



RECOMMENDED PRACTICE GUIDE 6

Update on Auditor's Report on Financial Statement

COMMENTARY

This guidance is issued to assist practising members in clarifying their responsibilities under the Companies Act 1965 in relation to the auditor's report.

Background

The Institute would like to draw members' attention to a Scottish judgement in "*Royal Bank of Scotland v Bannerman Johnstone Maclay and others*" relating to an auditor's duty of care to third parties.

In this case, the Scottish Court of Session held that a company's auditor could owe a duty of care to a bank if they knew (or ought to have known) that the bank would rely on their client's audited accounts and did not clarify their responsibility.

The Judge in making its judgement said that:

"It was in my view open to the defenders, when they learned that the pursuers were entitled to see the audited accounts for the purpose of informing their lending decisions, to disclaim responsibility to the pursuers for the consequence of any reliance that they placed on the audited accounts for that purpose. If such a disclaimer had been made, it would in my view, in the circumstances of this case, have been impossible to infer from the fact that the audited accounts were provided in knowledge of the purpose for which the pursuers were likely to rely on them that the defenders had assumed such responsibility. The absence of such a disclaimer, despite the fact that one might have been made, is a circumstance which, in my opinion, enables the inference of assumption of responsibility to be made."

The full text of the judgement is available at www.scotcourts.gov.uk/opinionsv/mcf1807c.html

Clarification Wording in Auditor's Report

Given that the establishment of liability under Malaysia law has so far tended to follow the same route in law as the UK and certain other common law jurisdictions and although the court decision in this case was a preliminary order and is subject to an appeal, the Institute considers that it is important to provide further guidance to practising members on appropriate action which they may wish to take to help clarify their existing responsibilities.

The Council recommends that practising members who seek to clarify their responsibilities adopt the following clarification wording in the statement of auditor's responsibility of the auditor's report prepared for the purpose of satisfying the requirement in section 174 of the Companies Act 1965:

"It is our responsibility to form an independent opinion, based on our audit, on those financial statements and to report our opinion to you, as a body, in accordance with Section



174 of the Companies Act 1965 and for no other purpose. We do not assume responsibility towards any other person for the content of this report."

An example of unqualified auditor's report with this wording included is attached as Appendix I to this guidance.

Auditor's Responsibilities

The Council wishes to emphasise that the inclusion of this recommended wording in the auditor's report does not alter the responsibilities of auditors to their clients and does not mean that auditors will never agree to take on responsibilities to third parties.

Auditors are still required to carry out their audit in accordance with approved Standards on Auditing. This additional wording only clarifies that their duty is to the members of the Company and that auditors will accept only duties that are expressly agreed.



**REPORT OF THE AUDITORS FOR COMPANIES INCORPORATED IN
MALAYSIA PURSUANT TO THE COMPANIES ACT, 1965**

Company No : xxxx - x

**Report of the Auditors to the members of
XYZ Sdn Bhd**
(Incorporated in Malaysia)

We have audited the financial statements set out on pages to of XYZ Sdn Bhd.

The financial statements are the responsibility of the Company's directors.

It is our responsibility to form an independent opinion, based on our audit, on those financial statements and to report our opinion to you, as a body, in accordance with Section 174 of the Companies Act 1965 and for no other purpose. We do not assume responsibility towards any other person for the content of this report.

We conducted our audit in accordance with approved standards on auditing in Malaysia. These standards require that we plan and perform the audit to obtain all the information and explanations, which we considered necessary to provide us with sufficient evidence to give reasonable assurance that the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. An audit includes an assessment of the accounting principles used and significant estimates made by the directors as well as evaluating the overall financial statement presentation.

We believe that our audit provides a reasonable basis for our opinion.

In our opinion:

- (a) the financial statements are properly drawn up in accordance with the provisions of the Companies Act, 1965 and applicable approved accounting standards in Malaysia so as to give a true and fair view of :-
 - (i) the state of affairs of the Company and of the Group as at 31st December 20xx and of the results and cash flows of the Company and of the Group for the year ended on that date; and
 - (ii) the matters required by Section 169 of the Companies Act, 1965 to be dealt with in the financial statements of the Company and of the Group; and

and

- (b) the accounting and other records and the registers required by the Companies Act, 1965 to be kept by the Company and by the subsidiaries of which we have acted as auditors have been properly kept in accordance with the provisions of the said Act.



We have considered the financial statements and the auditor's reports of the subsidiaries for which we have not acted as auditors, as indicated in Note xx to the financial statements.

We are satisfied that the financial statements of the subsidiaries that have been consolidated with the Company's financial statements are in form and content appropriate and proper for the purposes of the preparation of the consolidated financial statements and we have received satisfactory information and explanations required by us for those purposes.

The auditor's reports on the financial statements of the subsidiaries were not subject to any qualification and in respect of subsidiaries incorporated in Malaysia, did not include any comment (or any adverse comment) made under Section 174 (3) of the Act.

ABC & Co (AF-xxxx)
Chartered Accountants
City (Office responsible for the audit)

XXX - Partner
No. xxxxx

Dated : xx/xx/20xx