
INDEPENDENT REGULATORY BOARD FOR AUDITORS

IRBA successfully defends challenge to MAFR by East Rand Member District of Chartered Accountants

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The Independent Regulatory Board for Auditors (IRBA) has received a favourable judgement with costs in the matter of East Rand Member District of Chartered Accountants (ERD) vs the IRBA. The ERD in its application sought to have the board decision on Mandatory Audit Firm Rotation (MAFR) reviewed and set aside. This is a pivotal moment for the IRBA in its quest to strengthen auditor independence. The judgement of the High Court Gauteng Division was handed down by Judge Norman Davis.

In concluding on the matter, Judge Davis found that the ERD had not satisfactorily shown why the application was not launched within a reasonable period and without undue delay. The Judge remained unconvinced that there was a justifiable reason for the ERD's conduct regarding the delay. He found that the uncertainty caused by the ERD's belated attack on the validity of the MAFR and its transformation impact was prejudicial to the IRBA.

He indicated that ERD's attitude on the matter was not time sensitive - due to the fact that the actual enforcement of MAFR was earmarked for 2023 - lost sight of the principles regarding undue delay and displayed a callous disregard for the rights of the remainder of the industry and its clients, who in many instances, would have to go through a tender or selection process prior to 2023 in order to ensure the adequate audit rotation, including issues of transformation.

The judge dismissed the application and awarded costs in favour of the IRBA.

Judge Davis noted that the functions of the IRBA are set out in Section 4 of the Auditing Profession Act of 2005 (APA) and includes an obligation in section 4(1)(b) to take steps to promote the integrity of the auditing profession by, not only monitoring and prosecuting improper conduct, but by taking "steps it considers necessary to protect the public in their dealings with registered auditors" and in section 4(1)(c) it provides IRBA the powers to prescribe "standards of professional competence, ethics and the conduct of registered auditors" and in terms of section 4(2)(d) the IRBA is authorised to "take any measures it considers necessary for the proper performance and exercise of its functions or duties to achieve the objects of the APA".

The IRBA is pleased that its defence in this matter was strong and that the court found that it could therefore not condone the applicants undue delay in bringing the matter to court. At the time that our

defence was prepared 38 percent of JSE-listed entities had already rotated audit firms. This has since risen to 48 percent of entities having rotated - or issued notice of intent to rotate - at least once as at end August 2021.

Of all rotations, 46 percent of these cite MAFR compliance since June 2017 as the main reason for rotating auditors. MAFR and compliance to the rule remains the leading reason for changing external audit firms, with the next most cited reason being a tender process at 12 percent.

It is clear from our analysis that the horse has bolted on MAFR. The IRBA expects the pace of rotations to continue to pick up significantly in 2022 to meet the 1 April 2023 deadline. With this judgement behind us, the IRBA will now focus more of its attention on monitoring implementation of the rule. We strongly encourage listed entities and Public Interest Entities (PIEs), especially those that may have awaited the judgement, to move ahead with their planning for audit firm rotation and not leave it until the last minute, or they might face the risk of being unable to appoint a preferred audit firm due to unavailability or potential ineligibility because of potential conflicts of interest.

The full judgement is available on the IRBA website at www.irba.co.za

Imre Nagy

Acting Chief Executive Officer

About the IRBA

The objective of the IRBA is to protect the financial interests of the South African public and international investors in South Africa through the effective and appropriate regulation of audits conducted by Registered Auditors, in accordance with internationally recognised standards and processes.