

Report Back on IRBA Investigations

Standing Committee on Finance
3 October 2017

Purpose of Report Back

- Reporting back on 2 public interest cases, which are 2 of many others
- The IRBA's jurisdiction is over auditors
 - Services delivered
 - Registration with the IRBA
- Independence of the IRBA Investigation – no interest except public protection

Purpose of Report Back (Continued)

- Shorter timeframes but stay within prescribed process
- Cannot divulge information regarding details of the investigation as it might prejudice the case
- Importance of 'calming the markets'

Role of the IRBA

- Protecting the investing public through regulation and oversight
- Strength of regulation inspires confidence in the market – WEF ranking 7 years in a row
- Confidence in financial markets is dependent on perceptions of how safe it is to do business in a country
- As confidence drops, investment drops
- Capital markets and economy will suffer
- A strong and effective regulator can enhance public perception and improve confidence
- Cooperation with other regulators can enhance the country's effectiveness in curbing corruption

IRBA Investigations Mandate

- IRBA's mandate to investigate alleged improper conduct of registered auditors arises from section 4(1) (a) of the Auditing Profession Act (APA), 26 of 2005 which states:
 - The Board must take steps to promote the integrity of the profession including:
 - investigating improper conduct
 - conducting disciplinary hearings
 - imposing sanctions for improper conduct.

Investigations Process

- Receipt of complaint: Complaints are received from members of the public, other regulators, the courts, inspections committee or may be self initiated (*mero motu*)
- Investigation: complaints are investigated if there is prima facie evidence of improper conduct by an RA (vs irregularities at the client).
- Investigating Committee: considers evidence and makes recommendations on outcome of matter to the Disciplinary Advisory Committee (DAC)
- Disciplinary Advisory Committee: considers recommendation and makes final decision on matter.

Investigation Process

- Decision can be one of the following three options:
 - Matter is not prosecuted (Dismissed)
 - Matter is prosecuted via Consent Order (Fine)
 - Matter is referred for a disciplinary hearing to the Disciplinary Committee.

Investigation Process (Continued)

- Investigation can take, on average, 18 months (non public interest cases) – 87% of these cases completed in 18 months in last financial year
- International benchmark is 36 months for public interest cases
- Importance to adhere to PAJA

Disciplinary Process

- Prepare a brief to instructing attorneys
- Pre-trial preparation with investigators, witnesses and attorneys
- Hearing arrangements set up
- Respondent is served the charge sheet by the Sheriff of the Court
- Respondent is required to plead to the charges
- Evidence bundle prepared and issued
- Convene hearing

Status of African Bank Investigation

- December 2014 – matter opened *Mero Motu*
- May 2016 – Myburgh commission report released
- June 2016 – investigation mandate extended to incorporate Myburgh findings
- December 2016 – draft allegations tabled at Investigating committee and approved for issuing to respondent
- June 2017 – initial response received from respondent, consult with experts and legal counsel and change draft charge sheets
- October 2017 – to be tabled at Investigating committee for recommendation to DAC; cannot predetermine decision of investigating committee

Status of KPMG Investigation

- 30 June 2017 – matter opened *mero motu* and investigating letters issued to respondents
- 28 July 2017 – initial response received from respondents
- Ongoing – reviewing responses and initiating follow up requests for additional information and evidence
- 27 September 2017 – meeting with KPMG International Chairman-elect Bill Thomas and CEO Nhlamu Dlomu
- 28 September 2017 – letter issued requesting outstanding information

What we are doing

- Fast track investigation while respecting the prescribed process in terms of APA and Disciplinary Rules
- Manage risk of loss of confidence in the profession
 - Taking appropriate regulatory action
 - Getting to the right outcome
 - Engaging with other international bodies

What we are doing (continued)

- Enforce cooperation with the IRBA and act on non-cooperation
- Focusing capacity on high profile cases – international support offered
- Met with, and continuous engagement with SAICA

THANK YOU