



## **ASSOCIATION FOR THE ADVANCEMENT OF BLACK ACCOUNTANTS OF SOUTHERN AFRICA**

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# **ABASA's Comments on the Draft Auditing Professions Bill**

## ***Introduction***

ABASA would like to take this opportunity to congratulate the Ministry on the work put together for the revision of the regulatory framework of the auditing profession and we hope this will go a long way in addressing some of the challenges we have witnessed recently around like corporate failures etc.

It was discussed and agreed that ABASA as an organisation does in fact have a special interest in the draft and would submit its views for consideration by the Minister. It was further agreed that the focus of ABASA's submission would be focused around issues primarily to do with promoting the greater participation of black accountants and women in the administration of the profession. Matters that are likely to be addressed by individual firms relating to technical aspects of the draft bill would not be covered in detail. Therefore the focus of our commentary was restricted mostly to issues that have an impact on transformational and gender issues. Our commentary on the Bill are as follows:

## ***Discussion on the Draft Bill***

### **Composition of the Independent Regulatory Board for Auditors**

- ❑ Bill must refer to Minister's consideration of transformation, gender equality, and diversity issues in his selection of the members of the IRBA, in particular relating to members selected from amongst registered auditors
- ❑ In addition to the 4 registered auditors the Auditor General should also be included as a member of the IRBA, as well as another person with a background in the profession but who is no longer a practising registered auditor
- ❑ An representative of Tertiary Learning Institutes should also be included as a member of the IRBA, particularly a person representing previously black dominated universities
- ❑ The remaining positions may be filled at the Minister's discretion with due consideration for the objectives of the IRBA.

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### **Objectives of the IRBA**

- ❑ Objectives of the IRBA should include as specific and separate objectives points relating to transformation of the profession and gender equality

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### **IRBA Powers and Duties**

- ❑ Section 5 (1)(e) refers to the IRBA's powers to determine the need, nature and level of indemnity or fidelity insurance to be carried by a registered auditor. ABASA is of the view that due consideration of the impact of this on black accountants should be made, so that this does not become a barrier to entry into the profession. Furthermore it is noted that should one not carry sufficient amounts of professional insurance covers, one could expose personal assets in the event of a successful litigation and this may also act as a disincentive for prospective black students to enter the profession. ABASA acknowledges that it does not seek to protect its members from gross negligence but notes the current system of unlimited liability is a deterrent to attract black talent as the risk/reward relationship as it stands is imbalanced. ABASA does not have any specific recommendations on this matter at this time, but calls for more discussions to be held to identify a solution that is fair and equitable on the basis of proportionate liability.
- ❑ Section 5(5) refers to the limitation of the IRBA's power to overrule the decisions of some of its committees. ABASA is of the view that this removes accountability from the IRBA, which is ultimately answerable to the Minister for all actions undertaken in its name. ABASA is of the view that no such limits on the IRBA's power should be allowed, and that the IRBA should exercise its discretion on such matters.

### **Accreditation**

- ❑ After significant discussions on the views around this issue it was decided that the most prudent approach would be to withhold comment on this aspect of the draft bill.

### **Termination of accreditation of member**

- ❑ Section 10(2)(c) allows for the cancellation of the registration of a registered auditor who ceases to be a member of an accredited professional body, albeit allowing for 21 days in which the member may submit grounds for not proceeding with cancellation. ABASA is of the view that more protection should be included for registered auditors who may feel that they have been discriminated against in their respective professional body on the basis of gender or race or any other unfair basis. Rights of appeal and or arbitration processes should be included in the draft bill to ensure that individual members rights are not disregarded.

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### ***Functions and Composition of Subsidiary Boards***

#### **Standard-Setting Board for Auditor Ethics (SBE): composition**

- ❑ Bill must refer to the IRBA's consideration of transformation, gender equality, and diversity issues in its selection of the members of the SBE, in particular relating to members selected from amongst registered auditors
- ❑ At least one of the 5 registered auditors on the SBE should be one of the registered auditors included on the IRBA. This will ensure a smooth flow of information between the bodies and the effectiveness of both bodies. This individual may take the role of Chairperson.

#### **SBE Powers and Duties**

- ❑ A clear line of reporting, responsibility, and overall accountability must be established between the IRBA and the SBE
- ❑ ABASA feels that before the SBE sets any rules or regulations of a substantive and non-administrative nature such rules and regulations must first be tabled before and approved by the IRBA.

#### **Standard-Setting Board for Auditing (SBA): composition**

- ❑ Bill must refer to the IRBA's consideration of transformation, gender equality, and diversity issues in its selection of the members of the SBA, in particular relating to members selected from amongst registered auditors
- ❑ At least one of the 5 registered auditors on the SBA should be one of the registered auditors included on the IRBA. This will ensure a smooth flow of information between the bodies and the effectiveness of both bodies. This individual may take the role of Chairperson.
- ❑ Notwithstanding our recommendation that the Auditor General be given a seat on the IRBA, ABASA feels that a senior representative of the Auditor General's office be included on the SBA

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- ❑ In order to balance our recommendation that a representative of previously black dominated universities sit on the IRBA, we believe that a representative of previously white dominated universities sit on the SBA

### **SBE Powers and Duties**

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- ❑ ABASA feels that before the SBA sets any rules or regulations of a substantive and non-administrative nature such rules and regulations must first be tabled before and approved by the IRBA.

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### ***Disciplinary Matters***

#### **Composition of Disciplinary Tribunal**

- ❑ Bill must refer to the IRBA's consideration of transformation, gender equality, and diversity issues in its selection of the members of the Disciplinary Tribunal, in particular the Tribunal President
- ❑ The draft bill must include a minimum number of members that constitute the DT, and ABASA recommends a minimum of no less than 5 members.

#### **Composition of Disciplinary and Investigation Committees**

- ❑ Bill must refer to the IRBA's consideration of transformation, gender equality, and diversity issues in its selection of the members of disciplinary and investigation committees
- ❑ The draft bill must include a minimum number of members that constitute a disciplinary or investigation committee. ABASA recommends a minimum of 3 members for an investigation committee and 5 members for a disciplinary committee

#### **Evidential Provisions applicable to Investigations and hearings AND Disciplinary Hearings**

- ❑ Section 29(2) states that evidence given for the purpose of any investigation or hearing nor any decision on a hearing may be used by or against a person whose conduct is the subject of the investigation or hearing in any subsequent civil or criminal proceeding in any court, but may be used in disciplinary proceedings before any professional body.
- ❑ Section 30(5) states that a hearing before a disciplinary body is open to the public except where, in the opinion of the Tribunal President, or as the case may require, the chairperson of a disciplinary committee, any part of the hearing should be held in camera.
- ❑ ABASA feels that the 2 sections above are potentially in conflict with one another as a public hearing may result in criminal and or civil proceedings against the subject of the hearing, notwithstanding the provisions of section 29(2).
- ❑ Irrespective of the potential legal conflict between the above sections, ABASA feels that the outcome of disciplinary hearings where a verdict of guilty has been arrived at should however be publicised appropriately.

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### **Lack of Appeals Process**

- ❑ The draft bill lacks the outline of an appeals process by registered auditors that are dissatisfied with the outcome and or conduct of investigations or disciplinary hearings. There needs to be a clear appeals process outlined in the bill to protect the rights of registered auditors.

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### **Committees**

Section 42(4) deals with the ability of the IRBA to assign and regulate powers of its committees. ABASA disagrees that the IRBA, as part of the appeals process referred to above should not have the power to review and overrule the decisions of its committees and subsidiary boards, SBE and SBA.

### ***Proposed Amendments to the Companies Act, 1973***

#### **Rotation of audit partners**

ABASA is of the view that rotation of audit partners be on a cycle of 5 years. Auditing is becoming far more complex and risky with a four year period considered too short for a partner to firstly understand the client and to make a meaningful contribution. In practice, Audit Committees would be calling for the new partner in year 3 which further reduces the partners ability to understand the client. This is to ensure that skills transfer can properly take place as well as the opportunity to train blacks as specialists in areas of mining, banking, etc.

#### **Rotation of auditors**

- ❑ ABASA is of the view that the basis of auditor rotation to be broadened to include the rotation of firms and not merely individual auditors within the same firm. The basis of this view is that many discussions in the past have identified the rotation of audit firms as being a possible way of increasing the participation of black audit firms in the audits of predominantly white entities.
- ❑ ABASA feels that audit firms should be rotated on a 5-year cycle, with due consideration for circumstances where black firms are the incumbent auditors and considerations of transformation may be used to elongate the period before rotation.
- ❑ Partnering of black audit firms with traditionally white audit firms in industries where special or unique expertise, e.g. financial services and mining, should also be investigated to broaden the participation of black audit firms in these industries. Due consideration of these relationships should be made when applying the rules of rotation

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**For and on behalf of ABASA National Board**  
**Avhashoni Ramikosi**  
**ABASA National President**

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