

FINANCIAL SERVICES COMMISSION
INFORMATION CIRCULAR
ROLE OF THE APPROVED AUDITOR

27th MARCH, 2012

Introduction

1. The Financial Services Commission (“the Commission”), in the performance of its duties and obligations under the Financial Services Commission Act 2010-21 (“FSC Act”), is required to approve the auditor appointed by a financial institution¹.
2. This circular is intended to provide information and highlight the enhanced duties and responsibilities of the auditor as set out in the provisions of the FSC Act and related legislation. The Financial Services Commission seeks to ensure that the auditors approved by the Commission possess sound knowledge and understanding of the obligations of the approved auditor and receive guidance in their approach in fulfilling those obligations.
3. The Commission intends, through this circular, to promote best practices throughout the financial services sector. The circular is not intended to be a substitute for or replace any additional obligations² under the FSC Act, regulations or the specified enactments. Due to the dynamic nature of the various financial institutions that the Commission regulates, there may be the need for revision of this circular from time to time.
4. For the purposes of this circular approved auditor means an auditor approved by the Commission pursuant to section 11(2) of the FSC Act.

Appointment

7. A financial institution which is regulated by the Commission must appoint an auditor to conduct an annual audit of the financial institution³ and provide his/her report. The auditor must be authorised to practice in Barbados. A financial institution must obtain approval from the Commission before their choice of auditor can be appointed for the purposes of the FSC Act.⁴
8. Where a financial institution fails to appoint an auditor or terminates the appointment of an auditor without appointing a replacement, the Commission may appoint an approved auditor for the financial institution and shall fix the remuneration to be paid to the auditor by that particular financial institution⁵.

¹ Section 11(2) of the FSC Act.

² For example, Section 40(2) of the Insurance Act states: ‘The balance sheet and profit and loss account to which subsection(1) refers, shall bear a certificate by an auditor approved by [the FSC] as to whether in the opinion of the auditor it gives a true and fair view of the financial position as a group at the close of that year or, as the case may be, of the profit and loss as a group during that year, of the parent company and all its subsidiary companies’.

³ FSC Act 2010-21, section 11(1).

⁴ Section 11(2) of the FSC Act 2010-21 states:

“An auditor may not be appointed by a financial institution for the purposes of this section, unless that auditor is approved by the Commission as having the capacity and resources to satisfactorily audit that particular institution.”

⁵ FSC Act 2010-21, section 12.

Obligations

9. The approved auditor plays a significant and pivotal role in the overall regulatory framework of the Commission. He/she has a duty to submit a report to the shareholders and directors, highlighting any instances where the operations of the financial institutions might not in his opinion be in compliance with the requirements of the FSC Act, regulations, guidelines or the specified enactments⁶. This report is then submitted to the FSC to assist it in discharging its statutory oversight obligations. The FSC Act places certain duties and obligations on an auditor, which can be summarized as follows:

An auditor:

- cannot resign unless written notice is given to the Commission [s:11(5)];
- must submit a report to the financial institution's shareholders and directors, a copy to be sent to the Commission [s: 11(6)(a) and (b)];
- must note in his/her report instances of non-compliance by the financial institution [s: 11(7)];
- must report to the Commission possible or actual instances of crime or any offence involving dishonesty, money laundering or financing of terrorism [s: 11(8)];
- must submit information within 14 days to the Commission once requested [s: 13 (1) and (2)]; where an auditor fails to give information pursuant to s: 13 he/she is guilty of an offence [s: 13(3)];
- must provide all documents once requested by the examiner [s: 15];
- must cooperate with enquiries made by an examiner [s: 16].

Change in Approved Auditor

10. Where there is a proposed change to an approved auditor, the financial institution must notify the Commission in writing of that pending change and give reasons for that change⁷. The financial institution must obtain the approval of the Commission before a new approved auditor is appointed.
11. An individual may not accept appointment, consent to be appointed or be appointed as auditor if he/she is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire, until the individual has requested and received from the former auditor, a written statement of the circumstances and the reasons, in that auditor's opinion, that he/she is to be replaced⁸.
12. An individual may however accept an appointment or consent to be appointed as auditor if, within 15 days after making the request referred to in that subsection, he/she does not receive a reply to it⁹.

⁶ FSC Act 2010-12, section 11(7)

⁷ Section 11(4) of the FSC Act provides that if a financial institution intends to terminate the appointment of its auditor or fails to appoint an auditor that financial institution shall give notice in writing to the Commission and shall in the notice state the reason for the intention to terminate the appointment or for the failure to appoint an auditor.

⁸ Pursuant to the Companies Act Chapter 308 s: 163 (3) and (4); Co-operatives Societies Act CAP 378A s: 122(2) and (3).

⁹ Pursuant to the Companies Act Chapter 308 s: 163 (3) and (4); Co-operatives Societies Act CAP 378A s: 122(2) and (3).

13. If a financial institution proposes to terminate an approved auditor prior to the expiration of his/her term of appointment, that financial institution must notify the Commission in writing and give reasons for its proposed action¹⁰.
14. Where the approved auditor resigns prior to the expiration of his/her term or does not seek re-appointment as an approved auditor, he shall forthwith give written notice to the Commission.¹¹

Disqualification

15. An approved auditor may be disqualified¹² by a financial institution on the direction of the Commission where that person is considered to have not met the criteria of the approved auditor.
16. Prior to disqualification the commission determines whether the approved auditor has fulfilled the criteria.

Audited Financial Statements

17. Every financial institution is required to provide their financial statements to the Commission at the end of each quarter¹³. The financial statements are to be audited annually by the approved auditor¹⁴.

Right to Information

18. It is expected that the financial institution will ensure that the approved auditor is provided with access to all information and tools to enable him/her to fully perform his/her audit. The financial institution should in no way obstruct the auditor from carrying out his/her functions¹⁵.

Approved Auditor's Report

19. The approved auditor is required to prepare a report to be submitted to the shareholders and directors of the financial institution¹⁶. A copy of this report along with the audited annual financial statement of the financial institution¹⁷ must be submitted by the financial institution to the Commission.
20. Pursuant to section 11(7) of the FSC Act, the approved auditor must state in his/her report any instances where in his/her opinion the operations of the financial institution might not be in compliance with the requirements of the FSC Act, the regulations, guidelines or the specified enactments.

¹⁰ FSC Act, section 11(4)

¹¹ FSC Act, section 11(5)

¹² pursuant to section 11(2) of the FSC Act

¹³ Pursuant to section 10(1) of the FSC Act 2010-21

¹⁴ Section 11(1) of the FSC Act 2010-21 states that a financial institution shall appoint an auditor annually to conduct an audit of that financial institution

¹⁵ Section 23 (a) of the FSC Act 2010-21 states that any person who obstructs the carrying out by an auditor or an examiner of the auditor's or the examiner's proper function under this Act...is guilty of an offence and is liable on conviction on indictment to a fine of \$200 000 or imprisonment for 5 years or both.

¹⁶ Pursuant to section 11(6)(a) of the FSC Act 2010-21

¹⁷ Section 11 (6)(b) the FSC Act 2010-21

21. The approved auditor is further required to notify the Commission, without delay, where he/she is of the opinion, as a result of the audit, that a crime involving fraud, theft or any other offence involving dishonesty or money laundering or the financing of terrorism has been, is being or is likely to be committed¹⁸.

Access to Information

22. At the written request of the Commission, the approved auditor must submit to the Commission, any required information obtained during the course of his/her audit within 14 days from the date of written request¹⁹.
23. Where the Commission decides to examine a particular financial institution, the approved auditor is mandated to provide to the examiner all documents and records relating to the financial institution's assets, liabilities and business generally, which would be in his/her possession as a result of performing his/her duties²⁰. The approved auditor is also required to furnish the examiner with information as requested by the examiner about the affairs and business of the particular financial institution.
24. Where the Commission decides to conduct an investigation into the affairs of a financial institution, an investigator may make enquiries from a former auditor²¹. The Commission expects the former auditor to fully cooperate with the investigator.

Disclosure

25. An approved auditor shall not be regarded as being in breach of his/her duty to a financial institution by reason only of his/her disclosing information as required under the FSC Act to the Commission for the purposes of an examination or investigation²².

¹⁸ FSC Act 2010-21, section 11(8).

¹⁹ FSC Act 2010-21, Section 13(1) and (2)

²⁰ Section 15 of the FSC Act 2010-21.

²¹ Section 16(2)(b)(i) of the FSC Act 2010-21 states that where an investigation is being conducted under this Act, an investigator may make enquiries into the operations of the financial institution from a former auditor.

²² Section 18 of the FSC Act 2010-21