



**PROCEDURE GUIDE ON THE REFERRAL OF NON-AUDIT
COMPLAINTS TO ACCREDITED PROFESSIONAL BODIES IN
ACCORDANCE WITH SECTION 48(1A) OF THE AUDITING
PROFESSION ACT**

NOTE: *This procedure guide gives effect to the provision of section 48(1A) of the Auditing Profession Act. It outlines the process that the IRBA will follow in referring non-audit complaints received to relevant accredited professional bodies for them to investigate and institute disciplinary proceedings on their member. It also sets out inter alia the responsibilities of the accredited professional body and the impact on the IRBA registration process.*

1. Introduction

The Auditing Profession Act, 2005, has been amended by act 2 of 2015 and act 5 of 2021, (APA). The implementation of section 48(1A) of the APA will enable the referral of non-audit complaints against a registered auditor (RA) and registered candidate auditor (RCA) to their relevant IRBA accredited professional body, if it is a matter that falls within the constitution and rules of the professional body.

This in turn enables the IRBA investigations department to focus on investigating audit complaints.

The accredited professional bodies are monitored annually by the IRBA in order to assess their compliance with the requirements for accreditation which inter alia includes the professional bodies having mechanisms to ensure that complaints received by them are dealt with and that their members are disciplined where appropriate.

2. Definitions as per the APA

“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;

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

“professional body” means a body of, or representing,

- (a) registered auditors and registered candidate auditors; or
- (b) accountants, registered auditors and registered candidate auditors.

3. Relevant sections of the APA

Section 48(1A) is supported by section 37(1A) in that membership of an accredited professional body is compulsory for all registered auditors and registered candidate auditors. Information relating to accreditation of professional bodies is set out in sections 33 and 34. Section 57A(2) addresses disclosure of information pertaining to section 48(1A).

3.1 Section 48(1A) states:

- (a) *Despite subsection (1), the enforcement committee referred to in section 24B may, if considered appropriate, refer a non-audit matter brought against a registered auditor to the relevant professional body accredited in terms of section 32(2) for investigation and disciplinary proceedings.*
- (b) *The enforcement committee may only refer a non-audit matter in terms of paragraph (a) if it is a matter that falls within the constitution and rules of the professional body.*

3.2 Section 37(1A) states:

An individual may only be registered with the Regulatory Board if he or she is a member of a professional body accredited in terms of section 32(2).

3.3 Section 34 states:

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.

3.4 Section 33 states:

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

...

(c) it has mechanisms to ensure that its members are disciplined where appropriate;

.....

3.5 Section 57A(2) states:

A member of the Regulatory Board, a member of any committee envisaged in this Act, an employee of the Regulatory Board or an authorised person referred to in section 48A(1), may not disclose to any person not in the service of the Regulatory Board any information obtained in the performance of functions under this Act, except-

...

(e) for purposes of referring a non-audit matter in terms of section 48(1A).

4. Referral of a non-audit complaint

A non-audit complaint is a complaint where the matter does not meet the definition of audit as set out in the APA.

The enforcement committee (ENCOM) of the IRBA has delegated the referral of non-audit complaints to accredited professional bodies to the Director Investigations..

The Director Investigations will refer all non-audit complaints received to the relevant accredited professional body for investigation and disciplinary proceedings within ten working days of receiving the complaint. The IRBA will not perform any work on the non-audit complaints received and referred to professional bodies.

All documents received pertaining to the complaint will be submitted to the professional body, together with the letter as set out in Annexure B advising the professional body that they are required to investigate the complaint within the next 12 months and carry out the necessary disciplinary proceedings. Should the professional body require additional time to finalise the referred complaint, they must submit a written request for an extension of time to the Director Investigations including their reasons therefore.

Simultaneously, a letter as set out in Annexure C will be sent to the complainant advising them that the complaint has been sent to the professional body for investigation and disciplinary proceedings, and a letter as set out in Annexure D will be sent to the respondent advising them that the complaint has been sent to the professional body for investigation and disciplinary proceedings.

The Professional Manager: Investigations will table the referral register for noting at the next scheduled ENCOM meeting. The referral register is set out in Annexure A and will be maintained electronically.

In a situation where a complaint against an RA relates to both an audit and a non-audit matter which cannot be distinctly separated, the matter will not be referred to an accredited professional body for investigation. This complaint will be dealt with by the IRBA.

Should an accredited professional body believe that a non-audit complaint which has been referred to them by the Director Investigations falls outside the constitution and rules of the accredited professional body, they must within ten working days of receipt of such referral, revert to the Director Investigations detailing why they believe the complaint falls outside of their constitution and rules. In such instances, the Director Investigations will respond to the accredited professional body, the complainant, and the respondent within ten working days on the way forward.

Section 57A(2) permits disclosure of information relating to a non-audit complaint referred by the IRBA to an accredited professional body for investigation.

5. Responsibilities of the accredited professional body

Where non-audit complaints are referred to accredited professional bodies by the IRBA they have an obligation to:

- a) Acknowledge receipt of the referred non-audit complaint within ten working days of the date of receipt of the referral letter from the IRBA Investigations Director.
- b) Liaise directly with the complainant and respondent regarding the investigation of the complaint.
- c) Where so directed by the IRBA, participate in a collaborative investigation of the referred matter if the respondent had dual membership of accredited professional bodies at the date of the alleged transgression.
- d) Investigate the complaint in line with the constitution and rules of the professional body.
- e) Impose an appropriate sanction based on the outcome of the investigation.
- f) Finalisation of the investigation within 12 months from the date of the complaint.
- g) Provide the Professional Manager: Investigations with a written progress report on complaints referred for investigation by the professional body within 12 months from the date of the complaint.
- h) Provide written feedback to the IRBA Registrations Manager within ten working days from the date of the findings and outcomes of the investigation and disciplinary proceedings of the referred complaint.

6. Acceptance of the findings and outcome of the accredited professional body's investigation and disciplinary proceedings

The IRBA will accept the findings and outcome of the accredited professional body's investigation and disciplinary proceedings on referred non-audit complaints.

The IRBA Accreditation Model (2013), section 2B, institutional accreditation requirements, discipline and ethical conduct of members, paragraph 1.1 states: *“In order to be accredited, a professional body must demonstrate that it has mechanisms to ensure that its members are disciplined where appropriate. Compliance with the accreditation requirements demonstrates the commitment of a professional body towards advancing the implementation of appropriate standards of ethical conduct within the broader profession. The rigour of a professional body’s own disciplinary processes and the actions taken against members in the case of improper conduct provide support for the IRBA’s function to promote the integrity of the auditing profession”*.

7. Impact on IRBA registration of the findings and outcome of the accredited professional body’s investigation and disciplinary proceedings

Within ten working days after finalising the investigation and disciplinary proceedings on a complaint referred by the IRBA to the accredited professional body against a member who is an RA, the accredited professional body is required to provide the IRBA’s Registrations Manager, via email to registry@irba.co.za with the findings and outcome of the professional body’s investigation and disciplinary proceedings.

Should information on the outcome be outstanding from the accredited professional body, the Professional Manager: Investigations will do a written follow up on the outcomes of the professional body’s investigation and disciplinary proceedings.

As confirmed above, the IRBA will accept the findings and outcome of the accredited professional body’s investigation and disciplinary proceedings on referred non-audit complaints.

It follows that where the professional body has terminated an individual’s membership, such individual will no longer meet the criteria for registration with the IRBA as they must be a member of an accredited professional body to be registered with the IRBA, and the IRBA is then obliged, in terms of section 39(2)(b), to automatically cancel the registration of this RA.

Where sanctions issued by the professional body are other than termination, these will be noted as part of the fit and proper assessment performed by the IRBA registrations division on the annual renewal process of RAs. A sanction of suspension from practice without termination of membership by the professional body will require the professional body to issue a letter stating that such member is not in good standing, when enquiries are made on that member’s standing..

The IRBA will not issue a further sanction on the non-audit complaint that was referred to the accredited professional body for investigation, save for the endorsement of its records with the finding and sanction, which records may be considered by the IRBA committees in any future investigation or disciplinary processes.

8. Dual membership of accredited professional bodies

Where professional bodies allow dual membership, they will need to ensure that their constitution and rules allow for collaborative investigations of non-audit complaints as directed by the IRBA. Dual membership means that at the date of the alleged transgression, the respondent was a member of both accredited professional bodies. A collaborative investigation of a non-audit complaint is the most equitable way of dealing with dual membership of professional bodies. It removes perceptions of injustice by choosing one

professional body over another to do the referred investigation, in instances where there is dual membership of accredited professional bodies.

A collaborative investigation means that the accredited professional bodies are obliged to work together on producing one report on the referred non-audit complaint. In these situations it is compulsory for the accredited professional bodies to collaborate as directed by the IRBA. Once the report on the complaint is finalised it will be tabled independently for decisions at both accredited professional bodies. The RA with dual membership will therefore on a referred non-audit complaint receive sanctions from both accredited professional bodies pertaining to that particular referred complaint.

9. Effective date

Referrals of non-audit complaints to accredited professional bodies for investigation will be applicable to complaints lodged after **26 April 2021**.

10. Annexures

- a. Referral register template (Annexure A)
- b. Letter template for referral of non-audit complaints to the professional body for investigation (Annexure B);
- c. Letter template to complainant notifying them of the referral (Annexure C);and
- d. Letter template to respondent notifying them of the referral (Annexure D).

ANNEXURE A

REGISTER OF NON-AUDIT COMPLAINTS REFERRED TO ACCREDITED PROFESSIONAL BODIES FOR INVESTIGATION

Referral Reference Number	Date Received	Nature of Allegations	Respondent	Complainant	Accredited Professional Body	Date Referred	ENCOM Meeting Date

ANNEXURE B

Our reference: **PBxxxx**

Date

Mr/s

designation - professional body

Per e-mail only:

Dear Mr/s **professional body designated contact**

REFERRAL OF NON-AUDIT COMPLAINT AGAINST **RESPONDENT TO **PROFESSIONAL BODY** FOR INVESTIGATION AND DISCIPLINARY PROCEEDINGS**

1. The IRBA has received the attached complaint from **complainant** against **respondent** dated **ddmmyy**.
2. Section 48(1A) of the Auditing Profession Act (APA) states that the enforcement committee may refer a non-audit related matter brought against a registered auditor to the relevant accredited professional body for investigation and disciplinary proceedings, provided the matter falls within the constitution and rules of the accredited professional body. Section 37(1A) of the APA provides that an individual may only be registered with the IRBA if he or she is a member of an accredited professional body. Section 34 of the APA states that in order to retain its accreditation, an accredited professional body must at least once a year satisfy the IRBA that it continues to comply with the requirements for accreditation, which inter alia include that it has mechanisms to ensure that its members are disciplined where appropriate.
3. From the records maintained by the IRBA, **respondent** is registered with both the IRBA and **professional body**. The enforcement committee has determined that this complaint relates to a non-audit matter and that same also falls within the constitution and rules of **professional body**. Accordingly this complaint against **respondent** is hereby referred to **professional body** for investigation and disciplinary proceedings. Please ensure that the investigation of this complaint is finalised within 12 months from the date of the complaint. Please liaise directly with **complainant and respondent** regarding your investigation of this complaint.
4. The IRBA will accept the findings and outcome of **professional body's** investigation and disciplinary proceedings on this referred complaint.

5. Within 10 working days after finalisation of the investigation and disciplinary proceedings on this complaint, **professional body** is required to provide the IRBA Registrations Manager, via email to registry@irba.co.za with the findings and outcome of **professional body's** investigation and disciplinary proceedings in respect of this referred complaint.
6. Please acknowledge receipt of this letter within 10 working days of the date of the letter.

Yours faithfully

JILLIAN BAILEY

DIRECTOR: INVESTIGATIONS

ANNEXURE C

Our reference: PBxxxx

Date

Mr/s

address

Per e-mail only:

Dear Mr/s complainant

REFERRAL OF NON-AUDIT COMPLAINT AGAINST RESPONDENT TO PROFESSIONAL BODY FOR INVESTIGATION AND DISCIPLINARY PROCEEDINGS

1. Thank you for your affidavit dated ddmmyy with annexures.
2. Section 48(1A) of the Auditing Profession Act (APA) states that the enforcement committee may refer a non-audit related matter brought against a registered auditor to the relevant accredited professional body for investigation and disciplinary proceedings, provided the matter falls within the constitution and rules of the accredited professional body.
3. Section 37(1A) of the APA provides that an individual may only be registered with the IRBA if he or she is a member of an accredited professional body. Section 34 of the APA states that in order to retain its accreditation, an accredited professional body must at least once a year satisfy the IRBA that it continues to comply with the requirements for accreditation, which inter alia include that it has mechanisms to ensure that its members are disciplined where appropriate.
4. From the records maintained by the IRBA, respondent is registered with both the IRBA and professional body. The enforcement committee has determined that your complaint relates to a non-audit matter and that same also falls within the constitution and rules of professional body. Accordingly your complaint against respondent has been referred to professional body for investigation.
5. Attached please find for your records, a copy of the referral of complaint letter sent to professional body.
6. You are further notified that the IRBA will accept the findings and outcome of the professional body's investigation and disciplinary proceedings on this referred complaint.

Yours faithfully

JILLIAN BAILEY

DIRECTOR: INVESTIGATIONS

ANNEXURE D

Our reference: **PBxxxx**

Date

Mr/s

address

Per e-mail only:

Dear **Mr/s respondent**

REFERRAL OF NON-AUDIT COMPLAINT AGAINST YOU FROM **COMPLAINANT TO **PROFESSIONAL BODY** FOR INVESTIGATION AND DISCIPLINARY PROCEEDINGS**

1. The IRBA has received the attached complaint dated **ddmmyy** from **complainant** against you.
2. Section 48(1A) of the Auditing Profession Act (APA) states that the enforcement committee may refer a non-audit related matter brought against a registered auditor to the relevant accredited professional body for investigation and disciplinary proceedings, provided the matter falls within the constitution and rules of the accredited professional body.
3. Section 37(1A) of the APA provides that an individual may only be registered with the IRBA if he or she is a member of an accredited professional body. Section 34 of the APA states that in order to retain its accreditation, an accredited professional body must at least once a year satisfy the IRBA that it continues to comply with the requirements for accreditation, which inter alia include that it has mechanisms to ensure that its members are disciplined where appropriate.
4. From the records maintained by the IRBA, you are registered with both the IRBA and **professional body**. The enforcement committee has determined that this complaint relates to a non-audit matter and that same also falls within the constitution and rules of **professional body**. Accordingly this complaint against you has been referred to **professional body** for investigation.
5. Attached please find for your records, a copy of the referral of complaint letter sent to **professional body**.
6. You are further notified that the IRBA will accept the findings and outcome of the **professional body's** investigation and disciplinary proceedings on this referred complaint.

Yours faithfully

JILLIAN BAILEY

DIRECTOR: INVESTIGATIONS