragraphs do not describe all of the circumstances and relationships that create or may create a threat to independence. The firm and the members of the assurance team shall evaluate the implications of similar, but different, circumstances and relationships and determine whether safeguards, including the safeguards in paragraphs 200.11 to 200.14 can be applied when necessary to eliminate the threats to independence or reduce them to an acceptable level.

291.101 The paragraphs demonstrate how the conceptual framework approach applies to assurance engagements and are to be read in conjunction with paragraph 291.28 which explains that, in the majority of assurance engagements, there is one responsible party and that responsible party is the assurance client. However, in some assurance engagements there are two or more responsible parties. In such circumstances, an evaluation shall be made of any threats the firm has reason to believe are created by interests and relationships between a member of the assurance team, the firm, a network firm and the party responsible for the subject matter. For assurance reports that include a restriction on use and distribution, the paragraphs are to be read in the context of paragraphs 291.21 to 291.27.

291.102 **Interpretation 2005-01** provides further guidance on applying the independence requirements contained in this section to assurance engagements.

291.103 Paragraphs 291.104 to 291.120 contain references to the materiality of a financial interest, loan, or guarantee, or the significance of a business relationship. For the purpose of determining whether such an interest is material to an individual, the combined net worth of the individual and the individual's immediate family members may be taken into account.

## **FINANCIAL INTERESTS**

### Introduction

291.104 Holding a financial interest in an assurance client may create a self-interest threat. The existence and significance of any threat created depends on:

- (a) the role of the person holding the financial interest,
- (b) whether the financial interest is direct or indirect, and
- (c) the materiality of the financial interest.

291.105 Financial interests may be held through an intermediary (e.g. a collective investment vehicle, estate or trust). The determination of whether such financial interests are direct or indirect will depend upon whether the beneficial owner has control over the investment vehicle or the ability to influence its investment decisions. When control over the investment vehicle or the ability to influence investment decisions exists, this Code defines that financial interest to be a direct financial interest. Conversely, when the beneficial owner of the financial interest has no control over the investment vehicle or ability to influence its investment decisions, this Code defines that financial interest to be an indirect financial interest.

### Financial interest in an assurance client

291.106 If a member of the assurance team, a member of that individual's immediate family, or a firm, has a direct financial interest or a material indirect financial interest in the assurance client, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, none of the following shall have such a financial interest: a member of the audit team; a member of that individual's immediate family; and the firm.

### Close family holding a financial interest in an assurance client

291.107 When a member of the assurance team has a close family member who the assurance team member knows has a direct financial interest or a material indirect financial interest in the assurance client, a self-interest threat is created. The significance of the threat will depend on factors such as:

- The nature of the relationship between the member of the assurance team and the close family member; and

- The materiality of the financial interest to the close family member.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- The close family member disposing, as soon as practicable, of all of the financial interest or disposing of a sufficient portion of an indirect financial interest so that the remaining interest is no longer material;
- Having a registered auditor review the work of the member of the assurance team; or
- Removing the individual from the assurance team.

*Financial interest in an entity that is holding a financial interest in an assurance client*

291.108 If a member of the assurance team, a member of that individual's immediate family, or a firm has a direct or material indirect financial interest in an entity that has a controlling interest in the assurance client, and the client is material to the entity, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, none of the following shall have such a financial interest: a member of the assurance team; a member of that individual's immediate family; and the firm.

*Financial interest in an assurance client as a trustee*

291.109 The holding by a firm or a member of the assurance team, or a member of that individual's immediate family, of a direct financial interest or a material indirect financial interest in the assurance client as a trustee creates a self-interest threat. Such an interest shall not be held unless:

- (a) Neither the trustee, nor an immediate family member of the trustee, nor the firm are beneficiaries of the trust;
- (b) The interest in the assurance client held by the trust is not material to the trust;
- (c) The trust is not able to exercise significant influence over the assurance client; and
- (d) The trustee, an immediate family member of the trustee, or the firm cannot significantly influence any investment decision involving a financial interest in the assurance client.

291.110 Members of the assurance team shall determine whether a self-interest threat is created by any known financial interests in the assurance client held by other individuals including:

- Partners and professional employees of the firm, other than those referred to above, or their immediate family members; and

- Individuals with a close personal relationship with a member of the assurance team.

Whether these interests create a self-interest threat will depend on factors such as:

- The firm's organisational, operating and reporting structure; and
- The nature of the relationship between the individual and the member of the assurance team.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the member of the assurance team with the personal relationship from the assurance team;
- Excluding the member of the assurance team from any significant decision-making concerning the assurance engagement; or
- Having a registered auditor review the work of the member of the assurance team.

*Financial interest received by way of an inheritance, gift or as a result of a merger*

291.111 If a firm, a member of the assurance team, or an immediate family member of the individual, receives a direct financial interest or a material indirect financial interest in an assurance client, for example, by way of an inheritance, gift or as a result of a merger, and such interest would not be permitted to be held under this section, then:

- (a) If the interest is received by the firm, the financial interest shall be disposed of immediately, or a sufficient amount of an indirect financial interest shall be disposed of so that the remaining interest is no longer material, or
- (b) If the interest is received by a member of the assurance team, or a member of that individual's immediate family, the individual who received the financial interest shall immediately dispose of the financial interest, or dispose of a sufficient amount of an indirect financial interest so that the remaining interest is no longer material.

*Inadvertent violation*

291.112 When an inadvertent violation of this section as it relates to a financial interest in an assurance client occurs, it is deemed not to compromise independence if:

- (a) The firm has established policies and procedures that require prompt notification to the firm of any breaches resulting from the purchase, inheritance or other acquisition of a financial interest in the assurance client;

- (b) The actions taken in paragraph 291.111(a) – (b) are taken as applicable; and
- (c) The firm applies other safeguards when necessary to reduce any remaining threat to an acceptable level. Examples of such safeguards include:
  - Having a registered auditor review the work of the member of the assurance team; or
  - Excluding the individual from any significant decision-making concerning the assurance engagement.

The firm shall determine whether to discuss the matter with those charged with governance.

## LOANS AND GUARANTEES

### A loan or guarantee of a loan from an assurance client that is a bank

291.113 A loan, or a guarantee of a loan, to a member of the assurance team, or a member of that individual's immediate family, or the firm from an assurance client that is a bank or a similar institution, may create a threat to independence. If the loan or guarantee is not made under normal lending procedures, terms and conditions, a self-interest threat would be created that would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, neither a member of the assurance team, a member of that individual's immediate family, nor a firm shall accept such a loan or guarantee.

291.114 If a loan to a firm from an assurance client that is a bank or similar institution is made under normal lending procedures, terms and conditions and it is material to the assurance client or firm receiving the loan, it may be possible to apply safeguards to reduce the self-interest threat to an acceptable level. An example of such a safeguard is having the work reviewed by a registered auditor from a network firm that is neither involved with the assurance engagement nor received the loan.

291.115 A loan, or a guarantee of a loan, from an assurance client that is a bank or a similar institution to a member of the assurance team, or a member of that individual's immediate family, does not create a threat to independence if the loan or guarantee is made under normal lending procedures, terms and conditions. Examples of such loans include home mortgages, bank overdrafts, car loans and credit card balances.

### A loan or guarantee of a loan from an assurance client other than a bank

291.116 If the firm or a member of the assurance team, or a member of that individual's immediate family, accepts a loan from, or has a borrowing guaranteed by, an assurance client that is not a bank or similar institution, or any director or officer

*of the audit client*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level, unless the loan or guarantee is immaterial to both the firm, or the member of the assurance team and the immediate family member, and the client.

*A loan or guarantee of a loan made to an assurance client*

291.117 Similarly, if the firm, or a member of the assurance team, or a member of that individual's immediate family, makes or guarantees a loan to an assurance client *or any director or officer of the audit client*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level, unless the loan or guarantee is immaterial to both the firm, or the member of the assurance team and the immediate family member, and the client.

*Deposits or brokerage accounts*

291.118 If a firm or a member of the assurance team, or a member of that individual's immediate family, has deposits or a brokerage account with an assurance client that is a bank, broker, or similar institution, a threat to independence is not created if the deposit or account is held under normal commercial terms.

## **BUSINESS RELATIONSHIPS**

291.119 A close business relationship between a firm, or a member of the assurance team, or a member of that individual's immediate family, and the assurance client or its management arises from a commercial relationship or common financial interest and may create self-interest or intimidation threats. Examples of such relationships include:

- Having a financial interest in a joint venture with either the client, or a controlling owner, director or officer or other individual who performs senior managerial activities for that client.
- Arrangements to combine one or more services or products of the firm with one or more services or products of the client and to market the package with reference to both parties.
- Distribution or marketing arrangements under which the firm distributes or markets the client's products or services, or the client distributes or markets the firm's products or services.

Unless any financial interest is immaterial and the business relationship is insignificant to the firm and the client or its management, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Therefore, unless the financial interest is immaterial and the business relationship is insignificant, the business relationship shall not be entered into, or shall be reduced to an insignificant level or terminated.

In the case of a member of the assurance team, unless any such financial interest is immaterial and the relationship is insignificant to that member, the individual shall be removed from the assurance team.

If the business relationship is between an immediate family member of a member of the assurance team and the assurance client or its management, the significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level.

291.120 The purchase of goods and services from an assurance client by the firm, or a member of the assurance team, or a member of that individual's immediate family, does not generally create a threat to independence if the transaction is in the normal course of business and at arm's length. However, such transactions may be of such a nature or magnitude that they create a self-interest threat. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Eliminating or reducing the magnitude of the transaction; or
- Removing the individual from the assurance team.

## **Family and Personal Relationships**

### Introduction

291.121 Family and personal relationships between a member of the assurance team and a director or officer or certain employees (depending on their role) of the assurance client, may create self-interest, familiarity or intimidation threats. The existence and significance of any threats will depend on a number of factors, including the individual's responsibilities on the assurance team, the role of the family member or other individual within the client, and the closeness of the relationship.

*Immediate family is a director or in a position to exert significant influence*

291.122 When an immediate family member of a member of the assurance team is:

- (a) A director or officer of the assurance client, or
- (b) An employee in a position to exert significant influence over the subject matter information of the assurance engagement,

or was in such a position during any period covered by the engagement or the subject matter information, the threats to independence can only be reduced to an acceptable level by removing the individual from the assurance team. The closeness of the relationship is such that no other safeguards could reduce the threat to an acceptable level. Accordingly, no individual who has such a relationship shall be a member of the assurance team.

291.123 Threats to independence are created when an immediate family member of a member of the assurance team is an employee in a position to exert significant influence over the subject matter of the engagement. The significance of the threats will depend on factors such as:

- The position held by the immediate family member; and
- The role of the professional on the assurance team.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the individual from the assurance team; or
- Structuring the responsibilities of the assurance team so that the professional does not deal with matters that are within the responsibility of the immediate family member.

*Close family is a director or in a position to exert significant influence*

291.124 Threats to independence are created when a close family member of a member of the assurance team is:

- A director or officer of the assurance client; or
- An employee in a position to exert significant influence over the subject matter information of the assurance engagement.

The significance of the threats will depend on factors such as:

- The nature of the relationship between the member of the assurance team and the close family member;
- The position held by the close family member; and
- The role of the professional on the assurance team.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the individual from the assurance team; or
- Structuring the responsibilities of the assurance team so that the professional does not deal with matters that are within the responsibility of the close family member.

*Close relationship with a director or employee in a position to exert significant influence*

291.125 Threats to independence are created when a member of the assurance team has a close relationship with a person who is not an immediate or close family member, but who is a director or officer or an employee in a position to exert significant influence over the subject matter information of the assurance engagement. A member of the assurance team who has such a relationship

shall consult in accordance with firm policies and procedures. The significance of the threats will depend on factors such as:

- The nature of the relationship between the individual and the member of the assurance team;
- The position the individual holds with the client; and
- The role of the professional on the assurance team.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level.

Examples of such safeguards include:

- Removing the professional from the assurance team; or
- Structuring the responsibilities of the assurance team so that the professional does not deal with matters that are within the responsibility of the individual with whom the professional has a close relationship.

*Other personal or family relationships with a director or employee in a position to exert significant influence*

291.126 Self-interest, familiarity or intimidation threats may be created by a personal or family relationship between

- (a) a partner or employee of the firm who is not a member of the assurance team, and
- (b) a director or officer of the assurance client or an employee in a position to exert significant influence over the subject matter information of the assurance engagement.

The existence and significance of any threat will depend on factors such as:

- The nature of the relationship between the partner or employee of the firm and the director or officer or employee of the client;
- The interaction of the partner or employee of the firm with the assurance team;
- The position of the partner or employee within the firm; and
- The role of the individual within the client.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Structuring the partner's or employee's responsibilities to reduce any potential influence over the assurance engagement; or
- Having a registered auditor review the relevant assurance work performed.

### *Inadvertent violation*

291.127 When an inadvertent violation of this section as it relates to family and personal relationships occurs, it is deemed not to compromise independence if:

- (a) The firm has established policies and procedures that require prompt notification to the firm of any breaches resulting from changes in the employment status of their immediate or close family members or other personal relationships that create threats to independence;
- (b) The inadvertent violation relates to an immediate family member of a member of the assurance team becoming a director or officer of the assurance client or being in a position to exert significant influence over the subject matter information of the assurance engagement, and the relevant professional is removed from the assurance team; and
- (c) The firm applies other safeguards when necessary to reduce any remaining threat to an acceptable level. Examples of such safeguards include:
  - Having a registered auditor review the work of the member of the assurance team; or
  - Excluding the relevant professional from any significant decision-making concerning the engagement.

The firm shall determine whether to discuss the matter with those charged with governance.

## **EMPLOYMENT WITH ASSURANCE CLIENTS**

*A former partner or member of the assurance team joins an assurance client*

291.128 Familiarity or intimidation threats may be created if a director or officer of the assurance client, or an employee who is in a position to exert significant influence over the subject matter information of the assurance engagement, has been a member of the assurance team or partner of the firm.

291.129 If a former member of the assurance team or partner of the firm has joined the assurance client in such a position, the existence and significance of any familiarity or intimidation threats will depend on factors such as:

- The position the individual has taken at the client;
- Any involvement the individual will have with the assurance team;
- The length of time since the individual was a member of the assurance team or partner of the firm; and
- The former position of the individual within the assurance team or firm, for example, whether the individual was responsible for maintaining regular contact with the client's management or those charged with governance.

In all cases the individual shall not continue to participate in the firm's business or professional activities.

The significance of any threats created shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level. Examples of such safeguards include:

- Making arrangements such that the individual is not entitled to any benefits or payments from the firm, unless made in accordance with fixed pre-determined arrangements.
- Making arrangements such that any amount owed to the individual is not material to the firm;
- Modifying the plan for the assurance engagement;
- Assigning individuals to the assurance team who have sufficient experience in relation to the individual who has joined the client; or
- Having a registered auditor review the work of the former member of the assurance team.

*A former partner joins an entity that subsequently becomes an assurance client*

291.130 If a former partner of the firm has previously joined an entity in such a position and the entity subsequently becomes an assurance client of the firm, the significance of any threats to independence shall be evaluated and safeguards applied when necessary, to eliminate the threat or reduce it to an acceptable level.

*Assurance team members entering into employment negotiations with an assurance client*

291.131 A self-interest threat is created when a member of the assurance team participates in the assurance engagement while knowing that the member of the assurance team will, or may, join the client sometime in the future. Firm policies and procedures shall require members of an assurance team to notify the firm when entering employment negotiations with the client. On receiving such notification, the significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Removing the individual from the assurance team; or
- A review of any significant judgments made by that individual while on the team.

## **RECENT SERVICE WITH AN ASSURANCE CLIENT**

291.132 Self-interest, self-review or familiarity threats may be created if a member of the assurance team has recently served as a director, officer, or employee of the assurance client. This would be the case when, for example, a member of the

assurance team has to evaluate elements of the subject matter information the member of the assurance team had prepared while with the client.

291.133 If, during the period covered by the assurance report, a member of the assurance team had served as director or officer of the assurance client, or was an employee in a position to exert significant influence over the subject matter information of the assurance engagement, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level. Consequently, such individuals shall not be assigned to the assurance team.

291.134 Self-interest, self-review or familiarity threats may be created if, before the period covered by the assurance report, a member of the assurance team had served as director or officer of the assurance client, or was an employee in a position to exert significant influence over the subject matter information of the assurance engagement. For example, such threats would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current assurance engagement. The existence and significance of any threats will depend on factors such as:

- The position the individual held with the client;
- The length of time since the individual left the client; and
- The role of the professional on the assurance team.

The significance of any threat shall be evaluated and safeguards applied when necessary to reduce the threat to an acceptable level. An example of such a safeguard is conducting a review of the work performed by the individual as part of the assurance team.

## **SERVING AS A DIRECTOR OR OFFICER OF AN ASSURANCE CLIENT**

291.135 If a partner or employee of the firm serves a director or officer of an assurance client, the self-review and self-interest threats would be so significant that no safeguards could reduce the threats to an acceptable level. Accordingly, no partner or employee shall serve as a director or officer of an assurance client.

291.136 The position of Company Secretary has different implications in different jurisdictions. Duties may range from administrative duties, such as personnel management and the maintenance of company records and registers, to duties as diverse as ensuring that the company complies with regulation or providing advice on corporate governance matters. Generally, this position is seen to imply a close association with the entity.

291.137 If a partner or employee of the firm serves as Company Secretary for an assurance client, self-review and advocacy threats are created that would generally be so

significant that no safeguards could reduce the threats to an acceptable level. Despite paragraph 291.135, when this practice is specifically permitted under local law, professional rules or practice, and provided management makes all relevant decisions, the duties and activities shall be limited to those of a routine and administrative nature, such as preparing minutes and maintaining statutory returns. In those circumstances, the significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level.

291.138 Performing routine administrative services to support a company secretarial function or providing advice in relation to company secretarial administration matters does not generally create threats to independence, as long as client management makes all relevant decisions.

## **LONG ASSOCIATION OF SENIOR PERSONNEL WITH ASSURANCE CLIENTS**

291.139 Familiarity and self-interest threats are created by using the same senior personnel on an assurance engagement over a long period of time. The significance of the threats will depend on factors such as:

- How long the individual has been a member of the assurance team;
- The role of the individual on the assurance team;
- The structure of the firm;
- The nature of the assurance engagement;
- Whether the client's management team has changed; and
- Whether the nature or complexity of the subject matter information has changed.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level. Examples of such safeguards include:

- Rotating the senior personnel off the assurance team;
- Having a registered auditor who was not a member of the assurance team review the work of the senior personnel; or
- Regular independent internal or external quality reviews of the engagement.

## **PROVISION OF NON-ASSURANCE SERVICES TO ASSURANCE CLIENTS**

291.140 Firms have traditionally provided to their assurance clients a range of non-assurance services that are consistent with their skills and expertise. Providing non-assurance services may, however, create threats to the independence of

the firm or members of the assurance team. The threats created are most often self-review, self-interest and advocacy threats.

- 291.141 When specific guidance on a particular non-assurance service is not included in this section, the conceptual framework shall be applied when evaluating the particular circumstances.
- 291.142 Before the firm accepts an engagement to provide a non-assurance service to an assurance client, a determination shall be made as to whether providing such a service would create a threat to independence. In evaluating the significance of any threat created by a particular non-assurance service, consideration shall be given to any threat that the assurance team has reason to believe is created by providing other related non-assurance services. If a threat is created that cannot be reduced to an acceptable level by the application of safeguards the non-assurance service shall not be provided.

#### *Management Responsibilities*

- 291.143 Management of an entity performs many activities in managing the entity in the best interests of stakeholders of the entity. It is not possible to specify every activity that is a management responsibility. However, management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.
- 291.144 Whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered a management responsibility include:
- Setting policies and strategic direction;
  - Directing and taking responsibility for the actions of the entity's employees;
  - Authorizing transactions;
  - Deciding which recommendations of the firm or other third parties to implement; and
  - Taking responsibility for designing, implementing and maintaining internal control.
- 291.145 Activities that are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. For example, executing an insignificant transaction that has been authorised by management or monitoring the dates for filing statutory returns and advising an assurance client of those dates is deemed not to be a management responsibility. Further, providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility.

- 291.146 Assuming a management responsibility for an assurance client may create threats to independence. If a firm were to assume a management responsibility as part of the assurance service, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level. Accordingly, in providing assurance services to an assurance client, a firm shall not assume a management responsibility as part of the assurance service. If the firm assumes a management responsibility as part of any other services provided to the assurance client, it shall ensure that the responsibility is not related to the subject matter and subject matter information of an assurance engagement provided by the firm.
- 291.147 To avoid the risk of assuming a management responsibility related to the subject matter or subject matter information of the assurance engagement, the firm shall be satisfied that a member of management is responsible for making the significant judgments and decisions that are the proper responsibility of management, evaluating the results of the service and accepting responsibility for the actions to be taken arising from the results of the service. This reduces the risk of the firm inadvertently making any significant judgments or decisions on behalf of management. This risk is further reduced when the firm gives the client the opportunity to make judgments and decisions based on an objective and transparent analysis and presentation of the issues.

#### *Other Considerations*

- 291.148 Threats to independence may be created when a firm provides a non-assurance service related to the subject matter information of an assurance engagement. In such cases, an evaluation of the significance of the firm's involvement with the subject matter information of the engagement shall be made, and a determination shall be made of whether any self-review threats that are not at an acceptable level can be reduced to an acceptable level by the application of safeguards.
- 291.149 A self-review threat may be created if the firm is involved in the preparation of subject matter information which is subsequently the subject matter information of an assurance engagement. For example, a self-review threat would be created if the firm developed and prepared prospective financial information and subsequently provided assurance on this information. Consequently, the firm shall evaluate the significance of any self-review threat created by the provision of such services and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level.
- 291.150 When a firm performs a valuation that forms part of the subject matter information of an assurance engagement, the firm shall evaluate the significance of any self-review threat and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level.

## FEES

### Fees — Relative Size

291.151 When the total fees from an assurance client represent a large proportion of the total fees of the firm expressing the conclusion, the dependence on that client and concern about losing the client creates a self-interest or intimidation threat. The significance of the threat will depend on factors such as:

- The operating structure of the firm;
- Whether the firm is well established or new; and
- The significance of the client qualitatively and/or quantitatively to the firm.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- Reducing the dependency on the client;
- External quality control reviews; or
- Consulting a third party, such as the Regulatory Board or another registered auditor, on key assurance judgments.

291.152 A self-interest or intimidation threat is also created when the fees generated from an assurance client represent a large proportion of the revenue from an individual partner's clients. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is having an additional registered auditor, who was not a member of the assurance team, review the work or otherwise advise as necessary.

### Fees — Overdue

291.153 A self-interest threat may be created if fees due from an assurance client remain unpaid for a long time, especially if a significant part is not paid before the issue of the assurance report, if any, for the following period. Generally the firm is expected to require payment of such fees before any such report is issued. If fees remain unpaid after the report has been issued, the existence and significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. An example of such a safeguard is having another registered auditor, who did not take part in the assurance engagement, provide advice or review the work performed. The firm shall determine whether the overdue fees might be regarded as being equivalent to a loan to the client and whether, because of the significance of the overdue fees, it is appropriate for the firm to be re-appointed or continue the assurance engagement.

## Contingent Fees

- 291.154 Contingent fees are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm. For the purposes of this section, fees are not regarded as being contingent if established by a court or other public authority.
- 291.155 A contingent fee charged directly or indirectly, for example through an intermediary, by a firm in respect of an assurance engagement creates a self-interest threat that is so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm shall not enter into any such fee arrangement.
- 291.156 A contingent fee charged directly or indirectly, for example through an intermediary, by a firm in respect of a non-assurance service provided to an assurance client may also create a self-interest threat. If the outcome of the non-assurance service, and therefore, the amount of the fee, is dependent on a future or contemporary judgment related to a matter that is material to the subject matter information of the assurance engagement, no safeguards could reduce the threat to an acceptable level. Accordingly, such arrangements shall not be accepted.
- 291.157 For other contingent fee arrangements charged by a firm for a non-assurance service to an assurance client, the existence and significance of any threats will depend on factors such as:
- The range of possible fee amounts;
  - Whether an appropriate authority determines the outcome of the matter upon which the contingent fee will be determined;
  - The nature of the service; and
  - The effect of the event or transaction on the subject matter information.
- The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level. Examples of such safeguards include:
- Having a registered auditor review the relevant assurance work or otherwise advise as necessary; or
  - Using professionals who are not members of the assurance team to perform the non-assurance service.

## GIFTS AND HOSPITALITY

- 291.158 Accepting gifts or hospitality from an assurance client may create self-interest and familiarity threats. If a firm or a member of the assurance team accepts gifts or hospitality, unless the value is trivial and inconsequential, the threats

created would be so significant that no safeguards could reduce the threats to an acceptable level. Consequently, a firm or a member of the assurance team shall not accept such gifts or hospitality.

## **ACTUAL OR THREATENED LITIGATION**

291.159 When litigation takes place, or appears likely, between the firm or a member of the assurance team and the assurance client, self-interest and intimidation threats are created. The relationship between client management and the members of the assurance team must be characterized by complete candor and full disclosure regarding all aspects of a client's business operations. When the firm and the client's management are placed in adversarial positions by actual or threatened litigation, affecting management's willingness to make complete disclosures self-interest and intimidation threats are created. The significance of the threats created will depend on such factors as:

- The materiality of the litigation; and
- Whether the litigation relates to a prior assurance engagement.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level. Examples of such safeguards include:

- If the litigation involves a member of the assurance team, removing that individual from the assurance team; or
- Having a professional review the work performed.

If such safeguards do not reduce the threats to an acceptable level, the only appropriate action is to withdraw from, or decline, the assurance engagement.

## INTERPRETATION 2005-01

### (REVISED JULY 2009 TO CONFORM TO CHANGES RESULTING FROM THE IESBA'S PROJECT TO IMPROVE THE CLARITY OF THE CODE)

#### *Application of Section 291 to Assurance Engagements that are Not Financial Statement Audit Engagements*

This interpretation provides guidance on the application of the independence requirements contained in Section 291 to assurance engagements that are not financial statement audit engagements.

This interpretation focuses on the application issues that are particular to assurance engagements that are not financial statement audit engagements. There are other matters noted in Section 291 that are relevant in the consideration of independence requirements for all assurance engagements. For example, paragraph 291.3 states that an evaluation shall be made of any threats the firm has reason to believe are created by a network firm's interests and relationships. It also states that when the assurance team has reason to believe that a related entity of such an assurance client is relevant to the evaluation of the firm's independence of the client, the assurance team shall include the related entity when evaluating threats to independence and when necessary applying safeguards. These matters are not specifically addressed in this interpretation.

As explained in the International Framework for Assurance Engagements issued by the International Auditing and Assurance Standards Regulatory Board, in an assurance engagement, the *registered auditor* expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.

#### **Assertion-Based Assurance Engagements**

In an assertion-based assurance engagement, the evaluation or measurement of the subject matter is performed by the responsible party, and the subject matter information is in the form of an assertion by the responsible party that is made available to the intended users.

In an assertion-based assurance engagement independence is required from the responsible party, which is responsible for the subject matter information and may be responsible for the subject matter.

In those assertion-based assurance engagements where the responsible party is responsible for the subject matter information but not the subject matter, independence is required from the responsible party. In addition, an evaluation shall be made of any threats the firm has reason to believe are created by interests and relationships between a member of the assurance team, the firm, a network firm and the party responsible for the subject matter.

## Direct Reporting Assurance Engagements

In a direct reporting assurance engagement, the registered auditor either directly performs the evaluation or measurement of the subject matter, or obtains a representation from the responsible party that has performed the evaluation or measurement that is not available to the intended users. The subject matter information is provided to the intended users in the assurance report.

In a direct reporting assurance engagement independence is required from the responsible party, which is responsible for the subject matter.

## Multiple Responsible Parties

In both assertion-based assurance engagements and direct reporting assurance engagements there may be several responsible parties. For example, a registered auditor may be asked to provide assurance on the monthly circulation statistics of a number of independently owned newspapers. The assignment could be an assertion based assurance engagement where each newspaper measures its circulation and the statistics are presented in an assertion that is available to the intended users. Alternatively, the assignment could be a direct reporting assurance engagement, where there is no assertion and there may or may not be a written representation from the newspapers.

In such engagements, when determining whether it is necessary to apply the provisions in Section 291 to each responsible party, the firm may take into account whether an interest or relationship between the firm, or a member of the assurance team, and a particular responsible party would create a threat to independence that is not trivial and inconsequential in the context of the subject matter information. This will take into account:

- The materiality of the subject matter information (or the subject matter) for which the particular responsible party is responsible; and
- The degree of public interest that is associated with the engagement.

If the firm determines that the threat to independence created by any such relationships with a particular responsible party would be trivial and inconsequential it may not be necessary to apply all of the provisions of this section to that responsible party.

## Example

The following example has been developed to demonstrate the application of Section 291. It is assumed that the client is not also a financial statement audit client of the firm, or a network firm.

A firm is engaged to provide assurance on the total proven oil reserves of 10 independent companies. Each company has conducted geographical and engineering surveys to determine their reserves (subject matter). There are established criteria to determine when a reserve may be considered to be proven which the registered auditor determines to be suitable criteria for the engagement.

The proven reserves for each company as at December 31, 20X0 were as follows:

|              | <b>Proven oil reserves<br/>thousands of barrels</b> |
|--------------|---|
| Company 1    | 5,200   |
| Company 2    | 725   |
| Company 3    | 3,260   |
| Company 4    | 15,000  |
| Company 5    | 6,700   |
| Company 6    | 39,126  |
| Company 7    | 345   |
| Company 8    | 175   |
| Company 9    | 24,135  |
| Company 10   | 9,635   |
| <b>Total</b> | <b>104,301</b>                                      |

The engagement could be structured in differing ways:

#### Assertion-Based Engagements

- A1 Each company measures its reserves and provides an assertion to the firm and to intended users.
- A2 An entity other than the companies measures the reserves and provides an assertion to the firm and to intended users.

#### Direct Reporting Engagements

- D1 Each company measures the reserves and provides the firm with a written representation that measures its reserves against the established criteria for measuring proven reserves. The representation is not available to the intended users.
- D2 The firm directly measures the reserves of some of the companies.

#### Application of Approach

- A1 Each company measures its reserves and provides an assertion to the firm and to intended users.

There are several responsible parties in this engagement (companies 1-10). When determining whether it is necessary to apply the independence provisions to all of the companies, the firm may take into account whether an interest or relationship with a particular company would create a threat to independence that is not at an acceptable level. This will take into account factors such as:

- The materiality of the company's proven reserves in relation to the total reserves to be reported on; and

- The degree of public interest associated with the engagement. (Paragraph 291.28.)

For example Company 8 accounts for 0.17% of the total reserves, therefore a business relationship or interest with Company 8 would create less of a threat than a similar relationship with Company 6, which accounts for approximately 37.5% of the reserves.

Having determined those companies to which the independence requirements apply, the assurance team and the firm are required to be independent of those responsible parties that would be considered to be the assurance client (paragraph 291.28).

- A2 An entity other than the companies measures the reserves and provides an assertion to the firm and to intended users.

The firm shall be independent of the entity that measures the reserves and provides an assertion to the firm and to intended users (paragraph 291.19). That entity is not responsible for the subject matter and so an evaluation shall be made of any threats the firm has reason to believe are created by interests/relationships with the party responsible for the subject matter (paragraph 291.19). There are several parties responsible for the subject matter in this engagement (Companies 1-10). As discussed in example A1 above, the firm may take into account whether an interest or relationship with a particular company would create a threat to independence that is not at an acceptable level.

- D1 Each company provides the firm with a representation that measures its reserves against the established criteria for measuring proven reserves. The representation is not available to the intended users.

There are several responsible parties in this engagement (Companies 1-10). When determining whether it is necessary to apply the independence provisions to all of the companies, the firm may take into account whether an interest or relationship with a particular company would create a threat to independence that is not at an acceptable level. This will take into account factors such as:

- The materiality of the company's proven reserves in relation to the total reserves to be reported on; and
- The degree of public interest associated with the engagement. (Paragraph 291.28).

For example, Company 8 accounts for 0.17% of the reserves, therefore a business relationship or interest with Company 8 would create less of a threat than a similar relationship with Company 6 that accounts for approximately 37.5% of the reserves.

Having determined those companies to which the independence requirements apply, the assurance team and the firm shall be independent of those responsible parties that would be considered to be the assurance client (paragraph 291.28).

- D2 The firm directly measures the reserves of some of the companies.

The application is the same as in example D1.

## EFFECTIVE DATE

This Code is effective on **1 January 2011**; early adoption is permitted. The Code is subject to the following transitional provisions:

### Transitional provisions

#### Public Interest Entities

- 1 Section 290 of the Code contains additional independence provisions when the audit or review client is a public interest entity. The additional provisions that are applicable because of the **new definition of a public interest entity** *in paragraph 290.25* or the guidance in paragraph 290.26 are effective on **1 January 2012**. For partner rotation requirements, the transitional provisions contained in paragraphs 2 and 3 below apply.

#### Partner Rotation

2. For a partner who is subject to the rotation provisions in paragraph **290.151** because the partner meets the definition of the new term “key audit partner,” and the partner is neither the engagement partner nor the individual responsible for the engagement quality control review, the rotation provisions are effective for the audits or reviews of financial statements for years beginning on or after **15 December 2011**. For example, in the case of an audit client with a calendar year-end, a key audit partner, who is neither the engagement partner nor the individual responsible for the engagement quality control review, who had served as a key audit partner for seven or more years (that is, the audits of 2003–2010), would be required to rotate after serving for one more year as a key audit partner (that is, after completing the 2011 audit).
3. For an engagement partner or an individual responsible for the engagement quality control review who immediately prior to assuming either of these roles served in another key audit partner role for the client, and who, at the beginning of the first fiscal year beginning on or after 15 December 2010, had served as the engagement partner or individual responsible for the engagement quality control review for six or fewer years, the rotation provisions are effective for the audits or reviews of financial statements for years beginning on or after 15 December 2011. For example, in the case of an audit client with a calendar year-end, a partner who had served the client in another key audit partner role for four years (that is, the audits of 2002–2005) and subsequently as the engagement partner for five years (that is, the audits of 2006–2010) would be required to rotate after serving for one more year as the engagement partner (that is, after completing the 2011 audit).

#### Non-assurance Services

4. Paragraphs 290.156–290.219 address the provision of non-assurance services to an audit or review client. If, at the effective date of the Code, services are being provided to an audit or review client and the services were permissible under the

IFAC Code of Ethics June 2005 Code (revised July 2006) but are either prohibited or subject to restrictions under the revised Code, the firm may continue providing such services only if they were contracted for and commenced prior to **1 January 2011**, and are completed before **1 July 2011**.

### **Fees - Relative Size**

5. Paragraph **290.222** provides that, in respect of an audit or review client that is a public interest entity, when the total fees from that client and its related entities (subject to the considerations in paragraph **290.27**) for two consecutive years represent more than 15% of the total fees of the firm expressing the opinion on the financial statements, a pre- or post-issuance review (as described in paragraph 290.222) of the second year's audit shall be performed. This requirement is effective for audits or reviews of financial statements covering years that begin on or after **15 December 2010**. For example, in the case of an audit client with a calendar year end, if the total fees from the client exceeded the 15% threshold for **2011 and 2012**, the pre or post-issuance review would be applied with respect to the audit of the **2012** financial statements.

### **Compensation and Evaluation Policies**

6. Paragraph **290.229** provides that a key audit partner shall not be evaluated or compensated based on that partner's success in selling non-assurance services to the partner's audit client. This requirement is effective on **1 January 2012**. A key audit partner may, however, receive compensation after **1 January 2012** based on an evaluation made prior to **1 January 2012** of that partner's success in selling non-assurance services to the audit client.

**5**  
**INSPECTIONS**

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## **ACT**

Inspections are performed in terms of Section 47 of the Auditing Profession Act, 2005. Functions of the IRBA include promoting the integrity of the auditing profession through conducting inspections.

## **TYPES OF INSPECTIONS**

Audit firms performing audits of financial statements of public interest entities (Categories A and B) are subject to firm inspections at least once in a cycle. This inspection will include an inspection of a sample of attest engagements.

Audit firms performing audits of financial statements of non-public interest entities (category C), are subjected only to an inspection of attest engagements.

## **CYCLES**

Engagement inspections are either on a 3 year or a 6 year cycle, depending on the classification of the firm/RA's attest portfolio. Firm inspections are on a 3 year cycle.

## **OBJECTIVES OF INSPECTIONS**

The objective of engagement inspections is to monitor compliance with the relevant professional standards in the performance of the attest function. The objective of firm inspections is to inspect the design and implementation of the systems of quality control employed by audit firms.

## **SCOPE OF INSPECTIONS**

Engagements subject to inspections are audits of public interest entities as referred to in the Auditing Profession Act, 2005, Section 47 (1)(b). For firm inspections the control system elements are leadership responsibilities, ethical requirements, client acceptance and continuance, human resources, engagement performance, and monitoring.

## **INSPECTORS**

Inspections are performed by qualified professionals employed on a full time basis by the IRBA.

## **INSPECTION PROCESS**

A broad overview of the inspection process is as follows:

- Schedule an inspection date in advance.

- Request pre-inspection information from RA/Firm.
- Perform inspection of RA/Firm.
- Discuss findings with RA/Firm.
- Obtain comments from RA/Firm on findings within specified time frame.
- Prepare formal inspection report (which includes findings and comments received) and make recommendation on inspection outcome.
- Perform department's consistency/quality control checks.
- Present formal inspection report on anonymous basis to the Inspection Committee at its quarterly meeting for decision on findings.
- Director: Inspections relays Committee decision to RA/Firm.
- Receive undertaking from RA/Firm to implement corrective action, where appropriate.

## **RESULTS OF THE INSPECTION**

Decision is either:

- Satisfactory.
- Not satisfactory – conducting follow up inspections until satisfactory.
- Investigating Committee referral – disciplinary action by the IRBA.

Referral to Investigating Committee if:

- Public is at risk, or
- Re-visits indicates failure to implement corrective action, or
- Flagrant disregard of professional standards, or
- Refusal to cooperate in the inspection process.

## **INSPECTION COMMITTEE**

Currently, the Inspection Committee comprises of 8 individuals, at least 4 of whom are RAs who serve on a voluntary basis for a maximum period of 6 years. One of the Committee members is an IRBA Board member. The committee's responsibilities include:

- Determining the nature of attest engagements subject to inspection,
- Assessing the appropriateness of the standard documentation used in the inspection process;
- Determining the outcome of inspections on an anonymous basis, and
- Assessing the quality and consistency of inspection reports.

## **RECONSIDERATIONS**

Should an RA/Firm believe the decision of the Inspection Committee should be reconsidered, due to the Committee not having sufficient information available at the time the initial decision was made, they have 45 calendar days from the Inspection Committee decision date to submit a detailed written request for reconsideration to the Director: Inspections. This request will then be placed before the Inspection Committee, on an anonymous basis, at the next quarterly meeting for consideration. The Director: Inspections will relay the Committee's final decision to the RA/Firm.

## **COSTS**

RAs/Firms are billed for all inspections. Fees are determined annually.

## **CANCELLATION**

RAs/Firm receive a minimum of eight weeks notice prior to their inspection visit. Cancellation fees are charged for both initial and other inspections where visits are cancelled by RAs/Firms at short notice.

## **CONFIDENTIALITY**

The confidentiality requirements of Section 47 of the Auditing Profession Act, 2005 are strictly respected and enforced. Documentation pertaining to the completed cycle of an RA/Firm is not retained.



**6**  
**STANDARDS**

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## **BACKGROUND**

On 1 April 2006, the Auditing Profession Act, 2005 (Act 26 of 2005) (the APA) came into effect. The APA provides for the establishment of a Committee for Auditing Standards (CFAS), and a Committee for Auditor Ethics (CFAE).

## **COMMITTEE FOR AUDITING STANDARDS**

The CFAS was established by the Regulatory Board in terms of section 20(2)(b) of the APA to assist the Regulatory Board:

- (a) to develop, maintain, adopt, issue or prescribe auditing pronouncements.
- (b) to consider relevant international changes by monitoring developments of other auditing standard-setting bodies and sharing information where requested; and
- (c) to promote and ensure the relevance of auditing pronouncements by:
  - (i) considering the needs of users of audit reports;
  - (ii) liaising with the other committees of the Regulatory Board on standards to be maintained by registered auditors and by receiving feedback from such committees on areas where auditing pronouncements are needed;
  - (iii) ensuring the greatest possible consistency between auditing pronouncements and accepted international pronouncements; and
  - (iv) consulting with professional bodies on the direction and appropriateness of auditing pronouncements; and
- (d) to influence the nature of international auditing pronouncements by:
  - (i) preparing comment on exposure drafts or discussion papers and replies to questionnaires prepared by the International Auditing and Assurance Standards Board (IAASB) of the International Federation of Accountants (IFAC) or a successor body; and
  - (ii) nominating representatives to committees of the International Auditing and Assurance Standards Board or a successor body when requested to do so by the Regulatory Board.

Section 22(1) of the APA provides that the CFAS shall consist of at least the following members appointed by the Regulatory Board;

- (a) five (5) persons registered as auditors with the Board;
- (b) one (1) person with experience of business;
- (c) an incumbent of the office of the Auditor-General, or a person nominated by that incumbent;
- (d) an incumbent of the office of the Executive Officer of the Financial Services Board, or a person nominated by that incumbent;

- (e) one (1) person with experience in the teaching of auditing at a university recognised or established under the Higher Education Act, 1997 (Act 101 of 1997);
- (f) one (1) person nominated by any stock exchange licensed under the Securities Services Act, 2004 (Act 36 of 2004);
- (g) the Commissioner of the South African Revenue Services established in terms of the South African Revenue Services Act, 1997, (Act 34 of 1997), or a person nominated by the Commissioner; and
- (h) an incumbent of the office of the Registrar of Banks, or a person nominated by that incumbent.

## **COMMITTEE FOR AUDITOR ETHICS**

The CFAE was established in terms of section 20(2)(a) of the APA to assist the Regulatory Board to:

- (a) Determine what constitutes improper conduct by registered auditors by developing rules and guidelines for professional ethics, including a Code of Professional Ethics;
- (b) Interact on any matter relating to its functions and powers with professional bodies and any other body or organ of State with an interest in the auditing profession; and
- (c) Provide advice to registered auditors on matters of professional ethics and conduct.

Section 21 (1) of the Auditing Profession Act provides that the CFAE shall consist of at least the following members appointed by the Regulatory Board:

- (a) Three (3) registered auditors;
- (b) Three (3) persons representing users of audits;
- (c) One (1) person representing an exchange which is the holder of a stock exchange licence issued under the Securities Services Act 36 of 2004; and
- (d) One advocate or attorney with at least ten (10) years experience in the practice of law.

## **AUDITING PRONOUNCEMENTS ISSUED BY THE CFAS**

On 1 January 2005 the Auditing and Assurance Standards Board (AASB), the predecessor to the CFAS, adopted the entire suite of auditing pronouncements issued by the IAASB for use in South Africa. These pronouncements replaced South African Auditing Standards (SAAS) and South African Auditing Practice Statements (SAAPS) in existence at the time.

Guidance issued over and above the guidance contained in the IAASB Standards adopted and relating to the application of those standards is issued as SAAPS. Other auditing pronouncements are issued as Guides or Circulars.

Board Notice 128 published in Government Gazette No. 32615 on 9 October 2009 more fully describes the adoption of auditing pronouncements and circulars made under the Public Accountants and Auditors Act, 80 of 1991 (now repealed) and the adoption of International Standards on Auditing, Assurance and Ethics Pronouncements in terms of the Auditing Profession Act, 26 of 2005 (the Act).

Subsequent to 1 April 2006, the Board resolved to adopt, issue and prescribe all the documents contained in the successive 2006, 2007 and 2008 Editions of the International Federation of Accountants' publications known as the "*Handbook of International Auditing, Assurance and Ethics Pronouncements*" with the 2008 Handbook Part 1 being currently effective. Board Notice 128 also adopts, issues and prescribes the "*Handbook of International Standards on Auditing and Quality Control - 2009 Edition*" that incorporates the redrafted and revised International Standards on Auditing (ISAs) arising from the "Clarity project" of the International Auditing and Assurance Standards Board (IAASB), which become effective for audits of entities with financial periods commencing on or after 15 December 2009. Early adoption is permitted.

Board Notice 154, published in Government Gazette No. 33710, on 5 November 2010 adopts, issues and prescribes the following publications known as the *Handbook of International Quality Control, Auditing, Review, Other Assurance and Related Services Pronouncements, 2010 Editions Part I*, ISBN978-1-60815-052-6; and the *Handbook of International Quality Control, Auditing, Review, Other Assurance and Related Services Pronouncements, 2010 Edition Part II*, ISBN978-1-60815-052-6.

These publications now replace and substitute the publication known as the "*Handbook of International Standards on Auditing and Quality Control*" 2009 Edition, ISBN 978-934779-92-7 effective from 15 December 2009. With the exception of ISAE 3402 Assurance reports on Controls at a Service Organisation, which is effective for service auditors' reports covering periods ending on or after 15 June 2011, the standards contained in these publications are effective for audits of financial statements for periods beginning on or after 15 December 2009.

References to the IESBA Code of Ethics for Professional Accountants in these publications must be read in conjunction with the IRBA Code of Professional Conduct for Registered Auditors issued in July 2010 contained in Section 4 of the Manual of Information that is effective from 1 January 2011 and has additional requirements for registered auditors in South Africa.

The auditing pronouncements may be downloaded free of charge from the IRBA website: <http://www.irba.co.za> and are also available free of charge on CD on request from the IRBA.



**7**

**GENERAL  
CIRCULARS**

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\* Available from IRBA on request and on the IRBA website.

## **PRACTICE RIGHTS IN ADJOINING COUNTRIES**

### **BOTSWANA**

In terms of the Accountants' Act, 1988 as amended up to 1998 AGM, a full member (Associate or Fellow) of the Botswana Institute of Accountants may practise as a Public Accountant in Botswana if he/she has been admitted as a member of the Institute, has been issued with a practising certificate by the Institute and he/she is resident in Botswana.

A person is considered resident if he has an office or place of business in Botswana. It should be noted that the practising certificate should be renewed annually.

### **PRACTISING CERTIFICATE CHECK LIST**

1. An Associate or Fellow member of the Institute
2. A member of the Institute continuously for a period of not less than two years
3. Before or after or partly before and partly after admission to membership of the Institute, has completed a period, being not less than thirty months, of approved accountancy experience in public practice under the supervision of the principal in an approved training office of a firm of Public Accountants
4. After admission to membership of the Institute he/she has obtained within the five years preceding his/her application for a practicing certificate, a further period being not less than twelve months of post qualification experience under the supervision of a principal in an approved training office of a firm of Public Accountants
5. Passed Botswana Tax
6. Has an office or place of business in Botswana in the capacity of sole principal or in partnership
7. Provide Professional Indemnity Insurance
8. Provide Continuity of Practice Agreement in the event of death or incapacity. This provision applies only when the practising member practises as a sole proprietor and not as a partnership.
9. Provide Continuing Professional Development Return for the year ended and solemn declaration
10. Provide Post Qualification Practicing Experience in at least 4 of the following 6 areas:
  - Accounting

- Auditing
  - Taxation : Corporate, Personal
  - Incomplete Records
  - Computer Systems and Operation
  - Sources of Finance
11. Provide solemn declaration of being Resident of Botswana for the past twelve months
  12. Provide copy of residence and work permit
  13. Remittance Fee – currently P11200 VAT inclusive
  14. Practicing Certificate shall be issued to members for a period not exceeding twelve months and ending on the thirty-first day of December and shall be renewed for a period of twelve months on the first day of January

**For further information, please contact**

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Chief Executive Officer

The Botswana Institute of Accountants

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GABORONE

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## **LESOTHO**

The Accountants' Act, 1977 and the Accountants' Amendment Act, 1984 distinguish between three types of members, i.e. Chartered Accountants, Registered Accountants and Licensed Accountants. Members of The South African Institute of Chartered Accountants would qualify for membership of the Lesotho Institute of Accountants as Public Accountants and this would in the absence of exceptional circumstances, be granted on provision of evidence of current membership of The South African Institute of Chartered Accountants. Such persons would, however, also be required to be registered as non-practising Lesotho Chartered Accountants for a period of one year. After the expiration of the year, he may apply for practising status, provided he can show he has sufficient audit experience with a recognised firm, which could be a South African firm.

Legislation was amended, and since August 9, 1989, a chartered accountant practising in Lesotho must be resident in Lesotho or be a partner in a firm of chartered accountants registered in Lesotho in which not less than one partner is resident in Lesotho. He must have a permanent place of business in Lesotho, and employ Basotho staff (although there is no minimum requirement), and train them as far as reasonably practicable.

Each practising member must belong to a registered firm or be classified as a sole practitioner. The name of each practising firm must be approved by the Lesotho Institute of Accountants and entered in its Register of Firms.

The concept of "residence" is interpreted rather loosely and persons spending most of their working hours in Lesotho, regardless of where they sleep, are considered to be resident.

It should be noted that the Accountants' Act, 1977, includes "holding out" provisions.

**For further information, please contact**

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Lesotho Institute of Accountants

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**MALAWI**

Under the Public Accountants' and Auditors' Act (Malawi), a qualified person practising in Malawi should be registered with the Malawi Accountants' Board through the Society of Accountants in Malawi. Registered accountants and auditors (with the Independent Regulatory Board for Auditors in South Africa) qualify for membership of the Society of Accountants in Malawi but have to register with the Malawi Accountants' Board. Under the by-laws of the Society of Accountants in Malawi a member of the Society cannot practise in partnership with a non-member. Members wishing to practice in Malawi are required to sit and pass practising examinations in Malawi Company Law and Tax.

**For further information, please contact**

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The Society of Accountants in Malawi

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Malawi

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## **NAMIBIA**

The practising rights of auditors in Namibia are governed by the Public Accountants' and Auditors' Act, 1951 of Namibia. This Act, which was applicable in the territory before Namibia's independence, remains in force by virtue of the provisions of section 140 of the Constitution of Namibia.

Members of the Institute of Chartered Accountants in South Africa are recognised by the Namibian Institute, and may become members of the Namibian Institute on application.

A member of The South African Institute of Chartered Accountants and a person who qualifies for registration with the South African Independent Regulatory Board for Auditors and who is not resident in Namibia, may only practise as a non-resident practitioner provided that he or she is registered with the Namibian Public Accountants' and Auditors' Board as such, and is in partnership with persons who are resident in Namibia and registered as public accountants and auditors with the Namibian Public Accountants' and Auditors' Board. The non-resident partners may not exceed 50 percent of the total number of partners in the Namibian firm, and may not sign audit reports.

### **For further information, please contact**

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## **SWAZILAND**

In terms of the Accountants' Act, 1985, which came into force on April 1, 1985, accountants practising as auditors in Swaziland must be members of the Swaziland Institute of Accountants and must be registered in terms of the Act.

An auditor practising in Swaziland must have an office or place of business in Swaziland and must either be a citizen of Swaziland or hold a residence permit and be ordinarily resident in the country for not less than eight months in each year.

In order to obtain membership as a practising auditor of the Swaziland Institute of Accountants, a member of the South African Institute of Chartered Accountants will have to satisfy the Swaziland Institute by examination that he has an adequate knowledge of the laws of Swaziland relating to taxation, companies, insolvency and administration of estates as well as complying with the above residential and place of business criteria.

### **For further information, please contact**

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Chairman

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## **ZIMBABWE**

### **Accounting services**

Within the profession there are no restrictions on foreign accountants wishing to work (be employed) in Zimbabwe. However, a work permit from the government is required.

Similarly, foreign accountants may provide accountancy services to the public if they register with the PAAB and obtain a Practising Certificate, which must be renewed annually. However, they may not register as public accountants unless they are members of a constituent body of the Zimbabwean Public Accountants' and Auditors' Board. The constituent bodies are –

- the Zimbabwe Branch of the Association of Chartered Certified Accountants;
- the Zimbabwe Branch of the Chartered Institute of Management Accountants;
- the Institute of Chartered Accountants of Zimbabwe;

- the Institute of Chartered Secretaries and Administrators of Zimbabwe; and
- the Institute of Certified Public Accountants of Zimbabwe.

Members of constituent bodies providing services direct to the public are required to hold practising certificates issued by the Zimbabwean Board.

The Zimbabwe branches of the Chartered Association of Certified Accountants and of the Chartered Institute of Management Accountants both require members to be resident in the country. The Institute of Chartered Accountants of Zimbabwe has a reciprocal membership agreement with The South African Institute of Chartered Accountants which allows South African chartered accountants to pass conversion examinations and thus be admitted as members.

### **Auditing services**

The Companies Act and other acts dealing with the audit of business enterprises require that the auditor be a registered public auditor in terms of the Public Accountants' and Auditors' Act. Foreign auditors wishing to practise in Zimbabwe are required to -

- (a) be a member of a constituent body of the Zimbabwean Public Accountants' and Auditors' Board;
- (b) meet any requirements of that constituent body (e.g. a practising certificate);
- (c) be registered as an auditor with the Zimbabwean Public Accountants' and Auditors' Board; and
- (d) hold a Zimbabwean Public Accountants' and Auditors' Board practising certificate as an auditor.

Only members of the following three constituent bodies may register as auditors:

- The Institute of Chartered Accountants of Zimbabwe; and
- The Zimbabwe Branch of the Association of Chartered Certified Accountants.
- The Institute of Certified Public Accountants of Zimbabwe.

Members of the Institute of Chartered Accountants who wish to practise are required to hold practising certificates issued by the Institute. These are issued annually and members are required to show that they hold adequate professional indemnity insurance, to show that any client monies held in trust have been audited, and to meet annual Continuing Professional Development requirements. There is provision for non-resident partners of local practising firms to be admitted as provisional members of the Institute.

The Public Accountants' and Auditors' Act and the acts establishing the constituent bodies provide penalties for anyone carrying out audits without being registered, for holding oneself out as a member of a constituent body, and for holding oneself out as a registered public auditor. "Holding oneself out as an auditor" includes the circulation within Zimbabwe of an audit report on a Zimbabwean business entity.

**For further information, please contact**

Admire Ndurunduru

Secretary

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## **TRUST MONIES**

The question of so-called "trust accounts" being utilised by RAs for the retention of clients' monies or "trust monies" as they are sometimes called, is beginning to cause concern to the Board. The major reason for this concern is that the term "trust account" is misleading. Clients and members of the public in general tend to assume that the term "trust account" connotes a statutory trust account (such as those utilised by estate agents and attorneys, and regulated in terms of the Estate Agents and Attorneys Acts) which are underpinned by statutory fidelity funds. This assumption is not unreasonable; however, it is inaccurate.

So-called "trust accounts" operated by persons, including registered auditors, which do not enjoy statutory protection, do not afford the sort of protection which the public (and I suspect many practitioners as well) believe that they do enjoy. The immediate effects of this are twofold:

- 1 In the event of the practitioner absconding with the funds in the so-called "trust account" the owner of the funds is left with nothing but a personal action against the individual (who might or might not himself carry fidelity insurance);
- 2 In the event of the practitioner's insolvency, the funds will in all probability 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.

Some practitioners are also under the impression that these monies are protected by the provisions of the Trust Property Control Act, 1988: This is not the case.

Accordingly the Board requests that any practitioners who operate so-called "trust accounts" or who refer to "trust accounts" in their dealings with their clients, desist from this practice immediately.

The Board is, however, fully aware of the fact that practitioners do periodically hold funds for or on behalf of clients, for a variety of reasons.

This fact is specifically recognised in the Code of Professional Conduct for Registered Auditors which states the following:

- 270.4 When a registered auditor in the course of providing professional services is entrusted with client monies, or property other than monies belonging to others, the registered auditor shall –

- (a) for all clients monies which come into the registered auditor's possession or under the registered auditor's control, and for which the registered auditor is liable to account to a client or any other person:
  - (i) maintain one or more bank accounts with an institution or institutions registered in terms of the Banks Act, 1990 (Act 94 of 1990) that are separate from the registered auditor's own bank account; and
  - (ii) appropriately designate such accounts (which account or accounts may be a general account in the registered auditor's name or specific accounts operated in the names of the relevant clients or any other person to whom the registered auditor is accountable); and
  - (iii) deposit client monies without delay to the credit of such client account indicated in (a) (i) and (a) (ii) above; and
- (b) for property other than money which comes into the registered auditor's possession or under the registered auditor's control and for which the registered auditor is liable to account to a client or to any other person (including, but without limitation, trust property which is expressly registered in the name of the registered auditor, or jointly in the name of the registered auditor and any other person, in their capacity as administrator, trustee, curator or agent, as the case may be), the registered auditor shall -
  - (i) maintain such records as may be reasonably expected to ensure that the property can readily be identified as being the property of such client or other person; and
  - (ii) if the property is in the form of documents of title to money, or documents of title that can be converted into money, shall make such arrangements as may be appropriate in the circumstances to safeguard such documents against unauthorised use.

Keeping clients' monies totally separate in specifically designated client accounts (rather than so-called "trust accounts") will go some way towards solving the problem and is probably acceptable in a number of cases, for example where a practitioner receives funds on behalf of a client and has to bank them for a short period before transferring them to the client.

Where the account is opened in the name of the client but is operated by the practitioner, the practitioner acts in the capacity of mandatory of the client. In other words, this is nothing more than a contract of mandate for the rendering of certain services coupled with the power to represent the client in operating the account. The practitioner acts as the client's agent. If the practitioner goes insolvent the money in the account will not form part of his insolvent estate but remains the property of the client.

The same considerations do not apply where the account is opened in the name of the practitioner, but with a reference to a client. Unless the client is able to show that the mandate given to the practitioner was for limited purposes only, the client will not be successful in claiming the money in the account if the practitioner does become insolvent.

Furthermore, this would in any event not afford the client any protection against theft by the practitioner.

However, in the case of trust monies in the conventional sense (frequently funds held pending the outcome of some dispute, the ownership of such funds being uncertain at the time), the Board suggests that these rather be placed in the statutory trust account of an attorney where they will be beyond attack.

The Board welcomes comment from practitioners on this subject. If necessary, the profession could consider the introduction of statutory trust accounts, but this would obviously involve fairly major legislative amendment, additional administration (by practitioners and by the Board) and additional costs.

**Updated on 2 November 2010.**

# **GIVING SECOND OPINIONS**

\* Available from IRBA on request and on the IRBA website.

01/2009\*

# **VERTALING VAN 'IAASB GLOSSARY OF TERMS (DECEMBER 2006)'**

\* Available from IRBA on request and on the IRBA website.

**LIST OF CIRCULARS THAT HAVE BEEN WITHDRAWN OR  
REPLACED BY SUBSEQUENT CIRCULARS**

| <b>Circular no. B</b> | <b>Subject</b>  | <b>Comment</b>  |
|-----------------------|---|---|
| 2/1981                | Establishment of Public Accountants' and Auditors' Board National Education Fund                  | Withdrawn (01/12/98)  |
| 1/1986                | Neighbouring states   | Withdrawn (01/01/95)  |
| 2/1986                | Late lodging of articles of clerkship and antedating of articles of clerkship                     | Withdrawn (01/01/94)  |
| 3/1986                | Stamp duty on articles of clerkship   | Withdrawn (01/01/94)  |
| 4/1986                | Application of Rule of Conduct  | Withdrawn (01/11/98)  |
| 5/1986                | General circular  | Withdrawn (01/01/94)  |
| 1/1987                | Breaks in articles to do the initial period of national service                                   | Withdrawn (01/01/94)  |
| 2/1987                | Material irregularities under section 20(5) of the Public Accountants' and Auditors' Act, 1951    | Replaced by Circular no. B.3/1991   |
| 3/1987                | Fees  | Withdrawn (01/01/94)  |
| 1/1988                | Date of lodgement and antedating of articles of clerkship   | Withdrawn and replaced by Articled Clerk regulation 7 and Trainee Accountant regulation 9 |
| 2/1988                | Deferment of national service of prospective chartered accountants                                | Withdrawn (01/01/94)  |
| 1/1989                | Maintenance of standards and reporting of improper conduct by registered accountants and auditors | Replaced by Circular no. B.1/1992   |
| 1/1991                | Material Irregularities   | Withdrawn (now covered by Material Irregularities Guide* issued April 2004)               |
| 2/1991                | Independent neighbouring states   | Withdrawn (01/01/95)  |
| 3/1991                | Material Irregularities   | Withdrawn (now covered by Guide on Reportable Irregularities Issued June 2006)*           |
| 1/1992                | Maintenance of standards and reporting of improper conduct  | Withdrawn   |
| 2/1992                | Appointment of incorporated practices as auditors or accounting officers                          | Withdrawn   |

**LIST OF CIRCULARS THAT HAVE BEEN WITHDRAWN OR  
REPLACED BY SUBSEQUENT CIRCULARS**

| <b>Circular no. B</b> | <b>Subject</b>  | <b>Comment</b>   |
|-----------------------|---|--|
| 1/1998                | Firm Names  | Withdrawn (now covered by paragraphs 10.25 to 10.39 in the Code of Conduct)                                      |
| 2/1998                | Restructuring of certain functions  | Withdrawn (31/12/2000)   |
| 1/2004                | Adoption of IAASB standards by the Auditing and Assurance Standards Board, including Appendix 1 and Appendix 2 thereto. | Withdrawn and replaced by Board Notice 128 of 2009 in Government Gazette No. 32615 published on 9 October 2009   |
| 1/2005                | Addendum to Circular B.1/2004   | Withdrawn and replaced by Board Notice 128 of 2009 in Government Gazette No. 32615 published on 9 October 2009   |
| 2/2006                | Vertaling van Verslae en Woordelys  | Replaced. Refer to: Omsendbrief 01/2009 Vertaling van 'IAASB Glossary of Terms (December 2006)' issued July 2009 |

\*The Guide on Reportable Irregularities is available on the IRBA website.