

CAYMAN ISLANDS



Supplement No. No. 5 published with Extraordinary
Gazette No. 95 dated November 30th, 2016.

**THE ACCOUNTANTS LAW, 2016
(LAW 6 OF 2016)**

THE ACCOUNTANTS (QUALITY ASSURANCE) REGULATIONS, 2016

THE ACCOUNTANTS (QUALITY ASSURANCE) REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

1. Citation
2. Definitions
3. Quality assurance reviews of public practice firms
4. Objection to appointment of quality assurance review team
5. Professional standards and conduct of assurance work
6. Quality control standards
7. Ethical standards
8. Quality assurance review process
9. Appointment of the quality assurance review team
10. Confidentiality
11. Review methodology
12. Duty to cooperate in quality assurance reviews
13. Failure to cooperate
14. Reporting
15. Quality assurance review report
16. Fees
17. Imposing conditions
18. Referrals for investigation

CAYMAN ISLANDS

**THE ACCOUNTANTS LAW, 2016
(LAW 6 OF 2016)**

THE ACCOUNTANTS (QUALITY ASSURANCE) REGULATIONS, 2016

The Cabinet, in exercise of the powers conferred by section 30 of the Accountants Law, 2016 (Law 6 of 2016), in consultation with the Council, makes the following Regulations -

1. These Regulations may be cited as the Accountants (Quality Assurance) Regulations, 2016. Citation

2. In these Regulations - Definitions

“assurance engagement” means an agreement with a client to provide assurance services;

“assurance service” means audit or review services or any engagement for which a licence to engage in public practice is required under the Law;

“assurance report” means a document prepared following an audit or review that -

- (a) expresses the opinion of a public practice firm, whether expressed in the name of the firm or the name of the practitioner member on behalf of the firm, regarding the financial statements; or
- (b) asserts that no opinion on the financial statements can be expressed;

“assurance working papers” means the record of assurance procedures performed, relevant evidence obtained and conclusions the practitioner member reached in providing assurance services;

“audit” means planning and performing procedures and evaluating evidence for the purpose of obtaining reasonable assurance about whether the financial statements are free from material misstatement, whether due to fraud or error, and expressing an opinion on whether the financial statements are presented fairly, in all material respects, in accordance with an applicable financial reporting framework;

“auditing standards” means the auditing standards referred to in an assurance report and includes any related, relevant quality control standards applicable to such auditing standards;

“business day” means any day except Saturday, Sunday or a day that is a public general holiday;

“client” means a person by whom a public practice firm or practitioner member is engaged to provide assurance services;

“designated professional” means a person who performs work pursuant to an assurance engagement, including any partner, officer, director, employee, sub-contractor or consultant;

“document” means any physical embodiment of information and includes written documents, electronic or computerized data compilations and any disc, tape, film or other device in which sound, visual images or other data is embodied;

“findings”, in relation to a quality assurance review, has the meaning assigned in Regulation 14(3);

“Institute” means the Cayman Islands Institute of Professional Accountants continued under section 3 of the Law;

“investigation” means an investigation conducted pursuant to the Accountants (Disciplinary) Regulations, 2016;

“managing partner” means the senior person in charge of a public practice firm’s overall practice, management and day-to-day operations;

“practitioner member” means a regular member who has been granted a licence pursuant to section 11 or 12 of the Law;

“professional standards” means the standards referred to in Regulations 4, 5 and 6 and includes relevant auditing standards, other assurance standards that may be

issued by an entity referred to in those Regulations and any related quality control standards;

“public practice firm” means a firm of public accountants and includes a registered firm and a person registered as a relevant sole practitioner under section 38 of the Law;

“public practice firm oversight body” means the Auditors Oversight Authority established under the Auditor Oversight Law, 2011 or an overseas professional accounting institute responsible for the regulation and oversight of audit quality; (Law 23 of 2011)

“quality assurance review” means a review performed by the Institute pursuant to Regulation 8 including the matters referred to in Regulation 11;

“quality assurance review team” means the persons appointed by the Institute pursuant to Regulation 9 to perform the quality assurance review; and

“review service” means inquiries of clients or client personnel and analytical procedures applied to financial data in order to provide limited assurance on financial statements.

3. (1) A public practice firm shall be subject to a quality assurance review at least once in every three calendar-year period, the first of which periods shall begin with the year in which the firm becomes a public practice firm.

Quality assurance reviews of public practice firms

(2) The Institute may subject a public practice firm to a shorter period for a quality assurance review if it determines a shorter period to be appropriate.

(3) Notwithstanding paragraph (1), where unforeseen circumstances arise that impede the Institute’s ability to conduct a quality assurance review during the third year of the three year period, the Institute may subject a public practice firm to a four year period for a quality assurance review.

(4) The Institute shall give a public practice firm notice in writing of the date of the firm’s quality assurance review and of the names of members of the quality assurance review team at least 120 business days prior to the commencement of the review.

(5) Within ten business days of receipt of a notice pursuant to paragraph (4), a public practice firm shall provide to the Institute any information requested by it, including the names of clients and the professional standards used in the assurance engagement for each client.

Objection to
appointment of quality
assurance review team

4. (1) Within ten business days of receipt of a notice pursuant to Regulation 3(4), a public practice firm may file an objection in writing to the Institute, including an explanation and evidence for the objection, on the grounds that one or more of the members of the quality assurance review team may be lacking objectivity.

(2) The Institute shall consider any objection filed under paragraph (1), and may remove one or more members of the review team if satisfied that there is a reasonable basis for the objection.

(3) The Institute shall notify the public practice firm of the names of any new member appointed to the review team following the removal of a member pursuant to paragraph (2).

(4) Within ten business days of receiving a notice under paragraph (3), the public practice firm may file an objection in writing in accordance with paragraph (2), in relation to the appointment of a new member.

(5) The Institute shall consider an objection under paragraph (4) in accordance with paragraph (2), but no further notice requirement shall apply.

Professional standards
and conduct of assurance
work

5. (1) A public practice firm, a practitioner member and any designated professional providing assurance services shall comply with -

- (a) the professional standards referred to in the public practice firm's assurance report;
- (b) any related quality control standards; and
- (c) any procedures established by the public practice firm.

(2) An assurance engagement provided by a person or firm referred to in paragraph (1) shall be conducted in accordance with standards issued by -

- (a) the International Auditing and Assurance Standards Board; or
- (b) the Generally Accepted Auditing Standards promulgated by the Auditing Standards Board, a division of the American Institute of Certified Public Accountant,

or with any standards assessed as equivalent to those standards by the Institute or the International Auditing and Assurance Standards Board.

(3) Where a public practice firm uses professional standards expressed in a language other than English, the firm shall provide translations of the standards used, approved by the International Federation of Accountants.

6. (1) A public practice firm shall comply with the International Standards on Quality Control issued by the International Auditing and Assurance Standards Board. Quality control standards

(2) A public practice firm shall -

- (a) document its internal monitoring process for ensuring that the standards referred to in paragraph (1) are met, and the results of such monitoring, to a level of detail that will enable the Institute to re-perform the internal monitoring process;
- (b) retain the documented process and results for at least five years; and
- (c) provide the documented process and results to the Institute at least fifteen days prior to a quality assurance review of the public practice firm.

7. A public practice firm, practitioner member and designated professional providing assurance services shall comply with the standards established by the Institute, the International Ethics Standards Board for Accountants Code of Ethics and any overseas professional accountancy institute to which that member belongs. Ethical standards

8. (1) The Institute shall conduct a quality assurance review in order to assess a public practice firm's compliance with these Regulations and with professional standards and related quality control standards in connection with the issuance of assurance reports. Quality assurance review process

(2) In performing a quality assurance review, the quality assurance review team shall perform such procedures as the Institute determines are appropriate.

(3) Subject to paragraph (4), the Institute may include in its quality assurance review consideration of any matters requested to be included by a public practice firm oversight body within or outside the Islands, if the Institute deems those matters appropriate.

(4) Before including any additional matters referred to in paragraph (3) in the quality assurance review, the Institute shall first -

- (a) notify the public practice firm in writing that it intends to include them; and
- (b) obtain the public practice firm's consent in writing.

9. (1) In selecting and approving a quality assurance review team, the Institute shall ensure that persons appointed to the team have the necessary competencies to conduct quality assurance reviews, including - Appointment of the quality assurance review team

- (a) appropriate professional education;
- (b) relevant professional experience; and
- (c) training on performing quality assurance reviews.

(2) The Institute shall also take account of the following competencies and areas of expertise -

- (a) understanding professional standards and regulatory and legal requirements;
- (b) understanding the procedures established pursuant to Regulation 8(2);
- (c) understanding of and practical experience in assurance engagements and quality assurance reviews;
- (d) appropriate technical knowledge, including knowledge of relevant information technology;
- (e) knowledge of specific industries; and
- (f) ability to apply professional judgment.

(3) The Institute shall assign a quality assurance review team leader for each quality assurance review, who shall -

- (a) supervise the conduct of the quality assurance review;
- (b) communicate the quality assurance review team's conclusions to the public practice firm; and
- (c) be responsible for preparing the quality assurance review report.

(4) In selecting the members of the review team and in conducting a quality assurance review, the Institute and the quality assurance review team shall comply with the objectivity principles of the International Ethics Standards Board for Accountants Code of Ethics.

Confidentiality

10. (1) Neither the Institute nor any person acting on behalf of the Institute shall make use of or disclose to any person, other than persons working for the Institute or acting on its behalf -

- (a) the contents of a final assurance report, draft assurance report or assurance working paper; or
- (b) any files, books, documents, other materials or other information, classed as confidential or otherwise concerning the affairs of any public practice firm or its clients,

if the information was obtained in the course of a quality assurance review, or pursuant to the granting of an approval under Regulation 14(5).

(2) Notwithstanding paragraph (1), the Institute or person acting on its behalf may make any disclosure permitted or required by law, including a

disclosure under section 33 of the Law to a relevant person, as defined in that section.

11. (1) A quality assurance review, in relation to a public practice firm, shall include -

Review methodology

- (a) an assessment of the firm's system of quality control relating to assurance services;
- (b) a review of the firm's quality control policies and procedures;
- (c) a review of the firm's reports on internal monitoring to ensure that its quality control standards are met;
- (d) a review of assurance working papers to evaluate -
 - (i) the functioning of the system of quality control relating to assurance services and compliance with it; and
 - (ii) compliance with professional standards and regulatory and legal requirements; and
- (e) an assessment of the firm's compliance with accounting and auditing frameworks, to the extent that such standards are used in the engagements included in the scope of the review.

(2) The Institute shall determine the scope of a quality assurance review and may exclude from the review a review of assurance working papers if satisfied that -

- (a) no assurance services have been provided during the period under review; and
- (b) the reduction in scope would not adversely affect the quality of any future assurance engagement.

(3) The Institute may, in determining the scope of the quality assurance review, decide to rely on quality assurance reviews carried out by another public practice firm oversight body if -

- (a) the reviews include the same or a subset of clients, practitioner members and designated professionals as the Institute's quality assurance review would have included;
- (b) the public practice firm oversight body is at least equivalent to the Institute in terms of authority and powers with respect to quality assurance regulation and discipline; and
- (c) the report of the quality assurance review carried out by the public practice firm oversight body is provided to the Institute and is substantially equivalent in detail, as determined by the Institute, to a final quality assurance report issued by the Institute pursuant to Regulation 14.

(4) The Institute shall select the engagement files of the public practice firm to be reviewed having regard to -

- (a) the degree of reliance, if any, to be placed on the firm's quality controls relating to assurance services;
- (b) the number of clients by whom the firm is engaged; and
- (c) the number and competence of practitioner members and designated professionals engaged by the firm to provide assurance services.

Duty to cooperate in quality assurance reviews

12. (1) A public practice firm shall cooperate with the Institute in the performance of a quality assurance review and shall also require the following persons in the firm to cooperate -

- (a) practitioner members;
- (b) partners and directors or others in equivalent position whether engaged in public practice or not; and
- (c) designated professionals.

(2) For the purposes of paragraph (1), cooperation includes complying with any request made by the Institute, except where such cooperation would result in a breach of the Law or Regulations, to -

- (a) provide access to any document that according to the relevant professional standards should be in the possession, custody or control of the firm or person referred to in paragraph (1); and
- (b) provide information by oral interview, written response or otherwise.

Failure to cooperate

13. (1) The Institute may subject a public practice firm that contravenes Regulation 12 to an additional quality assurance review if -

- (a) the contravention prevented the Institute from completing a quality assurance review as scheduled in accordance with Regulation 3;
- (b) the Institute determines that the non-compliance is due to circumstances beyond the control of the public practice firm.; and
- (b) the scheduling of an additional review is necessary in order to meet the requirements of Regulation 3.

(2) A firm subjected to an additional quality assurance review under this Regulation is liable to indemnify the Institute for costs incurred in order to conduct the additional review.

Reporting

14. (1) After completing a quality assurance review, the Institute shall make the draft report of the review available to the public practice firm that is the subject of the review, including -

- (a) any findings with respect to the public practice firm's system of quality control, or any specific assurance engagements reviewed;
- (b) any conditions imposed to improve the public practice firm's system of quality control relating to assurance services, pursuant to Regulation 16; and
- (c) an explanation of the potential consequences of not complying with the conditions imposed, including the Institute's intention to refer any incident of non-compliance for investigation, if applicable.

(2) The public practice firm shall, within fifteen business days after receipt of the draft quality assurance review report, or such longer period as the Institute may require, submit to the Institute a response, signed on behalf of the public practice firm by a person able to bind the firm, to each finding and condition, confirming the firm's intention to comply, or giving its reasons for not intending to comply.

(3) For the purposes of this Regulation, "findings" include -

- (a) an act or practice, or omission to act, in violation of these Regulations or professional standards that may have an adverse effect on the provision of assurance services;
- (b) an act or practice, or omission to act, in violation of the public practice firm's procedures that may have an adverse effect on the provision of assurance services;
- (c) a failure to supervise a designated professional appropriately, resulting in the commission of an act or an omission to act by the designated professional in violation of these Regulations or professional standards that may have an adverse effect on the provision of assurance services;
- (d) a failure to comply with a request made by the Institute, where such compliance is necessary to conduct a quality assurance review;
- (e) a failure to comply with any applicable condition imposed by the Institute at the time of registration or as a result of a previous quality assurance review; and
- (f) a failure to cooperate with the Institute as required under Regulation 12.

15. (1) After reviewing the response sent by the public practice firm in accordance with Regulation 14(2), the Institute may take such action with respect to the draft quality assurance review report as it considers appropriate, including -

Quality assurance
review report

- (a) adopting the draft report as the final report; or
- (b) issuing a revised draft report containing substantial or material revisions to the original draft report.

(2) If the Institute issues a revised draft quality assurance review report, it shall give the public practice firm ten business days to review and respond in writing to the revised draft report.

(3) The Institute shall attach to and make part of the final quality assurance review report the responses submitted by the public practice firm to the initial or any revised draft report, respecting issues that remain in the final report.

(4) The Institute shall issue the final quality assurance review report and make a copy available to the public practice firm that is the subject of the report.

(5) A public practice firm may not provide a copy of the report or any portion of it to any third party without the consent of the Institute; and for the purposes of this paragraph, a third party does not include other firms in the public practice firm's network of member firms.

(6) The Institute may not provide a copy of a quality assurance review report to any third party without the consent of the public practice firm that is the subject of the report.

(7) The Institute shall annually publish and make available to the public a report detailing the scope of the quality assurance review system, the number of public practice firms visited during the year and whether (and how many) public practice firms were referred for investigation as a result of a quality assurance review.

Fees

16. (1) The Institute may charge a public practice firm a fee to cover the Institute's costs in carrying out a quality assurance review, and may bill the firm in instalments as the work is carried out.

(2) The Institute may charge interest at the rate of 12% per annum on any balance that is unpaid within 21 days of the date of issue of an invoice for a fee under subsection (1).

Imposing conditions

17. (1) The Institute may impose conditions on a public practice firm to address any findings in a quality assurance review respecting a violation or failure, taking into consideration the objective of ensuring quality in assurance engagements and the degree of culpability of the public practice firm, practitioner member or managing partner.

(2) Conditions that may be imposed under this Regulation include -

(a) requiring revisions or additions to quality control policies and procedures or assurance methodologies;

- (b) requiring additional continuing professional development for some or all practitioner members and designated professionals;
- (c) requiring additional quality assurance reviews;
- (d) prescribing a shorter quality assurance review cycle for a public practice firm;
- (e) restrictions on the type of assurance services a public practice firm can provide or the types of clients to which the firm can provide assurance services;
- (f) a remedial plan with respect to quality controls, for completion within a specified period of time;
- (g) assignment of a reviewer to oversee the work of one or more practitioner members or designated professionals of the public practice firm;
- (h) appointment of a person independent of the public practice firm to observe and report to the Institute on the firm's compliance with the Law, the Regulations made under it and professional standards;
- (i) requiring the public practice firm to address specific quality-related matters on one or more assurance engagements, and to do so prior to the issuance of the assurance report on such engagements, if necessary;
- (j) prohibiting the public practice firm from accepting new clients for a specified period of time;
- (k) prohibiting the public practice firm from assigning one or more practitioner members or designated professionals to assurance engagements for a specified period of time or permanently; and
- (l) monetary assessments intended to indemnify the Institute for costs arising from imposing conditions (c), (d) or (h).

(3) A public practice firm shall submit evidence or otherwise demonstrate to the Institute that it has complied with any condition imposed under this Regulation within the period of time prescribed by the Institute following the issuance of the final quality assurance review report.

(4) After reviewing any evidence submitted pursuant to paragraph (3), the Institute shall notify the public practice firm of its determination as to whether the public practice firm has complied with the conditions imposed under this Regulation or has otherwise satisfactorily addressed the findings noted in the final quality assurance review report and shall give reasons for that determination.

(5) If the Institute determines that the public practice firm has not complied with any condition or otherwise addressed the findings to its

satisfaction, or has failed to make a submission to the Institute as required by paragraph (3), the Institute shall refer the public practice firm for investigation.

(6) A public practice firm may, following the issuance of the final report, request that it be referred for investigation regarding its compliance with the professional and quality control standards and these Regulations if the firm makes the request within thirty days of the expiry of any period of time set for compliance with any condition.

Referrals for investigation

18. (1) The Institute may refer a matter for investigation if, based on the information obtained during a quality assurance review in relation to a public practice firm, it considers that -

- (a) there is an immediate threat to the quality of the firm's assurance engagements;
- (b) the quality of the firm's assurance engagements has been impaired;
- (c) the firm has not complied with conditions and this presents a threat to the quality of its assurance engagements; or
- (d) the conditions imposed on the firm or which may be imposed on it under Regulation 16 are not adequate to forestall a threat to the quality of its assurance engagements.

(2) If the Institute decides to refer a public practice firm for investigation under paragraph (1), it shall provide notice to the firm of the proposed referral specifying one or more of the grounds for the referral.

(3) Within ten business days of receiving a notice under paragraph (2), the public practice firm may, in writing -

- (a) admit to one or more of the grounds for referral in paragraph (1); or
- (b) notify the Institute that the firm wishes to make representations to the Institute pursuant to an investigation.

(4) After considering any admission, notification or representation from the public practice firm submitted according to paragraph (3), the Institute may -

- (a) withdraw the referral for investigation and may impose conditions under Regulation 17;

- (b) amend the grounds for referral for investigation; or
 - (c) proceed with the referral for investigation,
- and the Institute shall notify the public practice firm of its decision.

Made in Cabinet the 23rd day of November, 2016.

Kim Bullings

Clerk of the Cabinet.