



10 February 2005

Director: Local Government Implementation Office 1809
Private Bag X115
Pretoria
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Dear Ms R Malahleha and Mr R Peterson

**ACCOUNTING STANDARDS BOARD: SUBMISSION ON INVITATION TO COMMENT ON
DRAFT AUDITING PROFESSION BILL, 2004**

In response to your invitation to comment on the Draft Auditing Profession Bill, attached please find the comment letter prepared by the Accounting Standards Board (ASB).

We would like to thank you for the opportunity to provide comments on this Bill. Please do not hesitate to contact me should you wish to discuss any of the comments.

Yours sincerely

A handwritten signature in black ink that reads 'Erna Swart'.

Erna Swart
Chief Executive Officer

Chapter 1

Definitions

1. The definition for “audit” differs from the definition of “audit” in the Public Audit Act, Act No. 25 of 2004. We recommend that the definition for “audit” in this Bill be aligned with the definition used in the Public Audit Act.

“Audit” is defined in the Public Audit Act as “the examination or investigation, in accordance with any applicable audit standards, of the following aspects to be reported on:

- a. whether the financial statements of the auditee fairly present, in all material respects, the financial position at a specific date and results of its operations and cash flow for the period which ended on that date in accordance with the applicable financial framework and legislation;
- b. the auditee’s compliance with any applicable legislation relating to financial matters, financial management and other related matters; and
- c. the reported information relating to the performance of the auditee against predetermined objectives.”

Chapter 2

IRBA: Powers and duties

2. Consideration should be given to include the following additional powers for the IRBA:
 - a. Obtain the services of any person or entity to perform any specific act or function;
 - b. Insure itself against any loss, damage, risk or liability;
 - c. Perform legal acts, or institute or defend any legal action in its own name; and
 - d. Do anything that is incidental to the exercise of any of its powers.

Chapter 3

Standard-Setting Bodies for Auditing: composition

3. Section 17(1) determines that one of the members should consist of a person with experience in teaching of auditing at a university. We recommend that the number of years’ experience that the person should have in the teaching and understanding of auditing, be included in the Bill.
4. Furthermore, section 17(1) determines that the membership of the SBA should consist of an incumbent of the office of executive officer of the Financial Service Board, as well as an incumbent from the office of the Registrar of Banks. Since the SBA will be responsible to promote auditing standards and ensure that sufficient rules and guidelines for auditing standards are developed, we are not sure how the experience of these two individuals will contribute to the objectives of the SBA, since they are more involved in accounting aspects rather than auditing aspects. We recommend that the membership of these two bodies be reconsidered.

SBA: powers and duties

5. One of the duties of the SBE is to provide advice to registered auditors on matters of professional ethics and conduct (section 16). We recommend that a similar duty be included for the SBA, i.e. to provide advice to registered auditors on matter relating to audit.

Chapter 5

Appointment of tribunal and committees to carry out disciplinary functions

6. Section 25(2) indicates that the IRBA will appoint members of the disciplinary tribunal in equal numbers from persons who are or have been a registered auditor and from persons appearing to be suitably qualified having regard to the functions conferred on the tribunal.

Section 25(1) determines that the members of the disciplinary committee will constitute solely of registered auditors.

We recommend that similar to the disciplinary tribunal and the disciplinary committee, the composition of the investigatory committees should be legislated.

Chapter 7

Appointment of members of Boards

7. Section 35 (1) determines that members of the IRBA is appointed for 3 years, and may be re-appointed for a further period or periods. We recommend that, as with the members of the Accounting Standards Board (ASB), one third of the members of the IRBA determined by lot should retire by rotation annually after the commencement of the second term if they are re-appointed.

Continuity contributes to the retention of experience and skills transfer to new members. It would also assist in the maintenance of the productivity of the IRBA.

8. Section 38 determines that a member of the IRBA vacates membership by resigning from the Board. We recommend that the Act should indicate the period for which written notice is required to be submitted the Minister.

Chairperson and deputy chairperson

9. We recommend that the Act indicate the period that the chairperson and deputy chairperson should hold office.
10. We further recommend that the Act should indicate whether the deputy chairperson will succeed the chairperson or whether another chairperson should be selected when the current chairperson's term as member expires.

Funds and accounting

11. The Public Finance Management Act, Act No. 1 of 1999, as amended (PFMA) defines a national public entity as: "A board which is
 - (i) established in terms of legislation;
 - (ii) fully or substantially funded by way of a levy; and

(iii) accountable to Parliament.”

Since the IRBA meets these requirements, we recommend that the IRBA should be listed as a schedule 3A public entity in terms of the PFMA.

Once the IRBA is listed as a public entity, section 55(1)(b) of the PFMA determines that public entities need to prepare financial statements for each financial year in accordance with generally recognised accounting practice.

The reference in section 43(4) should therefore be amended to Standards of Generally Recognised Accounting Practice issued by the ASB.

General

12. Throughout the Bill, definitions and explanations for terminology are included as part of the sections in the Bill, for example:
 - a. Section 3(6) – “property”;
 - b. Section 21(2) – “financial interest”;
 - c. Section 21(3) – “pension fund organisation” and “collective investment scheme”;
 - d. Section 22(1) – “management board”, “nominated auditor”, “reportable irregularity” and “appropriate regulator”
 - e. Section 23(6) – “client” and “third party”;
 - f. Section 27(1) – “allegation of improper conduct”;
 - g. Section 29(5) – “hearing”;
 - h. Section 30(1) – “disciplinary body”;

We recommend that these definitions should rather be included as part of chapter 1 which includes all definitions used in the Bill.

13. We recommend that the Act should make provision for following matters relating to conduct of the members of the IRBA, SBE, SBA or committee of the IRBA:
 - a. Disclosure of any personal or private business interest that that member or any spouse, partner or close family member may have in any matter before the IRBA, SBE, SBE or committee of the IRBA;
 - b. Misuse of the position, privileges, or knowledge of a member for private gain or to improperly benefit another person; and
 - c. An action by a member may not in a way compromise the credibility, impartiality, independence or integrity of the IRBA, SBE, SBA or any committee of the IRBA.