



21 September 2016

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THE CFO FORUM RESPONSE TO THE CONSULTATION ON MANDATORY AUDIT FIRM ROTATION

Dear Tania

The CFO Forum ("The Forum") is a high-level discussion group formed and attended by the Chief Financial Officers of major JSE listed and larger state-owned companies with broad sectoral coverage ranging from financial services, mining, retail, media, telecoms, medical services and paper & packaging. Its aim is to contribute positively to the development of South Africa's policy and practice on financial matters that affect business, for example in the areas of: government regulatory issues and initiatives, taxation, financial reporting, corporate law and governance, capital market regulation and stakeholder communications for enterprises on behalf of its members, who represent a significant part of South African business. The Forum was created in 2011.

The Forum welcomes the opportunity to provide its written submission to the Consultation on Mandatory Audit Firm Rotation ("MAFR").

Question 1

The matters that should be considered in setting an appropriate transitional dispensation?

We have extensively reviewed the submissions made by our members (both to The Forum and to the JSE), and further, we have had extensive engagements with the CFO's that had not made submissions.

We have, from these engagements, concluded that given the strong dissenting views expressed we are not in a position to provide input on the transitional arrangements until such time as the Independent Regulatory Board for Auditors ("IRBA") provides The Forum with:

- Specific details on the consultation process conducted;
- Evidence of instances of audit failures and quality issues linked to specific findings identified in the public inspections report; and
- Its White Paper and related research on MAFR.

Access to this critical evidence and The White Paper will provide The Forum with the clarity and understanding required to engage meaningfully on the transitional arrangements as requested by the JSE.

Question 2

The preferred manner of consultation so as to ensure that listed companies are properly consulted?

It should be recorded that the consultation process followed by IRBA to date appears to lack transparency and integrity. The process has completely disregarded the valid concerns of stakeholders thus opening up an opportunity for the motives and objectives of IRBA to be called into question. There are a number of matters requiring consultation and it may not be possible to address all matters through a single process. The Forum further believes that any form of discussion, in the absence of a specific proposal, does not constitute consultation. Despite engaging with a number of stakeholders it appears concerns of stakeholders have not been considered and that the outcome of this regulatory change proposed was predetermined.

Below, we detail our view on a public consultation process that would be expected in order to effect such a significant change.

1. Process to effect regulatory amendments

The consultation should be led by the Department of Trade and Industry ("DTI") to affect amendments to the Companies Act. We believe that an amendment to the Companies Act will guarantee a transparent, robust public consultation process as part of the Parliamentary process. Also an amendment to the Companies Act will:

- Provide members of the public and all stakeholders an opportunity to provide valuable inputs. JSE can also provide inputs to this process in a transparent manner.
- Ensure that all rules affecting the decision rights of shareholders are housed in one place where all other shareholder rights and existing audit independence legislation are dealt with.
- Ensure that the matters listed below are appropriately addressed:
 - The desired outcomes for and objectives of MAFR;
 - Companies to which MAFR will apply; and
 - Which companies (if any) would be exempt from MAFR;
 - Rotation and cooling off periods; and
 - Transitional arrangements.
- Prevent the indirect regulation of companies through regulation which should only bind auditors however, limits the rights of shareholders to appoint auditors, as well as limiting the rights and duties of audit committees.
- Ensure that draft regulations will be available to all interested parties to review and comment on, and that meaningful time is allowed to achieve this.

2. Process for collating written comments

- The IRBA should provide detailed proposals for the implementation of MAFR upon which comments can be based.
- The IRBA should provide an opportunity for all affected parties to submit written comments on these specific proposals.

- Once written comments have been obtained, the IRBA should ensure a formal and transparent process is followed. This can be achieved through:
 - Collating the comment letters;
 - Providing a basis for conclusions with regards to the common themes identified; and
 - Providing a basis on how these have been appropriately addressed in determining the final requirements.
- Where comments are rejected feedback should be provided to allow for further consultation.
- Where amendments are made to the original proposal, or where certain elements are retained, these decisions should be justified in writing in view of the comments received.
- Public meetings should be held with interested groups to explain the reasoning behind any decisions taken and to receive additional comments/submissions.
- The following bodies, amongst other, would need to be consulted during this process:
 - SARB - Due to the SARB supervisory role in the banking sector, we strongly recommend that IRBA consults the SARB on ensuring this systemic industry is properly considered throughout the process;
 - SAICA - IRBA needs to consider the efforts undertaken by the South African Institute of Chartered Accountants (SAICA) as they relate to MAFR, as SAICA has conducted an outreach project on this subject with its constituents, and the resultant feedback is expected to prove invaluable to the overall process;
 - The JSE – as regulator of listed companies operating in South Africa and multiple global jurisdictions any changes will directly impact the regulation of these companies; and
 - DTi – as custodian of the Companies Act any changes to auditing regulations will have a significant impact if not considered in relation to existing legal regulations.
 - The Banking Association of South Africa (BASA) is committed to a sustainable banking environment, it has proposed that IRBA engage the banking industry as a collective through BASA.
 - IoDSA – The Institute of Directors in southern Africa represents a significant stakeholder group which is the users of the audit process and will be directly impacted by any changes.

3. Independence finding identified

- We believe it would be particularly beneficial for the IRBA to provide The Forum with its comprehensive findings on how the audit process, as it stands, has affected the independence of audit firms and that of audit committees.

4. Other matters for consideration

Given auditors' fundamental role in establishing confidence in capital markets, the IRBA should follow a fair public consultation process which enables all affected parties to have their opinions recorded and appropriately considered, as is required in terms of the Constitution of the Republic.

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We also suggest that the JSE and IRBA undertakes a broad-based survey and impact assessment followed up by opportunities for consultation in appropriate forums among chartered accountants, registered auditors and all affected parties to determine whether or not they support MAFR and if so appropriate transitional measurements.

Conclusion

We recognise that constructive debate around the implementation of MAFR remains essential.

We have attached the previous correspondence of the CFO Forum to IRBA as well as correspondence from the CFO Forum to the Specialist Committee on Company Law which provides further insight to the views expressed in this letter.

We thank you for this opportunity to participate in the debate that the JSE is coordinating on strengthening auditor independence, which we believe is a worthwhile objective and trust our comments will assist as you continue in the endeavour of improving investor protection through the regulation of audit firms.

Should there be any matters above that you require further clarification we will be happy to discuss them with you further at a mutually convenient time.

Yours sincerely



KC Ramon
Chairperson of the CFO Forum

Attachments:

- CFO Forum letter to IRBA dated 7 June 2016
- CFO Forum letter to Specialist Committee on Company Law dated 7 June 2016