

Annexure 1 – Detailed comments

	Section	Issue	Proposal
	<p>Annexure 1</p> <p>Management rules</p>		
1	<p>“2(c) “auditor” means a person accredited to perform an audit in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005)”</p>	<p>The Auditing Profession Act, 2005 defines a registered auditor as: “means an individual or firm registered as an auditor with the Regulatory Board”.</p> <p>The current definition only refers to a person being accredited to perform an audit and does not include the reference to a firm. The definition also does not refer to a registered auditor.</p>	<p>SAICA recommends that the definition of an auditor is amended to agree with the Auditing Profession Act, 2005:</p> <p>“registered auditor” means an individual or firm registered as an auditor in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005)”</p> <p>The Regulations should further reflect the change from auditor to registered auditor.</p>
2	<p>Definition of audit</p>	<p>Rule 26(4) requires an audit of a body corporate’s financial statements. The definitions do not include a definition of what an audit is.</p>	<p>SAICA recommends that the definition of an audit is included in the rules.</p> <p>“audit” has the meaning set out in the Auditing Profession Act, 2005 (Act No. 26 of 2005)”</p>
3	<p>“17. Annual and special general meetings</p> <p>(1) Subject to sub-rule (2), the body corporate must hold an annual general meeting with in two</p>	<p>These two rules, rule 17(6) and rule 26 seems to be confusing as the annual financial statements (“AFS”) need to be considered two months after year end but in terms of rule 26 the audit only needs to be completed four</p>	<p>SAICA would suggest that the dates be amended to ensure that the audit of the AFS is completed prior to the AGM, where the audited AFS can then be approved at the AGM.</p>

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	<p>months of the end of each financial year.</p> <p>(6)(j)v) consider the annual financial statements;</p> <p>(vi) appoint an auditor to audit the annual financial statements, unless all the sections in the scheme are registered in the name of one person.</p> <p>26. Financial records, budgets, reports and audit</p> <p>26(5) The audit of a body corporate's annual financial statements</p> <p>(d) must be completed within four months of the end of the body corporate's financial year."</p>	<p>months after year end.</p> <p>Based on rule 17(6)(vi) it would seem as the auditor required to audit the annual financial statements for the past year end is only appointed at the Annual General Meeting ("AGM") two months after year end.</p> <p>General practice indicates that the auditor is appointed at the AGM for the audit of the following year's financial statements and that the audited annual financial statements are approved at the AGM. This is also currently the position in rule 40 of the current rules where the auditor is appointed at the AGM until conclusion of the next AGM</p>	
4	<p>26.(1) Financial records, budgets, reports and audit</p> <p>(c) prepare annual financial statements for presentation at the annual general meeting,...</p>	<p>Rule 26 refers to annual financial statements. Annual financial statements are not defined in the Act or Regulations.</p> <p>Although it may be appropriate to specify specific elements of the annual financial statements in the context of what may be of</p>	<p>SAICA would suggest that annual financial statements be defined as</p> <ul style="list-style-type: none"> • Statement of financial position or balance sheet • Statement of comprehensive income or statement of financial performance

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		<p>particular relevance to sectional title schemes / body corporates, it is problematic that the annual financial statements are not in the first instance described in terms of what is generally recognised to constitute the components or elements of a complete set of general purpose or special purpose financial statements. The Rules should specify that a complete set of financial statements should comprise:</p> <ul style="list-style-type: none"> • Statement of financial position or balance sheet • Statement of comprehensive income or statement of financial performance or income statement • Statement of changes in reserves • Statement of cash flows • Notes to the financial statements, including summary of significant accounting policies <p>Rule 26(5)(b) refers to “any recognised framework of guidelines for financial accounting. The financial framework should rather be discussed in Rule 26(1)(c) which refers to the annual financial statements as the framework rather refers to the preparation of the annual financial statements. This section refers to the annual financial</p>	<p>or income statement</p> <ul style="list-style-type: none"> • Statement of changes in reserves • Statement of cash flows • Notes to the financial statements, including summary of significant accounting policies <p>SAICA would also suggest that the audited AFS are presented at the Annual General Meeting for approval. Therefore the audit of the AFS must be completed prior to the AGM.</p>

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		statements being presented at the AGM which is scheduled two months after year end, but the AFS are only required to be audited four months after year end. It would therefore seem that the AFS that are presented two months after year end is not the audited AFS.	
5	<p>“S26 Financial records, budgets, reports and audit</p> <p>(4) Unless all the sections in the scheme are registered in the name of one person, the body corporate must present audited financial statements to a general meeting for consideration as soon as possible after the end of the financial year.”</p>	<p>This section requires the body corporate to present audited financial statements to a general meeting. The scheme therefore has to have AFS submitted to the AGM two months after year end, then the auditor is appointed at that AGM to audit the AFS, the AFS need to be audited within another two months and thereafter another general meeting needs to be arranged to present the audited financial statements.</p> <p>This seems to be very onerous and long process.</p>	SAICA would suggest that the audited AFS are submitted to the AGM for approval. Therefore the AGM’s date would have to be after the deadline for audited AFS. The auditor for the following financial year must be appointed at the AGM to ensure that the relevant planning can be done prior to year end.
6	<p>“26. Financial records, budgets, reports and audit</p> <p>26(5) The audit of a body corporate’s annual financial statements –</p> <p>(a) Must be carried out by an</p>	<p>The Independent Regulatory Board for Auditors’ Code of Professional Conduct has various sections dealing with independence, based on the Code, an auditor / firm could perform the audit of the AFS and depending on certain safeguards that are put in place another person in the same firm could provide</p>	<p>SAICA supports the quest for independence, but it should be noted that this requirement might increase the costs for body corporates due to additional resources to be appointed.</p> <p>SAICA would request additional guidance on</p>

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	independent auditor who has not participated in the preparation of the annual financial statements or advised on any aspect of the accounts of the body corporate during the period being reporting on;”	additional resources to the client. This section only states that the auditor must not have advised on any aspect of the accounts during the period being reported on.	what is defined as advice on any aspects of the accounts.
7	<p>“26. Financial records, budgets, reports and audit</p> <p>26(5) The audit of a body corporate’s annual financial statements –</p> <p>(b) Need not be carried out in accordance with any recognised framework of guidelines for financial accounting”</p>	<p>Rule 26(5)(b) is factually incorrect. An audit is not carried out in accordance with a financial reporting framework (i.e. what the rules refers to as a “framework of guidelines for financial accounting”). Rather, financial statements are prepared in accordance with an applicable financial reporting framework and the audit of such financial statements is performed in accordance with the relevant auditing pronouncements, which is the International Standards on Auditing.</p> <p>The recognised framework of guidelines for financial accounting does not exist. Financial statements can be prepared using a financial reporting framework, such as the <i>International Financial Reporting Standards</i> or <i>International Financial Reporting Standards for Small and Medium-sized entities</i> or using an entity specific framework.</p> <p>If there is a need for the Rules to refer to an</p>	<p>SAICA would suggest the following wording, which will have the implication of effectively not requiring any particular framework or standards; i.e. the body corporate can decide.</p> <p>“The financial statements of the body corporate must be prepared in accordance the financial reporting standards or basis of accounting as determined by the body corporate”.</p>

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		applicable financial reporting framework, or the fact that no framework is required, it should rather be included as part of those rules that deal with the requirements for the financial statements of a body corporate.	
8	<p>“26. Financial records, budgets, reports and audit</p> <p>26(5) The audit of a body corporate’s annual financial statements –</p> <p>(c) Must include opinions as to whether or not -</p> <p>(i) the annual financial statements accurately reflect the financial position of the body corporates for the financial year under review, with such qualifications and reservations as the auditor considers necessary;”</p>	<p>The International Standards of Auditing prescribes the wording for specific audit opinions in line with what is required.</p> <p>The audit opinion should indicate that the financial statements “present fairly, in all material respects, (or <i>give a true and fair view of</i>)”.</p>	<p>The wording to S26 (5) (c)(i) should be changed to “.....accurately reflect the financial position present fairly, in all material respects, (or <i>give a true and fair view of</i>)”</p>
9	<p>“26. Financial records, budgets, reports and audit</p> <p>26(5) The audit of a body</p>	<p>The following aspects of the auditor’s opinion as specified in Rule 26(5)(c)(ii), (iii) and (iv) are not specifically addressed by ISAs and require</p>	<p>Should auditors therefore be required to perform the additional requirements set out in rule 26(5)(d)(ii) the Department should be</p>

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	<p>corporate's annual financial statements –</p> <p>(d) Must include opinions as to whether or not -</p> <p>(ii) the body corporate has complied with the accounting requirements set out in rules 21, 24 and this section, with a specific description of any failure to comply with such requirements;</p> <p>(iii) the books of account of the body corporate have been kept and its funds has been so managed so as to provide a reasonable level of protection against theft or fraud;</p> <p>(iv) the financial affairs of the body corporate appear to be effectively managed; “</p>	<p>further consideration in terms of what is possible under existing international standards and which standards may apply to address the information needs of the members of the body corporate.</p> <ul style="list-style-type: none"> • It is doubtful whether the auditor will be able to provide an audit opinion on whether the body corporate has been managed to provide a reasonable level of protection against theft or fraud (Rule 26(5)(c)(iii)), and whether the body corporate appears to be effectively managed (Rule 26(5)(c)(iv)). This is owing to the fact that there exist no suitable criteria to measure or evaluate such matters for purposes of expressing an assurance opinion or conclusion. • Rule 26(5)(c)(ii) in essence requires the auditor to perform a compliance assurance engagement; i.e. express an opinion or conclusion on whether the body corporate has complied, in all material respects, with the identified compliance requirements (i.e. the requirements of Rules 21, 24 and 26). This would represent an engagement in addition to the audit of financial statements, which the auditor would 	<p>aware that this would be an additional requirement in addition to the audit engagement and would add to the fees to the cost of the audit.</p>

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		be required to perform in accordance with ISAE 3000 (Revised), <i>Assurance engagements other than audits or reviews of historical financial information.</i>	