

FINAL REVISION

COMMENTS ON THE DRAFT AUDITING PROFESSIONS BILL, 2004

The following views are my own views and do not reflect the views of the Certified Public Accountants of South Africa (Formerly the CFA(SA)).

General

During 1967 a study titled, *Horizons for a Profession* (Roy & MacNeill) stated the following on the very first page of the study:

“ When to speak out, when to be silent, how to say or write that which is necessary but awkward, courage to face up to the need for doing so, talent to be firm yet diplomatic, imagination to see beneath and beyond the surface, perceptivity not only for what has happened but also for what may happen, constancy in ethical behaviour, sagacity to avoid errors of omission as well as those of commission: these and other attributes like them are qualities, not definable as knowledge but inherent in individuals. Without them a CPA can be nothing more than a technician, regardless of the scope of his knowledge; possessing these attributes plus requisite knowledge, he is a professional.”

The auditing profession today finds itself at a crossroads and if the correct direction is chosen, the profession will, for the first time in its very long history of public service, be in a position where its individual members are highly regarded not only for their technical knowledge, as has been the case so far, but also for the solid ethical foundation on which it stands.

For ease of reference, I've confined my comments only to the sections in the draft where I disagree with the content. The same headings, sub-headings and sequential numbers have also been used as depicted in the draft. Changes are shown in bold lettering.

Preamble

SECOND PARAGRAPH

“To offer auditing services or services of a public accountant ...”

Recommended change:

“To offer auditing services and/or services of an accountant in public practice...”

Reason:

In the case of Limited Purpose Companies, an auditor may find himself performing both duties.

CHAPTER 1

DEFINITIONS AND ESTABLISHMENT OF BOARDS

Definitions

Recommend the addition of a definition for “Accounting”

Example:

“Accounting” means the compilation of :

- 1 the primary books of entry of an entity,
- 2 the preliminary and final annual financial statements of an entity, and
- 3 the interpretation notes and ratio analysis based on the annual financial statements as required from time to time by the members of the entity or other third parties

The above will be executed in terms of the accepted rules and regulations governing accounting practice.

The term accounting can furthermore be defined as:

The systematic recording, reporting and analysis of financial transactions of a business. (Source: <http://www.investorwords.com/48/accounting.html>)

Reason:

The draft refers to auditors and accountants providing a service to the public.

Recommended changes to the definition of “professional body”:

Change the reference ,” ...means a body of, or representing auditors or both accountants and auditors,” to

“means a body that originated and is currently registered as such in South Africa, representing accountants and auditors, of which a significant number of individual members, at least twenty percent , are in public practice in South Africa”

Reasons:

Firstly, the current definition excludes professional bodies that represent accountants currently in public practice. Although the members of these bodies were required to apply statements of South African Auditing Standards, they were prohibited from ever even mentioning terminology such as “Attest” and “Audit” only because these institutes were not registered with the PAAB. The new bill need to rectify this unfair treatment. (Note that “and” is underlined to ensure that the definition is not confused with the current definition of the term “accountants and auditors” as per the PAA Act).

Secondly, we cannot allow an automatic acknowledgement and participation of overseas professional bodies until such time as it becomes internationally acceptable for South African bodies to be automatically accepted elsewhere and visa-versa. It is time that the profession also align itself with the “Proudly South African” drive. In the past certain professional institutes placed too much emphasis on the international acceptance and mobility of their qualifications while completely ignoring the needs of our own country. Although South Africa is part of the global village, and one readily accepts the idea, we are not a British Colony anymore. Our own needs must have precedence over any other country’s needs. Nowhere in the world is a foreign institute allowed to automatically practice accounting and or auditing. If a foreigner wishes to practice in our country, the same rules that apply elsewhere in the world, must also apply here. This will ensure that the current professional bodies receive the same protection as those professional bodies in other countries.

CHAPTER II

INDEPENDENT REGULATORY BOARD FOR AUDITORS, ACCREDITATION AND REGISTRATION

Requirements for accreditation

Recommended change to Section 6(2)

“6.(2) At the commencement of its functions by the IRBA, any body which at that time is accredited to the PAAB shall be considered to be a professional body accredited by the IRBA.”

Recommend a change of the above to:

“6(2) At the commencement of its functions by the IRBA, **all professional bodies shall be considered to be a professional body accredited by the IRBA**”

Reasons:

Why favour one professional body over the other? Section 6(3) provides ample control to ensure that the correct level of professionalism be maintained.

Once the bill is accepted, any individual providing accounting and /or auditing services and not belonging to a professional body registered with the IRBA will not be able to practice. This is a good opportunity to test the various institutes capabilities in an environment where no unfair legislation exists.

Our country removed unfair job reservation legislation a long time ago by removing all reference to “Scheduled Worker” which was defined as a “White Male”. It is time that the accounting profession rid itself of any unfair labour practices as well. (Refer the old “Mines & Works Act”).

Practice by registered auditor

11. (1) No person except a registered auditor may..... or use the description “certified public accountant” or any other designation...”

Recommended change to:

11.(1) “No person ... or use **any designation or description...”**

Reasons

The specific reference to a designation chosen more than two years ago by the Certified Public Accountants of South Africa, is quite worrying and leaves the impression that prior agreement has already been reached between the PAAB, SAICA in particular and the drafters of the Bill. This causes quite a lot of individuals to question the motives of the drafters.

Of the initial 17 members of the Ministerial Panel a total of 12 members were members of SAICA. It is known that the PAAB started with legal action against the

CPA (SA) for the use of this particular designation stating that the name might confuse the public and that the public interest must be protected at all times.

The PAAB ignores the fact that more than fifty percent of the members of the CPA(SA) is in fact serving the public interest and have been doing so for over twenty years and that this very public “turf battle “ can only harm the profession, particularly once the dirty linen comes out.

It will not be in the country’s interest if over 4 000 practicing CPA’s be declared illegal practitioners overnight. The government now has a wonderful opportunity to equal the playing field for once and all.

The definition of a CPA is quite widely accepted as:

“An individual who has received state certification to practice accounting” (Source:

<http://www.investorwords.com/48/accounting.html>)

The current group of CPA’s in this country did receive state certification through the Close Corporations Act and through other legislation and arrangements to practice as accountants.

CHAPTER III

Standard-Setting Board for Auditor Ethics: Composition

“14. (1) (a) five registered auditors”

Recommended to change to:

“14. (1) (a) four registered auditors, where all the members may never originate from the same professional body”

Add one additional member then to 14 (1) (d)

Reason

As ethics is not a quantifiable knowledge based characteristic of an individual, it must be managed and controlled in a subjective as well as objective manner at all times. By allowing fifty percent of the members of the SBE to originate from the profession and even worse, from the same professional body within the profession, might once again create the impression that the profession is trying to regulate itself.

If the majority of the members are non-aligned professionals, objectivity will be assured to a larger extent.

SBE: powers and duties

15. (a) “to promote high...”

Recommended to change to:

15. (a) “to promote **and maintain** high...”

Reason

The SBE will have to provide more than only direction on ethics. It will have to perform a maintenance function as well by ensuring that proper systems are in place for the disciplinary tribunals to use as a basic point of departure in all its dealings.

If we analyse the section on “SBE: powers and duties” it becomes quite obvious that the SBE will indeed be performing a maintenance function as well.

Standard-Setting Board for Auditing: composition

“17. (1) (a) five registered auditors;”

Recommended to change to:

“17. (1) (a) five registered auditors, of which not all five members will originate from the same professional body;”

Reason

In the past , auditing pronouncements predominantly concentrated on issues regarding large public interest companies. By allowing a seat to professional bodies that for a very long time concentrated on limited purpose companies, auditing standards for this very important sector will now also be standardised on a world class format.

SBA: objectives

“18. (a) to promote high ...”

Recommended to change to

“18. (a) to promote and maintain high...”

Reason

It is quite clear from section 19 that the maintenance function will also be part of the SBA’s functions

CHAPTER IV

POWERS AND DUTIES OF REGISTERED AUDITORS AND REVIEWS BY IRBA

Limited liability of auditor for opinions, reports statements etc.

23.

All six points may remain as is. However, a point 7 is also recommended:

(7) Notwithstanding the above, all claims for damages emanating from work performed by the auditor will be subjected to the following limitations:

- (a) The auditor's liabilities, irrespective how it is incurred, will be limited to an amount equal to twice the professional fees paid to the auditor in consideration for the particular work, or to a maximum amount as decided from time to time by the responsible Minister, whichever amount is the lowest.**
- (b) The auditor's liability is furthermore limited, in respect of any item of work, to a period of three years from the completion date of that particular work giving rise to a liability on the auditor's part, notwithstanding the provisions of the Prescription Act (No 68 of 1969) as amended.**

Reason

The above is a directive provided by the CPA(SA) for its members and seem to be a very sober approach to setting the limitations on the legal recourse the users of financial information have towards the auditor. (Part a is not precisely the same)

Practice reviews

24.

As I general recommendation, it is recommended that reference to "thing" be substituted with "**object -**" or "**item and explanation**".

Reason

It might be better English grammar, and it surely sounds better as well.

Transitional provisions

52.

“(3) Any person who ... was registered as an accountant and auditor under the Public Accountants’ and Auditors’ Act, 1991, is..”

Recommended change to:

“(3) Any person who...**was a registered member of any of the professional bodies as contemplated in the definition of a professional body in the definitions section of this Act and employed in public practice either as a professional, partner or sole proprietor, is...**”

Reason

See the explanation regarding the inclusion of professional bodies, section 6(2) and definitions section.

(4) (a) Total alteration is recommended:

“(4) (a) ..as at the commencement date, **as well as all qualifying examinations as performed by the professional bodies other than the Public and Accountants’ Board, will** be deemed to have been subscribed by the IRBA in respect of registered auditors **for a period of not longer than one year after the commencement date of this Act. Any member of any professional body who, at the commencement date of this Act did not pass the prescribed final qualifying examination as required by the respective professional bodies, will first of all pass the examination as prescribed by the professional body where the member completed the required learnership agreement within one year of the commencement date of this Act. Only after successfully completing the first examination, same member will be eligible to enter as a candidate for the current Part 11 Qualifying Examination and said member will have to successfully pass said examination before application can be made to the IRBA for registration as an auditor. All current members of professional bodies that cannot provide proper proof of maintained**

continuous professional development and/or education for the five years immediately preceding the commencement date of this Act, will also be required to pass the Part 11 Qualifying Examination paper or its future equivalent within a five year period from the commencement date of this Act ”

Reason

The current Part 1 of the Qualifying Examination as set by SAICA and the qualifying examination set by the CPA(SA) have proven over the years to be of a very high standard. All that is required now is for the the IRBA to set the standards for the auditing part of these papers. A period of twelve months after the commencement of this act should prove quite sufficient to set these standards.

Once the IRBA commences with its duties, the above arrangement will force the IRBA to set industry standards very fast and hopefully result in each professional body to take full control of its own examinations under the auspices and standard setting rules of the IRBA.

For once the playing field will be equal

Rest of Section 25 (4)

Sections (b), (c), (d) & (e) are sections where the South African professional bodies are mostly in agreement with and may be left as is.

“(5) The Education ...of the Public Accountants’ and Auditors’ Board, as it exists immediately prior to the commencement date...”

Recommended change:

“(5) The Education ... of the Public Accountants’ and Auditors’ Board **as well as one nominated member from each of the Education and Training boards of the professional bodies other than SAICA**, as it exists immediately prior to the...”

Reason

This approach will ensure that all professional bodies be treated equally from the very first day and that only one industry standard be applied in a very short time.

“(6)”

It is recommended that reference to **Public Accountants’ and Auditors’ Act, 1991** be removed in order to allow all investigations and disciplinary actions to be completed by those professional bodies that started it. Add **“However, all investigations and disciplinary actions will be deemed to be conducted under the auspices of the IRBA from the commencement date of this Act.**

Reason:

This approach will put all investigations and disciplinary action under the immediate control of the IRBA and also provide a platform for the IRBA to identify future committee members.

Submitted:

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