

## **PRACTICE DIRECTION NO. 4 OF 2006**

### **INTERPRETATION OF REQUIREMENT TO PREPARE ACCOUNTS UNDER SECTION 201(1A), (3) AND (3A) OF THE COMPANIES ACT**

1. This Practice Direction supersedes Practice Direction No. 9 of 2005 and interprets Section 201(1A), (3) and (3A) of the Companies Act.

#### ***GENERAL OBLIGATION ON COMPANY TO PREPARE ACCOUNTS WHICH COMPLY WITH ACCOUNTING STANDARDS AND WHICH GIVE A TRUE AND FAIR VIEW***

2. Section 201(1) and (3) of the Companies Act (“CA”) requires the directors of a company to present a profit and loss account and a balance sheet for the company at the end of the financial year at its Annual General Meeting. Under section 201(1A) and (3) CA, the profit and loss account and the balance sheet must comply with the prescribed Accounting Standards and give a true and fair view of the profit and loss of the company and the state of affairs of the company.

3. Section 201(3A) CA requires the directors of a holding company to present the consolidated accounts of the company and its subsidiaries, as well as a balance sheet dealing with the state of affairs of the holding company, at the end of the financial year at its Annual General Meeting. These financial statements must also comply with the prescribed Accounting Standards and give a true and fair view of the financial status of the company.

#### ***THE ISSUE***

4. This Practice Direction elaborates on the issues raised and the interpretation taken in Practice Direction No. 9 of 2005. Briefly, that Practice Direction dealt with the difference between the definitions of “subsidiary” and “holding company” in section 5(1) and (2) of the CA, and the accounting definitions of a “subsidiary” and “parent” under FRS 27 of the prescribed Accounting Standards. As the definitions are similar but not identical, a company may meet the definition “subsidiary” or “holding company” under the CA but not the accounting definition of “subsidiary” or “parent” under FRS 27, and vice versa.

5. We have since received feedback about possible scenarios in practice in which uncertainty may arise and we publish our interpretations in this Practice Direction. Two scenarios which may cause uncertainty are as follows:

(a) Parent which is not a holding company

A company may be a parent, but not a holding company. Such a company is not required to prepare consolidated accounts in accordance with section 201(3A) CA, but would be required to prepare consolidated accounts in accordance with FRS 27.

(b) Holding company which is not a parent

A holding company which is not a parent is required to prepare consolidated accounts in accordance with section 201(3A) CA. It was brought to our attention that the concept of “consolidated accounts” in its strict accounting sense refers only to the incorporation of financial information from subsidiaries in accordance with FRS 27. Depending on the circumstances, a holding company may be required under the Accounting Standards to account for a subsidiary as defined under section 5 CA (referred to in this Practice Direction as a “legal subsidiary”) in its group using other different methods instead of in accordance with FRS 27 e.g. in accordance with FRS 28, 31 or 39. As such, a holding company which is not a parent may be concerned that it is unable to comply with the requirement to prepare “consolidated accounts” under section 201(3A) CA.

***ACRA’S INTERPRETATION OF SECTION 201(1A), (3) AND (3A)***

6. The legislative intent behind the 2002 amendments to the CA, which introduced the requirement under section 201 (1A), (3) and (3A) CA to comply with the prescribed Accounting Standards, was to ensure that Singapore companies present true and fair financial statements in accordance with internationally accepted accounting standards and to substitute the provisions of the CA relating to financial reporting and disclosure requirements with the Accounting Standards.

7. With this legislative intent as the background, ACRA is of the view that -

(a) a parent which is not a holding company must prepare consolidated accounts in accordance with the Accounting Standards as mandated under the Companies Act; and

(b) a holding company, regardless of whether it is a parent or not, in consolidating the financial information relating to its legal subsidiaries in accordance with section 201(3A) CA, must do so in accordance with the Accounting Standards.

Parent which is not a holding company

8. The requirement in section 201(1A) and (3) is that the profit and loss account and the balance sheet must comply with the Accounting Standards and give a true and fair view of the financial position of the company. In this respect, the primary legislation itself mandates compliance with the Accounting Standards even though the actual standards are contained in subsidiary legislation. There are no clear words in section

201(1A) and (3) prohibiting the consolidation of accounts by a parent which is not a holding company. It is only by consolidating the accounts that the accounts of such a parent would reflect a true and fair view of the financial position of the company. A parent which is not a holding company should therefore prepare consolidated accounts if it is required to do so under the Accounting Standards.

Holding company which is not a parent

9. “Consolidated accounts” is defined in section 209A CA for the purposes of Part VI of the CA (within which section 201 CA falls) as follows:

““consolidated accounts”, in relation to a holding company, means —  
 (a) a set of consolidated accounts for the group of companies of that holding company; or  
 (b) *the accounts or consolidated accounts prepared in compliance with the Accounting Standards.*”

10. Reading paragraph (b) of the definition of “consolidated accounts”, ACRA is of the view that the phrase “consolidated accounts” in section 201(3A) CA contemplates the inclusion of the financial information of the holding company's legal subsidiaries, howsoever accounted for under the Accounting Standards. The phrase “consolidated accounts” is not restricted to a technical meaning to refer to only consolidation in its strict accounting sense, but would be wide enough to include the incorporation of the financial information of a legal subsidiary in accordance with FRS 28, 31 or 39.

Exceptions under FRS 27

11. We note that paragraph 10 of FRS 27 prescribes certain circumstances under which a parent may be exempted from the requirement to prepare consolidated accounts. Our references in this Practice Direction to consolidation in accordance with FRS 27 would exclude the circumstances under which a parent is not required to prepare consolidated accounts by virtue of paragraph 10 of FRS 27. For cases where a holding company which is a parent falls within paragraph 10 of FRS 27, section 201(3BA) CA provides for an exception to Section 201(3A).

12. In short, the following table represents our interpretation:

|     | When the company is :                                           | Consolidation required:                       | Reasons:                                                                                                                                                      |
|-----|-----------------------------------------------------------------|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | Not a holding company under the CA but is a parent under FRS 27 | Yes, consolidation is required under FRS 27*. | The company is required to prepare accounts that comply with the Accounting Standards and give a true and fair view of the financial position of the company. |

|     |                                                              |                                                                        |                                                                                                                                                                                                                                      |
|-----|--------------------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (2) | A holding company under the CA and a parent under FRS 27     | Yes, consolidation is required under FRS 27 <sup>2</sup> .             | The company is required to prepare consolidated accounts under both section 201(3A) CA and the Accounting Standards.                                                                                                                 |
| (3) | A holding company under the CA but not a parent under FRS 27 | Yes, but the consolidation may be in accordance with FRS 28, 31 or 39. | The definition of “consolidated accounts” under section 209A CA is wide enough to include incorporation of financial information of the holding company’s legal subsidiaries howsoever accounted for under the Accounting Standards. |

<sup>2</sup>Excluding cases which fall within paragraph 10 of FRS 27.

### ***REVOCATION OF PRACTICE DIRECTION NO. 9 OF 2005***

13. Practice Direction No. 9 of 2005 is hereby revoked with immediate effect.

### ***LEGAL PROVISIONS***

14. The legal provisions relevant to and referred to in this Practice Direction are:

- (a) the Companies Act (Cap 50); and
- (b) the Companies (Accounting Standards) Regulations.

15. The Companies Act is available at ACRA’s homepage at <http://www.acra.gov.sg/legislation/index.html#3>. You may purchase a copy of the regulations from <http://www.egazette.com.sg/egazette/welcome.asp>.

### ***RELATED PRACTICE DIRECTIONS***

16. Practice Direction No. 9 of 2005: Interpretation of Sections 201(3A) and 201(3BA) of the Companies Act.

### ***ENQUIRIES***

17. If you have further comments, please write to our Legal Services Division (attention to Ms Toh Wee San/ Ms Elena Yeo) at fax: 62251676 or [www.acra.gov.sg/enquiry](http://www.acra.gov.sg/enquiry).

Issued on 27 April 2006

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