



BERMUDA

BERMUDA PUBLIC ACCOUNTABILITY (GENERAL) REGULATIONS 2015

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The Minister of Finance, in exercise of the power conferred by section 38 of the Bermuda Public Accountability Act 2011, makes the following Regulations:

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Preliminary

Citation

1 These Regulations may be cited as the Bermuda Public Accountability (General) Regulations 2015.

Interpretation

2 In these Regulations, unless the context otherwise requires—

“the Act” means the Bermuda Public Accountability Act 2011;

“the applicable law” means the Bermuda Public Accountability Act 2011 and the Regulations and Rules made under it;

“Participation Agreement” means the Participation Agreement required to be concluded between the BPAB and a PIE public accountant applicant under rule 4 of the Rules;

“register” means the register of PIE public accountants to be maintained by the BPAB as provided under regulation 3;

“Rules” means the Bermuda Public Accountability (General) Rules 2015.

Maintenance of Register

Register of PIE public accountants

3 (1) Where the BPAB determines to register any person under Part 4 of the Act, it shall cause the prescribed particulars relating to that person to be entered in a register to be maintained by it for that purpose.

(2) The BPAB shall compile and maintain, in such manner as it thinks fit, the register of PIE public accountants which shall provide, in respect of each PIE public accountant registered, the following particulars—

- (a) name and official address;
- (b) date of registration;
- (c) date of conclusion of Participation Agreement;
- (d) number and dates of inspections;
- (e) number and dates of investigations;
- (f) continuing requirements, restrictions and recommendations; and
- (g) any additional matters the BPAB determines necessary to be recorded in the register.

(3) The register shall, at all reasonable times, be available for inspection at the offices of the BPAB by any person at no charge.

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(4) Where copies of the register are requested, the BPAB shall determine the charge payable for such copies.

Division of register of PIE public accountants into separate parts

4 The BPAB may make provision as to the division of the register into separate parts relating to—

- (a) individuals registered as PIE public accountants; and
- (b) firms registered as PIE public accountants.

Amending entries on the register

5 (1) The BPAB may make provision as to the restoration and alteration of entries on the register, and the transfer of entries between different parts of the register.

(2) The BPAB may also make provision as to the removal of entries from the register where the PIE public accountant concerned has—

- (a) ceased to be eligible for registration under section 22 of the Act;
- (b) failed to pay a registration fee.

Restriction on Disclosure of Confidential Information

Confidentiality

6 (1) The Committee shall treat as confidential the investigations conducted under the Rules and any documents, testimony or other information prepared or received by or specifically for the Committee in connection with such investigations shall not be disclosed, except that the Committee shall, if it considers it appropriate, disclose such information—

- (a) to the Bermuda Monetary Authority or professional regulatory authorities having jurisdiction over the PIE public accountant or its designated professionals, or to both; and
- (b) to the Bermuda Stock Exchange or securities regulators connected to the PIE public accountant or to both.

(2) A disclosure made for purposes of paragraph (1)(a) and (b) shall not contain any specific information relating to the business, affairs or financial condition of any client of the PIE public accountant except to the extent that such disclosure may be authorized by applicable law.

(3) The Committee shall, when making any disclosure under paragraph (1)(b), inform the recipient that the information is confidential.

Restricted information

7 (1) Except as provided in regulation 6 and in the applicable law, no person who—

- (a) under or for the purposes of the applicable law receives information relating to the business or other affairs of a PIE public accountant; or

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- (b) obtains such information directly or indirectly from a person who has received it as aforesaid,

shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was received.

(2) This regulation does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

Penalty for disclosure of confidential information

8 Any person who discloses information in contravention of regulations 6 and 7 commits an offence and is liable on summary conviction to a fine of \$10,000 or to imprisonment for six months, or to both.

Issue of false documents etc

9 (1) A PIE public accountant who, for any purposes of registration, inspections and investigations under the applicable law, issues any information or document which is false or misleading in a material respect, and any person who takes part in the preparation or issue of such a information or document, or who signs such a document, commits an offence unless he proves—

- (a) if an individual, that he had no knowledge of the falsity or misleading character of the document and took every reasonable precaution to ensure its accuracy; and
- (b) in any other case, that every person acting on his behalf had no such knowledge, and took every such reasonable precaution to ensure its accuracy.

(2) Any person who commits an offence under paragraph (1) shall be liable on summary conviction to a fine of \$5,000 or to imprisonment for a term of six months, or to both.

Disciplinary Measures

Power to impose civil penalties for breach of requirements

10 (1) A PIE public accountant that fails to comply with any requirement or restrictions imposed by the Committee under the Rules shall be liable to a civil penalty not exceeding \$10,000, as the Committee considers appropriate, for each such failure or contravention.

(2) For the purposes of paragraph (1), “appropriate” means effective, proportionate and dissuasive.

(3) The Committee shall not impose a penalty under paragraph (1) where it is satisfied that the person concerned took all reasonable steps and exercised all due diligence to ensure that the requirement or restriction would be complied with.

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Civil penalties procedure

11 The Committee shall, where it proposes to impose a civil penalty on a PIE public accountant, give the PIE public accountant—

- (a) a violation event notice under rule 24(1) of the Rules; and
- (b) a civil penalty notice under rule 24(2) of the Rules .

Publication of continuing restrictions or penalty

12 Where the Committee considers that a PIE public accountant is subject to any continuing restrictions or penalty, the Committee may, as provided in rule 28 of the Rules, publish a statement on the continuing restrictions or penalty.

Procedure for publication

13 The Committee shall, where it proposes to publish a statement under rule 28 of the Rules, give the PIE public accountant—

- (a) a violation event notice under rule 24(1) of the Rules; and
- (b) a publication notice under rule 28(4) of the Rules.

Made this 15th day of December 2015

Minister of Finance