

Listing Requirements Enforcement In Focus

Failure to Establish Internal Audit Function

Paragraph / Rule 15.12(1)(e) and (f) of the LR states that a listed company must ensure the audit committee reviews and reports the following to the Board of Directors of a listed company:-

- **the adequacy of the scope, functions, competency and resources of the internal audit functions and that it has the necessary authority to carry out its work; and**
- **the internal audit programme, processes, the results of the internal audit programme, processes or investigation undertaken and whether or not appropriate action is taken on the recommendations of the internal audit function**

Paragraph / Rule 15.27(1) of the LR requires a listed company to establish an internal audit function which is independent of the activities it audits.

CASE 1 – FAILURE TO ESTABLISH INTERNAL AUDIT FUNCTION DUE TO FINANCIAL ISSUES

🔍 Relevant Facts

Company T had failed to establish an internal audit function from 1 September 2011 until 8 July 2014 and its audit committee had failed to review the adequacy of the company’s internal audit function as well as its internal audit plan and/or report during this period (“Internal Audit Function Breach”). Despite the absence of an internal audit function and activities during the said period, Company T had represented



in its Statement on Risk Management & Internal Control and the Audit Committee Statement contained in Company T’s annual report as to, amongst others, the existence of its internal audit function and activities carried out during the 18-month financial period from 1 September 2011 to 28 February 2013 which were inaccurate and misleading (“Misstatement Breach”). Company T’s allegation that its failure to establish an internal audit function due to the company’s financial difficulties / shortage of funds / resources cannot absolve its obligation. In this respect, strict adherence to ensure the establishment and maintenance of an internal audit function is required as it provides an

independent and objective assurance service to the board of directors, audit committee and management as to the effectiveness of the company’s governance, risk management and control processes which

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would enable/facilitate proper supervision and management of the company's business and operations including compliance of rules and regulations.



Enforcement Decision

- (i) Company T – **Public reprimand for the Internal Audit Function Breach and Misstatement Breach;**
- (ii) Directors – **Public reprimand** on 10 directors at the material time for permitting Company T to commit the Internal Audit Function and Misstatement Breaches. **In addition, the managing director and audit committee chairman were fined RM20,000 each while 4 audit committee members were fined RM10,000 each.** All the directors were or should have been aware of the status of affairs of the internal audit function and activities of Company T. However, the directors had failed to demonstrate reasonable steps/efforts taken including to undertake due enquiry on/questioned the status of the internal audit function as well as other proactive steps towards addressing the non-compliance of the requirement for an internal audit function during the relevant period. The directors had also failed to supervise/monitor/follow up on the progress and actions taken such as addressing and rectifying the issues including the replacement/appointment of an internal auditor expeditiously. Despite being aware/should have been aware of the absence of internal audit function and activities, they had proceeded to approve the inaccurate representations (i.e. the Statement on Risk Management & Internal Control and the Audit Committee Statement) in the company's annual report.

For more information on the case, please refer to the Media Release dated [29 October 2015](#).

CASE 2 – ABSENCE OF INTERNAL AUDIT FUNCTION DESPITE EXISTENCE OF INTERNAL AUDITOR AND OTHER AUDIT ACTIVITIES



Relevant Facts

Company AS had failed to establish an internal audit function during the financial year ended 31 December 2011 and 31 December 2012 (FYE 2011 and FYE 2012) until the appointment of a new internal auditor on 15 March 2013 (i.e. a period of 26.5 months). In addition, its audit committee had failed to review the adequacy of the internal audit function and internal audit plan and/or report during FYE 2011 and FYE 2012. Regardless of the alleged existence of an internal auditor by Company AS, there was clearly no audit activities including report from the internal auditors tabled to the audit

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committee and the board during the FYE 2011 and FYE 2012. Further, the various audit activities / monitoring carried out by the company during the FYE 2011 and FYE 2012 including by Sirim QAS International Sdn. Bhd. and internally by its subsidiary's Chief Operating Officer were inadequate and did not fulfil the obligations under paragraphs 15.12(1)(e) and (f) and 15.27(1) of the Main LR. Despite the directors awareness of the state of affairs of the internal audit function (i.e. absence of any internal audit function and activities), the directors had proceeded to approve the representations / statements as to the existence of an internal audit function and the various activities / actions undertaken during the FYE 2011 and FYE 2012 in the company's annual reports for FYE 2011 and FYE 2012 which were inaccurate and misleading.



Enforcement Decision

- (i) Company AS – **Public reprimand** for the breaches;
- (ii) Directors – **Public reprimand** on 8 directors at the material time. **In addition, 7 of the directors who were executive directors or audit committee members were imposed with fines ranging from RM10,000 to RM40,000** for permitting Company AS' failure to establish an internal audit function and further misrepresented on the existence of the internal audit function / activities in the company's annual reports for FYE 2011 and FYE 2012. The directors had failed to demonstrate reasonable steps / efforts taken to ensure that Company AS complied with paragraphs 15.12(1)(e) & (f) and 15.27(1) of the Main LR including to undertake reasonable enquiries, supervise / monitor / follow-up on the progress and actions taken as well as undertake other proactive steps towards addressing the issue on the internal audit function expeditiously. Instead, the directors' total / mere reliance on the management to ensure compliance of the Main LR (including endorsing the misstatements in the annual reports) tantamount to an abdication of their responsibilities

For more information on the case, please refer to the Media Release dated [23 December 2016](#).