

# Saica's response to National Treasury's maximum monetary fines for registered auditors

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The South African Institute of Chartered Accountants (Saica) acknowledges the need for appropriate sanctions in the profession where required. However, Saica is concerned about the publication of fines without a clear framework or public education on the basis for these proposals.



This concern comes after the National Treasury gazetted the maximum monetary fines that may be imposed on registered auditors in terms of the Auditing Profession Act, 2005 (APA), on 15 June 2023. In terms of this notice, an individual auditor may be fined up to R5m per charge and an audit firm may be fined a maximum amount of R15m per charge. This applies to registered auditors and audit firms that admit guilt as contemplated in section 49(4)(a) of this act.

Furthermore, individual auditors and auditing firms may also be fined up to R10m and R25m respectively, for charges brought under a disciplinary hearing process constituted in terms of section 51B(3)(b) of the APA. It is assumed, but subject to clarification, that this penalty would be per charge, and not in totality.

These maximum monetary fines come into effect for improper conduct committed after 26 April 2021 which is the date on which the Auditing Profession Amendment Act came into effect.

Upon initial consultation by National Treasury in September 2022 on the then-proposed fines, Saica had made a detailed submission to National Treasury highlighting some considerations that Saica believes needed to be considered. Amongst these was the need to have a framework that provides clarity on the basis and mechanisms on which these fines will be imposed by the Independent Regulatory Board for Auditors (IRBA). Saica's view is that a clear and objective framework that will be used in the process of applying the fines ought to be developed and shared to assist individual auditors and firms to understand the process of the imposition of fines and penalties.

"Guidance that will provide clarity on the processes and considerations to be followed when determining the imposition of fines and penalties for registered firms and registered auditors, should be issued," advises Thandokuhle Myoli, executive for audit and assurance at Saica. Myoli further asserts that transparency in this regard is critical to the profession.

"Such an approach is followed in other territories. For example, in the United Kingdom, the Financial Reporting Council (FRC) has a Sanctions Policy that is available to the public that addresses, in detail, considerations to be made when imposing sanctions. The policy is advisory in nature, however, any deviations from its application where relevant need to be explained. Such a policy in the South African context would be useful in creating transparency and we urge National Treasury to consult with the IRBA in this regard. A lack of such a framework has the propensity to create significant uncertainty and anxiety in the profession," said Myoli.

Saica recognises the importance and need to have a strong and robust auditing profession in order to safeguard the capital markets and provide both investor confidence and assurance. However, the unintended consequences that changes to regulations and legislation impacting the auditing profession need to be considered in conjunction with the challenges currently facing the profession.

“One of these challenges relates to the need to attract young talent to the profession and to retain existing members, thus ensuring the sustainability of the auditing profession in South Africa,” stated Myoli, who further expressed that the proposed fines could and may very well be seen as a further deterrent to individuals who have an interest in joining or remaining within the profession. “They may rather elect what they deem to be ‘less risky’ careers. This is particularly concerning as the profession has already witnessed a decline in the number of registered auditors in recent years with a significant number of these individuals emigrating.”

A decline in the number of auditors may have a negative impact on the South African economy, particularly in the Small and Medium Enterprises (SME) space. These SMEs would be unjustly prejudiced by a reduced number of registered auditors to select from, in particular, those audit firms operating in the small and medium practices environment.

The auditing profession operates within a wider financial reporting ecosystem. It is important that there should be, potentially, a focus and accountability placed on all role players within this ecosystem, and not the auditors alone.

The publication of fines without providing a suitably related framework or educating the public on the basis used to reach the proposals creates the impression that the intention may just be to punish erring auditors, irrespective of the nature and context of possible indiscretions. As the only professional body currently accredited by IRBA to produce registered auditors, Saica remains open to engaging all parties affected by this matter in the best interest of all its members as well as within the public interest.

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