THE SAICA CIRCULAR ON THE CHARTERED ACCOUNTANTS REPORT TO THE APPLICANT TO COMPLY WITH THE DEPARTMENT OF HOME AFFAIRS’ REQUEST IN TERMS OF THE IMMIGRATION ACT, NO. 13 OF 2002 AND THE IMMIGRATION REGULATIONS

Revised December 2014
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PREFACE

This circular has been issued by the South African Institute of Chartered Accountants (SAICA). The purpose of the circular is to provide guidance for those chartered accountants who are engaged to prepare a report in terms of the Immigration Act, No.13 of 2002, as amended (the Act), promulgated in 2004, and the Immigration Regulations, 2014.
1. Background

The requirements on the duty of Chartered Accountants (CAs(SA)) has changed since the inception of the Immigration Act, No 13 of 2002.

The Immigration Act, No 13 of 2002, effective from 20 March 2003 required a CA(SA) to certify compliance with the Act for various applications.

The Immigration Amendment Act, No 19 of 2004 removed the requirements for CAs(SA) to certify the various applications.

The Immigration Regulations published on 27 June 2005, that came into effect on 1 July 2005 only required a CA(SA) to prepare a report for a business permit as required in terms of Regulation 12 (1) and an asylum transit permit as required in terms of Regulation 23(4).


The Immigration Regulations refer to a CA(SA) or professional accountant to prepare a certificate to state that the applicant meets the requirements as set in the regulations.
2. Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Act</td>
<td>Immigration Act, No. 13 of 2002, as amended</td>
</tr>
<tr>
<td>CA(SA)</td>
<td>Chartered Accountant registered with SAICA</td>
</tr>
<tr>
<td>Client</td>
<td>Person (foreigner) employing the CA(SA) to compile the report required by the Department of Home Affairs</td>
</tr>
<tr>
<td>DHA</td>
<td>Department of Home Affairs</td>
</tr>
<tr>
<td>Foreigner</td>
<td>Means an individual who is not a citizen (Immigration Amendment Act, No 19 of 2004)</td>
</tr>
<tr>
<td>Minister</td>
<td>Minister of Home Affairs</td>
</tr>
<tr>
<td>Professional Accountant</td>
<td>A professional accountant is an accountant registered with the South African Institute of Professional Accountants</td>
</tr>
<tr>
<td>Regulations</td>
<td>Regulations published on 22 May 2014, with an effective date of 26 May 2014, known as the Immigration Regulations</td>
</tr>
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</table>

3. Requirements

The amendments to the Act, promulgated in 2014, altered the requirements for when a CA(SA) is required to prepare a report in terms of the Act. The Regulations, specifically Regulation 14(1)(a), 14(2)(a) and 24(5), that were published on 22 May 2014 and that came into effect on 26 May 2014, require a CA(SA) to prepare a report where a business visa or permanent residence permit is applied for.
The Regulations require the following:

- Regulation 14(1)(a) requires a certificate stating that the foreigner has at least an amount of cash available to be invested in the Republic as determined by the Minister or at least an amount of cash and a capital contribution as determined from time to time by the Minister;

- Regulation 14(2)(a) requires a certificate stating that the foreigner has at least an amount of cash available to be invested in the Republic or already invested, as determined by the Minister or at least an amount of cash and a capital contribution is available to be invested or is already invested, as determined from time to time by the Minister;

- Regulation 24(5) requires a certificate stating that the applicant has at least an amount of cash available, as determined by the Minister or at least an amount of cash and a capital contribution is available, as determined from time to time by the Minister.

The Minister has published the cash amounts required in the Government Gazette No 37837, GoN No.560.

The amount of cash that should be available, originating from outside the Republic to be invested in a new business to be established or into an existing business in the Republic is determined to be R5,000,000.00. The capital contribution must be new machinery and / or equipment. No amount has been stated for the capital contribution.

The Minister has also provided for certain business that can qualify for a reduction or waiver of the capitalisation requirements as determined where it is deemed to be in the national interest when applying for a business visa. Please refer to the Government Gazette No.37837, GoN 562.

The Minister has also provided for certain businesses that are identified as undesirable business for qualification for a business or corporate visa. Please refer to the Government Gazette No.37837, GoN 561 and 563.
4. Scope

The purpose of this Circular is to provide guidance for those CAs(SA) that are engaged to prepare a report in terms of the Regulations. This guidance, in Annexure 1, and the illustrative factual findings report has been based on the International Standard on Related Services (ISRS) 4400, *Engagement to perform agreed-upon procedures regarding financial information (ISRS 4400)*, released by the International Audit and Assurance Standards Board, which is available in the SAICA Handbook on Auditing, Volume 2. Although no standard has been prescribed by the Department of Home Affairs we advise members to consider this standard when undertaking these engagements to perform the agreed-upon procedures and provide the illustrative factual findings report to the client.

When providing the report members need to be aware that depending on the engagement one or more reports may be required as there are different requirements in Regulation 14(1)(a) and 14(2)(a) and Regulation 24(5).

5. Engagement Acceptance

Prior to accepting such an appointment the individual CA(SA) should ensure that he or she has adequate knowledge of the Act and Regulations to properly apply the requirements.

6. Administrative fine

Members should note that the Act provides for an administrative fine to be imposed on a CA(SA) where the CA(SA) negligently produced an incorrect report in terms of section 7(1)(g) and read with section 50(2) and Regulation 39(2). No further guidance is provided by the DHA on when the CA(SA) will have been seen to be negligent.

Johannesburg
December 2014

Dr T Nombembe
Chief Executive Officer
ANNEXURE 1

Illustrative factual finding report

FACTUAL FINDINGS REPORT OF THE CHARTERED ACCOUNTANT TO THE APPLICANT [INSERT THE NAME OF APPLICANT] ON APPLICATION FOR [BUSINESS VISA (Section 15 and Regulation 14(1)(a) / Regulation 14(2)(a)) IN TERMS OF [CORRECT OPTION TO BE SELECTED] SECTION 15 OF THE IMMIGRATION ACT (AS AMENDED) / PERMANENT RESIDENCE PERMIT (Section 27(c) and Regulation 24(5)) IN TERMS OF SECTION 27 OF THE IMMIGRATION ACT (AS AMENDED)].¹

TO [INSERT THE NAME OF THE APPLICANT]

We have performed the procedures agreed with you in terms of the Immigration Regulation [insert 14(1)(a) / 14(2)(a) or 24(5)] of the Immigration Regulations, set out below in respect of an application for a [business visa (Regulation 14(1)(a) or 14(2)(a) / permanent residence permit/s (Regulation 24(5)) for [insert the name of applicant] dated [insert date] and report our factual findings².

Our engagement was undertaken in accordance with the International Standard on Related Services (ISRS) 4400, *Engagement to perform agreed-upon procedures regarding financial information*. The procedures were performed solely to assist the applicant in the application for a [business visa /permanent residence permit], and should be used only for this purpose. The procedures are summarised as follows:

¹ Delete whichever is not applicable
² Delete whichever is not applicable
Agreed-upon procedures and findings

<table>
<thead>
<tr>
<th>PROCEDURE</th>
<th>FACTUAL FINDING</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Obtain the notice in the relevant Government Gazette, as required by</td>
<td>We obtained the Government Gazette No [insert Government Gazette number], dated [insert date of Government Gazette] and confirmed that [insert the Rand value as per Government Gazette] is the minimum amount of cash and/or capital contribution available/ already invested.³</td>
</tr>
<tr>
<td>Regulation 14(1)(a)(i)/ 14(2)(a)(i)/ 24(5) and inspect the minimum</td>
<td></td>
</tr>
<tr>
<td>amount of cash and/or cash and capital contribution available/ already</td>
<td></td>
</tr>
<tr>
<td>invested.</td>
<td></td>
</tr>
<tr>
<td>2. Obtain from [insert name of applicant] the [insert document name, e.g</td>
<td>We obtained from [insert name of applicant] the [insert the applicable document name], dated [insert date] and performed the following procedures:</td>
</tr>
<tr>
<td>bank statement] and perform the following procedures:</td>
<td></td>
</tr>
<tr>
<td>2.1 Inspect that the [insert applicable document] is in the name of the</td>
<td>We inspected that the [insert applicable document] obtained was in the name of [insert name of applicant].</td>
</tr>
<tr>
<td>applicant.</td>
<td></td>
</tr>
<tr>
<td>2.2 Inspect the total amount of cash and/or capital contribution.</td>
<td>We inspected the total amount of cash and/or capital contribution per the document to be FC [insert the foreign currency value].</td>
</tr>
<tr>
<td>2.3 Convert the foreign currency amount as inspected in procedure 2.2</td>
<td>We converted the FC [insert the foreign currency value] as inspected in procedure 2.2 to R [insert the rand value] using an exchange rate of [insert the exchange rate used] from [insert source name of where the exchange rate was obtained] as at [insert date].</td>
</tr>
<tr>
<td>to a Rand value using the applicable exchange rate at a given date.</td>
<td></td>
</tr>
<tr>
<td>3. Compare the amount as calculated in procedure 2.3 to determine whether</td>
<td>We compared the Rand value of R [insert the rand value] (as calculated in procedure 2.3) to the Rand value of procedure 1, R [insert the rand value] and the amount of procedure 2.3 is more than/equal to procedure 1.</td>
</tr>
<tr>
<td>it is more than or equal to the amount as obtained in procedure 1.</td>
<td></td>
</tr>
</tbody>
</table>

³ Insert correct reference
Because the above procedures do not constitute either an audit or review performed in accordance with International Standards on Auditing or International Standards on Review Engagements, we do not express any assurance on the information provided by the applicant.

Had we performed additional procedures or had we performed an audit or review in accordance with International Standards on Auditing or International Standards on Review Engagements or International Standards on Assurance Engagements other than Audits or Reviews of Historical Financial Information, other matters might have come to our attention that would have been reported to you.

Our report is solely for the purpose set out in the first paragraph to assist the applicant with his/her application for a business visa or permanent resident visa. Our report may not be suitable for another purpose. A copy of this report may be made available to the Department of Home Affairs, as part of the application but is not to be distributed to any other parties.

[Insert name]

Chartered Accountant (SA)

[Insert date]

[Insert address]