

Accountancy Profession Act 1979
Cap 281

Directive number 3 issued in terms of the Accountancy Profession Act 1979 (Cap 281) and of the Accountancy Profession Regulations 2009

In exercise of the powers conferred by article 8(2) of the Accountancy Profession Act (hereinafter referred to as “the Act”), the Accountancy Board with the approval of the Minister for Finance is hereby issuing the following Directive:

Name and commencement date

1. This Directive may be cited as the Accountancy Profession (Annual Return and Registration Fees) Directive and may also be referred to as the Annual Return and Registration Fees Directive.
2. This directive shall come into force on the eighth (8th) day immediately following the day on which it is published and shall replace Directive number 3 previously by the Board.

Definitions

3. (a) In this Directive:

“Act” shall mean the Accountancy Profession Act (Cap. 281 of the Laws of Malta);

“Firm” shall mean:

- (i) An audit firm engaged in public practice;
- (ii) An accountancy firm engaged in public practice;
- (iii) a third-country auditor or a third-country audit entity registered in accordance with article 7(6) of the Act;
- (iv) A sole practice through which a warrant holder engages in public practice;

and where applicable shall include an entity that controls such parties and an entity that is controlled by such parties;

“Public interest entities” shall mean those entities whose transferable securities are admitted to trading on a regulated market within the meaning of point 14 of article 4(1) of Directive 2004/39/EC, a credit institution as defined in point 1 of Article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to

the taking up and pursuit of the business of credit institutions, an insurance undertaking within the meaning of Article 2(1) of Directive 91/674/EEC and such other entities as may be prescribed by the Board;

“Recognised Accountancy Body” shall mean an accountancy body in terms of article 9 of the Act;

“Warrant” shall mean a warrant or practising certificate issued in terms of Article 4 of the Act;

“Warrant holder” means a holder of a warrant.

(b) The provisions of this directive shall be interpreted with reference to the Act and the regulations and directives issued in terms thereof.

(c) Terms used in this Directive and not defined shall, unless the context otherwise requires, have the meaning assigned to them in the Act.

Purpose and scope

4. The objective of the Annual Return and Fees Directive is to:

Annual Return

- Enable the Board to maintain a complete and updated register as set out in article 7(4) of the Act including key data and information;
- To obtain confirmation that warrant holders and firms are abiding by relevant rules and regulations (e.g. the insurance requirements);
- To enable the Board to obtain information relating to the those firms together with a profile of their activities;
- To assist the Board or its representatives in the planning of quality assurance reviews.

Registration Fees

- To provide for the payment of registration fees by warrant holders and firms to allow the Board to carry out its statutory duties.

5. Unless the context otherwise dictates, the provisions of the Directive are applicable to all warrant holders and firms.

Responsibility

6. (a) It is the responsibility of each warrant holder or practising certificate holder or firm to ensure that they comply with this Directive, including the obligation to notify to

the Board any change of address or change of circumstances which could have a bearing on the profession of the warrant holder or practising certificate holder or firm concerned. The notification shall be carried out by the warrant holder or practising certificate holder or firm within 15 days after the date on which the change occurs.

(b) Any communication by the Board to the warrant holder or practising certificate holder or firm shall be sent by registered mail to the last identified address by the warrant holder or practising certificate holder or firm, and for all intents and purposes of the law, such address shall be deemed to be the current address of the warrant holder or practising certificate holder or firm concerned.

7. It is the responsibility of the compliance principals of firms to ensure that their firm complies with this Directive. This does not diminish the responsibility of individual warrant holders to ensure that they or their firms comply with this Directive.

Annual Return for all Warrant Holders

8. The Annual Return to be submitted to the Board by all warrant holders and firms shall be in such form as may be determined by the Board from time to time and made available to warrant holders on the official website of the Board.

9. (a) A warrant holder or practising certificate holder or firm is to submit a complete Annual Return for each year by the 31st January of each year to the address set out in Appendix 1 of this Directive;

(b) Those warrant holders or practising certificate holders or firm who, on the 31st January of each year have failed to submit a complete annual return, shall be notified by the Board with a final demand for compliance at the address identified under rule 6 above. If the warrant holder or practising certificate holder or firm fails to submit a complete annual return within 30 days from the date of the letter, the Board shall suspend the warrant or practising certificate of the person or firm concerned, and his/its name shall be removed from the list of warrant holders or practising certificate holders or firms respectively.

Fees

10. Warrant holder and firms shall be required to pay, by the 31st January of each year, an annual registration fee of €23.29 (twenty-three euro and twenty-nine cents) or any other amount as may be stipulated by the Board.
11. Recognised Accountancy Bodies shall be required to collect the annual registration fee from their members on behalf of the Board.
12. Recognised Accountancy Bodies shall forward a demand for payment in writing to their members who are warrant holders and firms on 31st December of the preceding year, by not later than 31st January of each year. Recognised Accountancy Bodies shall pay over

- to the Board any such registration fees collected on behalf of the Board by not later than ten (10) business days following the end of the month in which such fees are collected. Furthermore, Recognised Accountancy Bodies are required to submit with any payment effected, a list of warrant holders whose fees are being settled, detailing the name of the warrant holder and the warrant holders reference number (to be supplied by the Board). The Board shall ensure that Recognised Accountancy Bodies are provided with an updated list of warrant holders at 31st December of each year.
13. Recognised Accountancy Bodies shall, by 30th April of each year, provide the Board with a list of any of their members who are warrant holders and whose payment was not received by the due date. The provision of such a list will result in the Recognised Accountancy Body being discharged from its obligation under paragraph 11 above with respect to any unpaid registration fees.
 14. Warrant holders that are not members of a Recognised Accountancy Body will effect payment of the annual registration fee to the Board or a representative authorised by the Board.
 15. Until further notice the Board has authorised the Malta Institute of Accountants (hereinafter referred to as the “Institute”) as its representative to collect payments on its behalf from warrant holders referred to in Rule 14 hereof. The annual registration fee should be made payable directly to the Institute and posted to its address set out in Appendix 2 of this Directive.
 16. Persons applying for a warrant (or practising certificate) will be charged a onetime application fee of €23.29 (twenty-three euro and twenty-nine cents) payable to the Board, together with the submission of their application.

Regulatory penalties, suspension and withdrawal

17. Without prejudice to the right of the Board under paragraph 18 of this Directive, the Board may impose an administrative fine amounting to not more than €232.94 (two hundred and thirty-two euro and ninety-four cents) per warrant holder or €232.94 (two hundred and thirty-two euro and ninety-four cents) per principal in the case of a firm, in any of the following circumstances:
 - The late submission of the annual return;
 - The submission of an incomplete or material inaccurate Annual Return; And/or
 - The failure to pay the registration fee by the due date.
18. The Board may refer any warrant holder or firm that has failed to submit a completed Annual Return or has submitted an incomplete or materially inaccurate Annual Return, to a disciplinary committee appointed by the Board in terms of sub-article (16) of article 7 of the Act (hereinafter referred to as the “Disciplinary Committee”). Should the Disciplinary Committee find that any such failure on the part of the warrant holder or

firm was not for a just cause, the Board may withdraw the practising certificate or suspend the warrant and/or practising certificate for such time and under such conditions as the Board may deem fit or recommend to the Minister the withdrawal of the warrant of a warrant holder or firm or take any other disciplinary provisions which are within its powers as it deems fit.

19. Any decision taken by the Disciplinary Committee shall be notified by registered mail or by any other form of notification in the gazette or local newspaper, to any person to whom such decision applies and shall be subject to appeal in terms of article 15B of the Act.

Disclosure of information contained in the Annual Return

20. In exercising its powers and carrying out its duties under this directive, the Board will treat all information received as confidential but may only disclose any information if the Board believes it is appropriate in the following circumstances:
 - a) to individuals appointed by the Board to investigate complaints against warrant holders;
 - b) to individuals who may be appointed by the Board or any other Body delegated by the Board to perform quality assurance reviews for warrant holders engaged in public practice;
 - c) to the Appeals Board;
 - d) as may be required by the Act and any other relevant legislation enacted in Malta.

Dispensation

21. If it is impossible or impractical for a warrant holder or firm to comply with the requirements of this directive, the warrant holder or firms should notify the Board in writing within twenty (20) business days of the circumstances of non-compliance and the proposed action to be undertaken by the warrant holder or firm.
22. Should the Board determine that the warrant holder or firm has taken all practical steps to address the circumstances arising in paragraph 21 of this Directive, the Board may grant a dispensation from the requirements of this Directive until the Board, at its absolute discretion determines that the warrant holder or firm can comply.

Appendix 1

The Quality Assurance Unit,
Ministry for Finance
Maison Demandols
South Street
Valletta
VLT1102
Malta

Appendix 2

The Malta Institute of Accountants,
Level 1, Tower Business Centre,
Tower Street,
Swatar BKR 3013
Malta