Guidance on control requirements for statutory audit firms

October 2019

Introduction

This guidance is issued by the CPA Registration Committee for the purposes of assisting CPA members and firms. It is issued for information purposes only. Members are advised to familiarise themselves with the requirements in this area and to seek professional advice where necessary.

A firm that wishes to be authorised by CPA Ireland as a statutory audit firm must meet the eligibility criteria of CPA Ireland's Bye Law 13, Practice and Audit Regulations and the Companies Act 2014 (the Act).

Firms are advised to consider this guidance when considering the admittance of new partners/directors or shareholders into their firms or when establishing a new audit firm. In circumstances where a newly introduced individual is not a statutory auditor, the firm must ensure that the structure of the firm meets the "control" requirements of the CPA Bye Laws and the Act.

In essence a statutory audit firm must be controlled by statutory auditors to ensure that the standard and quality of the delivery of statutory audit services is not influenced by non-audit partners/principles/directors or shareholders in the firm.

The same principles will apply regardless of whether the firm is a partnership or a corporate body.

Requirements

The conditions for the registration of a CPA firm are set out at Bye Law 13.37.1 (Appendix one).

Bye Law 13.38.1 sets out additional requirements for a firm that is a partnership or a body corporate (Appendix two).

Bye Law 13 requires that at least one partner or director in the firm is a member of CPA Ireland and holds a valid practising certificate.

All other non-member partners/directors must be one of the following;

1. a Member of the Institute holding a valid Practising Certificate;
2. an Affiliated Partner; or
3. a Statutory Audit Firm in accordance with Irish law;
4. an individual who holds a qualification to audit accounts under the law of another EEA member state other than Ireland and who is also an Affiliated Partner and has been approved by the Registration Committee

The Bye Law requires that 51% of the voting rights of an audit firm must be held by statutory auditors or statutory audit firms or individuals who hold a qualification to audit accounts under the law of a member state.

The Companies Act 2014 also requires that the majority of the members in a firm's administrative or management board must meet the following requirements;

i. individuals who are eligible for approval in the State or in any other Member State as statutory auditors;

ii. audit firms approved as statutory audit firms in the State or in any other Member State, or

iii. a combination of such individuals and audit firms.

Where the administrative or management body of a firm has no more than 2 members, then, for the purposes of *the above,* one of those members shall satisfy at least the requirements of i), ii) or iii).

Therefore, the control of the firm by statutory auditors must be considered in terms of control of voting rights and also by reference to majority headcount.

Determining Control in a Corporate Body

The following factors are considered by the Registration Committee when determining whether such “control” requirements are met by an applicant.

Board of Directors

In most straight forward cases the directors and shareholders of an audit firm are generally the same individuals. In circumstances where this is not the case, the Registration Committee must consider both the voting rights held by those statutory auditors who are directors of the company and those who are shareholders in the company.

Shareholders

One class of shares

In straight forward cases where there is only one class of shareholders, the Registration Committee will require that at least 51% of the voting rights are held by statutory auditors. To evidence such control where there is more than one shareholder a shareholders’ agreement will be requested.

More than one class of shares

Where there is more than once class of shares the powers held by the various share classes will be considered by the Registration Committee to determine whether there is effective control of the firm by statutory auditors.

The Registration Committee will require that a minimum of 51% of the voting rights that delivers the following powers are held by statutory auditors;

- Power to **influence the composition of the board of directors**
- Power to **amend the constitution**
- Power to bring **forward and vote on all, or substantially all, matters of substance**
- Power to **direct the overall policies of the firm**

The Registration Committee shall consider such powers without prejudice to any other voting rights which it considers relevant, on a case by case basis.

In considering such matters the Registration Committee will also assess the powers held by all classes of shareholders to consider their impact in relation to the above matters.

Management Committee or Board

The majority of the members in a firm's management committee, board or other body must be statutory auditors or individuals who hold a qualification under the law of an EEA member state.

Such a requirement refers to the number of statutory auditors in a firm by headcount rather than just voting rights.

Where such an administrative or management body of a firm has no more than two members then at least one must be a statutory auditor.

Failure to meet the requirements

Initial applications for audit registration will be refused in circumstances where the control requirements of Bye Law 13 and this guidance are not met.

At any time the Registration Committee may withdraw the registration of a Statutory Audit Firm if circumstances arise (involving acts or omissions on the part of Statutory Audit Firm) from which it can reasonably conclude that the conditions set out in Bye Law 13.38.1(d) and Bye Law 13.38.1(e) are no longer being complied with subject to the requirements of S.1473 of the Act.

Changes in Circumstances

A Member in Practice is required to notify the Institute as soon as practicable, but not later than ten business days after the event, of any matter in relation to his/her continuing eligibility to hold a Practising Certificate or any changes to the Firm(s) through which the Member engages in Public Practice. This includes changes to address/ place of business(s), partnership structure etc.

Non-audit firm registration

The Registration Committee will also consider the principles of this guidance document when also considering non-audit firm applications.

Right to Appeal

If a Member, Affiliated Partner, Responsible Individual, Authorised Firm or an applicant for authorisation in accordance with Bye Law 13, is dissatisfied with a decision of the Registration Committee in relation to the refusing to grant or renew an authorisation, to withdraw a practising certificate, to withdraw the registration of an Authorised Firm, to refuse to grant registration to a Statutory Audit Firm, to impose conditions or restrictions on a practising certificate or to impose restrictions or conditions on how a statutory auditor carries out audit work, he/she may appeal the decision before the Appeals Committee.

The right to appeal the withdrawal of audit registration is also provided for by S.1481 of the Companies Act 2014.

Appendix One

Extract from Bye Law 13, Practice and Audit Regulations

13.37.1
The Registration Committee may register a firm only if the Registration Committee is satisfied that:

i. the firm is fit and proper;
ii. the firm has professional indemnity insurance or other appropriate arrangements as required by *Profession*al Indemnity InsuranceBye- Laws;
iii. if the firm is a sole practice the sole practitioner must hold a valid practising certificate in accordance with these Bye Laws, with the exception of a firm approved in accordance with Section 1465, Companies Act 2014.
iv. If the firm is a sole practice and requires registration as a *Statutory Audit Firm,* then the sole practitioner must be a *statutory auditor*;
v. if a firm is a partnership or body corporate the partnership or body corporate must comply with Bye Law 13.36 and 13.38;
vi. the firm has appointed a Compliance Principal as required under these Bye Laws whose name and address has been given to the *Institute;*
vii. where appropriate there is a continuity of practice agreement in place, that
viii. complies with Bye Law 13.25;
ix. the firm agrees to be bound by this Bye Law 13.

The Registration Committee may renew an *Authorised Firm*'s registration on an annual basis provided that 13.37.1 (i) to (ix) inclusive are satisfied. *Authorised Firm*s are obliged to apply in whatever form (including electronic form) that is determined by the Registration Committee for renewal of the *Authorised Firm*'s registration by the last day of February.

Appendix Two

Extract from <u>draft</u> Bye Law 13, Practice and Audit Regulations

13.38
Registration of a *Firm* which is a Partnership / Body Corporate

13.38.1
Any Firm offering services to the public in accordance with bye law 13.15.3 must register that Firm in accordance with this Bye Law.

The Committee may register a Firm which is a partnership or a body corporate only if the Committee is satisfied that:

a) the partnership or body corporate meets the requirements set out in this Bye Law 13;

b) at least one partner/director is a *Member* of the *Institute* holding a valid Practising Certificate with the exception of a firm registered in accordance with Section 1465 Companies Act 2014

c) each partner/ director is either:

   1. a *Member* of the *Institute* holding a valid Practising Certificate;
   2. an *Affiliated Partner*; or
   3. a Statutory Audit Firm in accordance with Irish law;
   4. an individual who holds a qualification to audit accounts under the law of a member state other than Ireland and who is also an Affiliated Partner and has been approved by the Registration Committee.

d) (i) at least 51% of the voting rights are held by *Statutory Auditors or statutory audit firms* or individuals who hold a qualification to audit accounts under the law of a member state other than Ireland in a *Statutory Audit Firm;*

   (ii) at least 51% of the voting rights are *Practising Certificate* holders in a *Non-Audit Firm*.

e) The majority of the members in a Management Committee, Board or other body are;

   i. individuals who are eligible for approval in the State or in any other Member State as statutory auditors;

   ii. audit firms approved as statutory audit firms in the State or in any other Member State, or

   iii. a combination of such individuals and audit firms.

f) Where a Management Committee Board or other body, of a firm has no more than 2 members, then, for the purposes of *subsection (e) (i),(ii), (iii),* one of those members shall satisfy at least the requirements of that subsection.

Appendix Three

Extract from Companies Act 2014

Conditions for approval as statutory audit firm

1473. *(1) In this section, references to a firm include references to a Member State audit firm if the firm is not seeking registration in accordance with section 1465 .*

(2) A firm shall not be eligible for approval as a statutory audit firm unless —

(a) the individuals who carry out statutory audits in the State on behalf of the firm are approved as statutory auditors in accordance with this Part,

(b) the majority of the voting rights in the firm are held by —

(i) individuals who are eligible for approval in the State or in any other Member State as statutory auditors,

(ii) audit firms approved as statutory audit firms in the State or in any other Member State, or

(iii) a combination of such individuals and audit firms,

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(c) subject to subsection (3) , the majority of the members of the administrative or management body of the firm are —

(i) individuals who are eligible for approval in the State or in any other Member State as statutory auditors,

(ii) audit firms approved as statutory audit firms in the State or in any other Member State, or

(iii) a combination of such individuals and audit firms.

(3) Where the administrative or management body of a firm has no more than 2 members, then, for the purposes of subsection (2)(c), one of those members shall satisfy at least the requirements of that subsection.