

**GUIDE RELATING TO FACTUAL FINDINGS REPORT IN TERMS
OF THE IMMIGRATION ACT AND THE IMMIGRATION REGULATIONS**



**Guide on the Factual Findings Report of the Chartered
Accountant / Professional Accountant to the Applicant on
Application for a Business Visa / Permanent Residence Permit in
terms of the Immigration Act and Immigration Regulations**

Issued August 2018



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PREFACE

This guide has been issued by the South African Institute of Chartered Accountants (SAICA) and the South African Institute of Professional Accountants (SAIPA) jointly. The purpose of the guide is to provide guidance for those Chartered Accountants/ Professional Accountants who are engaged to prepare a report in terms of the Immigration Act, No.13 of 2002, as amended (the Act), promulgated in 2004, and the Immigration Regulations, 2014.

This guide does not impose requirements on Chartered Accountants / Professional Accountants beyond those included in the International Standards and referred to throughout the guide, but also does not change Chartered Accountants / Professional Accountants responsibility to comply with the requirements of any standards, codes, other pronouncements and laws and regulations that may be applicable to a particular engagement. Although specific references to International Standards have been included in the guide, Chartered Accountants / Professional Accountants are required to have an understanding of the entire text of each applicable standard to assess how it is relevant to a particular engagement and to enable the practitioners to comply with all the requirements of all standards relevant to an engagement.

This guide is not a substitute for reading, understanding and applying the International Standards issued by the International Auditing and Assurance Standards Board (IAASB).

Every effort has been made to ensure that the guidance included in this guide is correct. Nevertheless, this guidance is provided to members of SAICA / SAIPA to assist them with particular aspects relating to the subject matter of the guide, and SAICA / SAIPA will have no responsibility to any person for any claim of any nature whatsoever that may arise out of or related to the contents of this guide.

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1. Background

- 1.1 The Immigration Regulations, 2014 ("Immigration Regulations") require a Chartered Accountant (CA(SA)) registered with the South African Institute of Chartered Accountants or a Professional Accountant registered with the South African Institute of Professional Accountants to prepare a certificate to state that the applicant meets the requirements for applying for a business visa or a permanent residence permit, as set out in the Immigration Regulations.
- 1.2 The specific requirements that the applicant have to meet in terms of the Immigration Regulations are described in this guide, under Section 3 – Requirements.
- 1.3 Paragraphs 1.4 to 1.6, below describe how the requirements relating to CA(SA) / Professional Accountant (SA) have changed since the inception of the Immigration Act, No. 13 of 2002.
- 1.4 The Immigration Act, No. 13 of 2002, effective from 20 March 2003 required a CA(SA) / Professional Accountant (SA) to certify compliance with the Act for various applications by a foreigner.
- 1.5 The Immigration Amendment Act, No. 19 of 2004 removed the requirements for CAs(SA) / Professional Accountants (SA) to certify the various applications by a foreigner.
- 1.6 The Immigration Regulations published on 27 June 2005, that came into effect on 1 July 2005 only required a CA(SA) / Professional Accountant (SA) to prepare a report for a business permit as required in terms of the Regulations. The Immigration Amendment Act, No. 3 of 2007 and the Immigration Amendment Act, No. 13 of 2011 came into effect on 26 May 2014 (Government Gazette No. 37679, Notice R.32, 2014 and Notice R.33, 2014). The Department of Home Affairs also released the Immigration Regulations, 2014 which became effective on 26 May 2014 (Government Gazette No. 37679, Notice R.413).

2. Definitions

Act	:	Immigration Act, No. 13 of 2002, as amended
Applicant	:	Person (foreigner) engaging the CA(SA) or Professional Accountant (SA) to issue the report required by the Department
CA(SA)	:	Chartered Accountant registered with the South African Institute of Chartered Accountants (i.e. a member of SAICA)
Foreigner	:	Means an individual who is not a citizen (In terms of the Act)
Immigration	:	Regulations published on 22 May 2014, with an effective

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Regulations		date of 26 May 2014. Also referred to in this guide as “the Regulations”.
Minister	:	Minister of Home Affairs (In terms of the Act)
Professional Accountant (SA)	:	A professional accountant is an accountant registered with the South African Institute of Professional Accountants

3. Requirements

- 3.1 The Immigration Regulations, specifically regulations 14(1) (a), 14(2) (a) and 24 (5) require a CA(SA) / Professional Accountant (SA) to prepare a certificate where a business visa or permanent residence permit is being applied for. Even though a certificate is required, it has been agreed with the Department of Trade and Industry (DTI) that a report on factual findings in accordance with International Standard on Related Services 4400, *Engagements to Perform Agreed-Upon Procedures Regarding Financial Information* (ISRS 4400) by the CA(SA) / Professional Accountant (SA) will be accepted.
- 3.2 The distinction between regulation 14(1) and 14(2), is that the former applies to an application with the intent to establish a business or invest in a business, and the latter applies to an application by a foreigner who has already established a business or invested in an existing business.
- 3.3 Regulation 24(5) deals with an application for a permanent residence permit.
- 3.4 The Regulations require the following:
- Regulation 14(1): An application for a business visa by a foreigner who intends to establish a business or invest in a business that is not yet established in the Republic, shall be accompanied by:
 - a) a certificate issued by a chartered accountant registered with the South African Institute of Chartered Accountants or a professional accountant registered with the South African Institute of Professional Accountants to the effect that:
 - i. at least an amount in cash to be invested in the Republic as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the Gazette, is available; or
 - ii. at least an amount in cash and a capital contribution as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the Gazette, is available.
 - Regulation 14(2): An application for a business visa by a foreigner who has established a business or invested in an existing business in the Republic, shall be accompanied by:

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- a) a certificate issued by a chartered accountant registered with the South African Institute of Chartered Accountants or a professional accountant registered with the South African Institute of Professional Accountants to the effect that:
 - i. at least an amount in cash to be invested in the Republic, as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the Gazette, is available or already invested; or
 - ii. at least an amount in cash and a capital contribution as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the Gazette, is available or already invested;
 - Regulation 24(5): An application for a permanent residence permit contemplated in section 27(c) of the Act shall be accompanied by a certificate issued by a chartered accountant registered with the South African Institute of Chartered Accountants or a professional accountant registered with the South African Institute of Professional Accountants to the effect that:
 - a) at least an amount of cash as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the Gazette, is available; or
 - b) at least an amount of cash and a capital contribution as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the Gazette, is available.
- 3.5 In addition to regulation 14(2) the foreigner who invests or has invested in an existing business shall in terms of Regulation 14(3) submit:
- a) Financial statements in respect of the preceding financial year; and
 - b) Proof of investment.
- 3.6 The Immigration Regulations therefore allow for cash or a cash and capital contribution. The Minister has published the current minimum cash amount required in Government Gazette No. 37837, GoN No. 560, which may be amended from time to time. Therefore a CA(SA) / Professional Accountant (SA) must ensure that they obtain the latest Government Gazette, before undertaking the agreed-upon procedures engagement concerned. In terms of the Government Gazette the capital contribution must be new machinery and / or equipment, but it does not specify the minimum or maximum Rand value of the capital contribution. Therefore the total of the cash and capital contribution must equal the cash amount published by the Minister.
- 3.7 The Minister has also provided for certain businesses that can qualify for a reduction or waiver of the capitalisation requirements as determined where it is deemed to be in the national interest when applying for a business visa. Please refer to the Government Gazette No. 37837, GoN No. 562.

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3.8 The Minister has also provided for certain businesses that are identified as undesirable for qualification for inter-alia a business visa. Please refer to the Government Gazette No. 37837, GoN No. 561 and No. 563.

4. Scope

4.1 The purpose of this guide is to provide CAs(SA) / Professional Accountants (SA) who are engaged to prepare a report¹ in terms of the Regulations with practical guidance in relation to the agreed-upon procedures engagement that should be undertaken. In particular, the guide provides an illustrative factual findings report based on the International Standard on Related Services (ISRS) 4400, *Engagements to perform agreed-upon procedures regarding financial information*, issued by the International Audit and Assurance Standards Board. CAs(SA) / Professional Accountants (SA) should apply ISRS 4400 when undertaking these engagements to perform the agreed-upon procedures and provide the relevant factual findings report and accompanying representation letter by the Applicant to the DTI and the Applicant.

4.2 When providing the report CAs(SA) / Professional Accountants (SA) have to be aware that depending on the engagement one or more reports may be required as there are different requirements in Regulations 14(1)(a) or 14(2)(a) and 14(3) if applicable and Regulation 24(5).

5. Engagement acceptance

5.1 The firm that the CA(SA) / Professional Accountant (SA) represents should have a system of quality control in place with established policies and procedures regarding the acceptance and continuance of client relationships and specific engagements. These policies and procedures should be designed to provide the firm with reasonable assurance that the firm will only undertake or continue engagements where the firm:

- Is competent to perform the engagement and has the capabilities, including time and resources, to do so (i.e. inter-alia has adequate knowledge of the Act and Immigration Regulations);
- Can comply with relevant ethical requirements (as described in the paragraphs that follow); and
- Has considered the integrity of the client and does not have information that the client lacks integrity.

¹ Refer to explanation in paragraph 3.1 that a report and not a certificate will be issued by the CA (SA) / Professional Accountant (SA).

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Refer to ISQC 1², paragraphs 26 to 28 for the comprehensive requirements relating to client acceptance and continuance.

5.2 The CA(SA) / Professional Accountant (SA) should further comply with the Code of professional conduct of SAICA / SAIPA. Ethical principles governing the CA(SA) / Professional Accountant (SA)'s professional responsibilities for agreed-upon procedures engagements are:

- Integrity
- Objectivity
- Professional competence and due care
- Confidentiality
- Professional behaviour
- Technical standards

Independence is not a requirement for agreed-upon procedures engagements, however, it is recommended that the CA(SA) / Professional Accountant (SA) remains independent throughout these engagements, for example, the CA(SA) / Professional Accountant (SA) should not assist the Applicant in completing the application forms or assist in completing the representation letter.

ISRS 4400, paragraph 7 also requires that where the practitioner undertaking a particular engagement is not independent, a statement to this effect should be made in the report of factual findings.

5.3 The CA(SA) / Professional Accountant (SA) should prior to accepting the engagement agree the terms of engagement in an engagement letter. Refer to Annexure 1 for guidance in this regard.

6. Representation letter

6.1 In order to perform the engagement the Applicant is required to provide the CA(SA) / Professional Accountant (SA) with the completed application form, representation letter in terms of Annexure 2 and the necessary supporting documentation as indicated in Annexure 3. The representation letter should accompany the application and the report on factual findings to the DTI.

6.2 The representation letter provides the Applicant with the opportunity to affirm specific statements or to state the Applicant's inability to affirm a specific statement. When the Applicant cannot affirm a specific statement the CA(SA) / Professional Accountant (SA) should request the Applicant to do what is necessary to enable him/her to affirm the specific statement, failing which may result in the CA(SA) / Professional Accountant (SA) not being able to continue with the engagement. The CA(SA) / Professional Accountant (SA) should consider the circumstances carefully and may determine it appropriate to withdraw from the engagement and consider informing the DTI of the circumstances.

² International Standard on Quality Control 1: Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements

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7. Engagement performance

7.1 The performance of an agreed-upon procedures engagement entails the following main phases in accordance with ISRS 4400:

- Planning the engagement – refer to ISRS 4400, paragraph 13.
- Carrying out the agreed-upon procedures and using the evidence obtained as a basis for the report of factual findings – refer to ISRS 4400, paragraph 15 to 16.
- Reporting – refer to ISRS 4400, paragraphs 17 to 18.

Also refer to the documentation requirements in ISRS 4400, paragraph 14.

7.2 Annexure 3 to this guide provides an illustrative factual findings report based on ISRS 4400. The CA(SA) / Professional Accountant (SA) should prepare the factual findings report as appropriate in the circumstances of the engagement and submit such report and accompanying representation letter by the Applicant (refer to Annexure 2) to the DTI and the Applicant.

8. Exchange rate to be applied

8.1 To recalculate the Rand values of the cash or cash and capital contribution, the CA(SA) / Professional Accountant (SA) should use the spot rate on the specific date in terms of each procedure in Annexure 3.

9. Administrative fine

9.1 CAs(SA) / Professional Accountants (SA) should note that the Act provides for an administrative fine to be imposed on a CA(SA) / Professional Accountant (SA) where the CA(SA) / Professional Accountant (SA) negligently produced an incorrect report in terms of section 7(1) (g) and read with section 50(2) and Regulation 39(2). No further guidance is provided by the Department on when the CA(SA) / Professional Accountant (SA) will have been seen to be negligent.

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ANNEXURE 1

Our Ref:

[Date]

[Name of the Applicant]

[Address]

Dear Sir / Madam

ENGAGEMENT LETTER FOR AN AGREED-UPON PROCEDURES ENGAGEMENT – APPLICATION FOR [BUSINESS VISA (Section 15 and Regulation 14(1) (a) / Regulation 14(2) (a)) IN TERMS OF SECTION 15 OF THE IMMIGRATION ACT (AS AMENDED)] / [PERMANENT RESIDENCE PERMIT (Section 27(c) and Regulation 24(5)) IN TERMS OF SECTION 27 OF THE IMMIGRATION ACT (AS AMENDED)]³

We appreciate the opportunity to be of service to you. We are committed to providing you with high quality professional services in an efficient and timely manner.

This engagement letter is to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the services that we will provide. Our engagement will be conducted in accordance with the International Standard on Related Services (ISRS) 4400, *Engagements to perform agreed-upon procedures regarding financial information* and we will indicate so in our report.

Agreed-Upon Procedures

We have agreed to perform the following procedures and report to you the factual findings from our work:

1. Obtain the relevant Government Notice as required by Regulation [14(1) (a) / 14(2) (a) / 24(5)]⁴ and inspect it for the minimum amount that applies in relation to “an amount in cash” or “an amount in cash and a capital contribution”.
2. Request the Applicant to provide us with a signed copy of his/her application for [a business visa / a permanent residence permit]⁵ and inspect it for its date.
3. Compare the signed copy of the application for [a business visa / a permanent residence permit]⁶ to the latest application form required by the Department of Trade and Industry (the DTI). Note whether the latest application form required by the DTI was used to prepare the application.
4. Obtain from the Applicant written representations in the form and with the content as that contained in Annexure 2 of the *Guide on the Factual Findings Report of the Chartered Accountant/Professional Accountant to the Applicant on Application for a Business Visa / Permanent Residence Permit in terms of the Immigration Act and Immigration Regulations* issued by the South African Institute of Chartered

³ Delete whichever is not applicable

⁴ Delete whichever is not applicable

⁵ Delete whichever is not applicable

⁶ Delete whichever is not applicable

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Accountants (SAICA) / South African Institute of Professional Accountants (SAIPA) (the Applicant's representations). Attach the Applicant's representations as Appendix 1 to the factual findings report.

5. Obtain the Applicant's authorisation and request the bank/(s) concerned to email the following information directly to the email address that we will provide:
 - Copies of bank statements which contain a bank stamp and cover a period of at least three months before the date of signature of the application up to the day before the copies of the bank statements are dispatched in accordance with this request.
 - Confirmation that the amount in cash is not encumbered in any way whatsoever and is available for immediate transfer, pending compliance with normal transfer requirements as applicable in the circumstances.

[OR]

5. Request the Applicant to arrange for the bank/(s) concerned to email the following information directly to the email address that we will provide:
 - Copies of bank statements which contain a bank stamp and cover a period of at least three months before the date of signature of the application up to the day before the copies of the bank statements are dispatched in accordance with this request.
 - Confirmation that the amount in cash is not encumbered in any way whatsoever and is available for immediate transfer, pending compliance with normal transfer requirements as applicable in the circumstances

(Delete procedure if not applicable)

6. In those instances where any of the bank accounts concerned are not in the name of Applicant, request the Applicant to include descriptive details of the circumstances as part of the Applicant's representations in accordance with procedure 4, above.
7. In relation to the foreign bank account/(s) identified, inspect the bank statements received for the bank balance as at the first date reflected on the bank statements, as at the date of the Applicant signing his / her application for [a business visa / a permanent residence permit], and as at the last date reflected on the bank statements. Furthermore, convert the foreign currency amount at each of these dates to a Rand value, using the spot rate applicable on each specific date.

(Delete procedure if not applicable)

8. In relation to the amount in cash received in South Africa, inspect the bank statements that have been provided for the individual foreign currency transactions concerned and aggregate the amounts to calculate the full amount that has been received in cash, as reflected in the bank account/(s) concerned.

(Delete procedure if not applicable)

9. Inspect the copy/(ies) of the contract/(s) provided by the Applicant in relation to any capital contribution (as defined for purposes of the Immigration Regulations, 2014), for the factual information as reflected in the relevant paragraph as part of the Applicant's representations in accordance with procedure 4, above. Furthermore, where the purchase price is indicated in foreign currency, convert the foreign

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currency amount at the earlier of the date of signature of the application or the effective date of the contract to a Rand value, using the spot rate as at that date.

(Delete procedure if not applicable)

10. In relation to procedure 9, request the Applicant to include descriptive details of the circumstances surrounding the purchase of the machinery and or equipment for purposes of his/her investment in a business in the Republic of South Africa as part of his/her written representations requested in accordance with procedure 4, above.

(Delete procedure if not applicable)

11. Inspect the list of machinery and or equipment provided by the Applicant in paragraph [number] of the attached representation letter for the Rand value of such capital contribution. Furthermore, where any purchase prices are indicated in foreign currency, convert the foreign currency amount at the indicated date of the transaction to a Rand value, using the spot rate on that date. Aggregate these amounts to arrive at the total.

(Delete procedure if not applicable)

12. In relation to procedure 11, request the Applicant to include descriptive details of the circumstances surrounding the purchase of the machinery and or equipment, the ownership of such items and their physical location, for purposes of his/her investment in a business in the Republic of South Africa as part of his/her written representations requested in accordance with procedure 4, above.

(Delete procedure if not applicable)

13. In relation to procedure 11, inquire from the Applicant whether the machinery and or equipment as listed in the relevant paragraph as part of the Applicant's representations in accordance with procedure 4, above is available for physical inspection by the DTI, or its authorised representative/(s), as may be arranged with Applicant or the owner or other relevant parties.

The procedures that we will perform are solely to assist you in the application for [a business visa / a permanent residence permit]⁷. The responsibility for determining the adequacy or otherwise of the procedures agreed to be performed is that of the Applicant and the DTI. Our factual findings report is not suitable for another purpose, and the Applicant's representations and application form may also not be suitable for another purpose. A copy of our report may however be made available to the Department of Home Affairs, as part of the application but is not to be distributed to any other parties.

The procedures that we will perform will not constitute an audit or a review made in accordance with International Standards on Auditing or International Standards on Review Engagements and, consequently, no assurance will be expressed.

Written Representations

As part of our engagement process, we will request that you provide us with written confirmation concerning representations made to us or that we require in connection with the engagement.

⁷ Delete whichever is not applicable

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We will specifically require that you, the Applicant, provide us with written representations in the form and with the content as that contained in Annexure 2 of the *Guide on the Factual Findings Report of the Chartered Accountant / Professional Accountant to the Applicant on Application for a Business Visa / Permanent Residence Permit in terms of the Immigration Act and Immigration Regulations* issued by the South African Institute of Chartered Accountants (SAICA) / South African Institute of Professional Accountants (SAIPA) (the Applicant's representations). The Applicant's representations and the duly completed and signed application form will accompany our factual findings report for submission to you and the DTI.

Where you cannot affirm a specific statement/(s) as part of the Applicant's representations, we will request that you do what is necessary to enable you to affirm the statement/(s) concerned, failing which may result in us not being able to continue with the engagement. In such circumstances we may determine that it is appropriate to withdraw from the engagement and consider informing the DTI of the circumstances.

Fees

Our fees, which will be billed as work progresses, are based on the time required by the individuals assigned to the engagement plus out-of-pocket expenses. Individual hourly rates vary according to the degree of responsibility involved and the experience and skill required.

Our fees and disbursements, plus VAT are payable on presentation of our invoice. Fees will be payable within 30 days of receipt of invoice.

Agreement of Terms

We look forward to your full cooperation and we trust that you will make available to us whatever records, documentation and other information requested in connection with our engagement.

Please sign and return the attached copy of this letter to indicate that it is in accordance with your understanding of the terms of the engagement including the specific procedures which we have agreed will be performed.

Acknowledged by:

[Name and title of the Applicant]

[Date]

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ANNEXURE 2

**Written representations by the Applicant to his/her designated Chartered
Accountant / Professional Accountant**

BY:

TO:

DATE:

REPRESENTATIONS

This representation letter is provided in connection with my application to the South African Government in respect of [a business visa / a permanent residence permit] in terms of Regulation [14(1) / 14(2) / 24(5)]⁸ of the Immigration Regulations, 2014, issued in terms of the Immigration Act, No. 13 of 2002.

I confirm that to the best of my knowledge and belief, having made such inquiries and obtained such information as I considered necessary for the purpose of appropriately informing myself:

1. The application that accompanies this written representation (the application) for [a business visa / a permanent residence permit] [is / is not] in the form as required by the Department of Home Affairs.
2. I [have personally completed the application / have requested [insert details of individual and organisation the individual represents to complete the application on my behalf], which [includes / does not include] all of the information required for application purposes and which I [have signed / have not signed] on [date].
3. I [declare / am not able to declare] that the information provided in the application and in this representation letter is truthful, complete and accurate, and, furthermore, that it does not in any way represent any false, untrue or fraudulent statements or information.

(This paragraph applies to an application in terms of regulation 14(1) or 14(2))

4. The business [to be established / established] or the business in which I [intend to invest / have invested] is [*provide descriptive details, as applicable at the time of the application, with respect to the nature of the business, the name of the business, its physical location, entity registration or similar numbers, partners / directors / owners, applicant's relationship with other partners / directors / owners, applicants involvement in the running of the business, and other information to properly identify and describe the business.*]

⁸ Delete if not applicable

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5. As at the date of signature of the application, I [have available / have already invested] an amount in cash of [indicate currency and amount] [for purposes of establishing a business or investing in a business in the Republic of South Africa]⁹.

(This paragraph applies to an application in terms of regulation 14(1) or 24(5))

6. The details of the bank account/(s) where the amount of cash is held are as follows: [Identify the name of the bank/(s), country of the bank/(s), the physical address of the bank/(s) and contact details, the name of the account holder, type of account, branch or similar number, account number].

Furthermore, [I am the legal owner of the bank account/(s) identified in this paragraph. / The legal owner of the bank account/(s) identified in this paragraph is as follows:] [If the applicant is not the legal owner, provide full details of the legal owner, including the name of the account holder, physical address and contact details, registration details (if applicable), relationship to the applicant and confirmation of a guarantee regarding the availability of the amount in cash for transfer to the applicant or on behalf of/ for the benefit of the applicant]. [Furthermore, include descriptive details of the circumstances, including how the amount in cash qualifies or will qualify in terms of the applicant's contribution to the establishment of, or investment in a business in the Republic of South Africa]¹⁰.

(This paragraph applies to an application in terms of regulation 14(2))

7. The details of the bank account/(s) from where the amount of cash has been transferred are as follows: [Identify the name of the bank/(s), country of the bank/(s), the physical address of the bank/(s) and contact details, the name of the account holder, type of account, branch or similar number, account number].

[I am the legal owner of the bank account/(s) identified, above. / The legal owner of the bank account/(s) identified in this paragraph is as follows:] [If the applicant is not the legal owner, provide full details of the legal owner, including the name of the account holder, physical address and contact details, registration details (if applicable) and relationship to the applicant]. [Furthermore, include descriptive details of the circumstances, including how the amount in cash qualifies in terms of the applicant having established or invested in a business in the Republic of South Africa].

Furthermore, the details of the bank account/(s) where the amount in cash was transferred to in the Republic of South Africa are as follows: [Identify the name of the bank/(s) in South Africa, the physical address of the bank/(s) and contact details, the name of the account holder, type of account, branch or similar number, account number]. [The full amount in cash was transferred on [date] / The amount in cash was transferred in tranches from [date] to [date]].

(This paragraph applies to an application in terms of regulation 14(1) or 24(5))

8. I [declare and undertake / am not able to declare and undertake] that the amount in cash will remain available in the bank account/(s) as identified above and will not be withdrawn, until such time as the money is transferred to a bank/(s) in South Africa.

⁹ Exclude the section in brackets if the application relates to a Permanent Residence Permit in terms of Regulation 24(5).

¹⁰ Exclude the section in brackets if the application relates to a Permanent Residence Permit in terms of Regulation 24(5).

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(This paragraph applies to an application in terms of regulation 14(2))

9. I [declare and undertake / am not able to declare and undertake] that the amount in cash that has already been transferred, as referred to above, [represents / represents part of] my investment in a business in the Republic of South Africa and will not be withdrawn and taken out of South Africa, other than in accordance with a legally binding agreement and subject to the rules and regulations of the South African Government.

(The following paragraph has two options. Include this 1st option if the applicant provided authorisation)

10. I [have provided / have not provided] you with written authorisation for the bank/(s) identified above, including authorisation from the account holder/(s) where I am not the account holder, to provide via email directly to your email address, bank certified copies of the bank statements that provide a transaction trail of the amount in cash concerned and that covers a period of at least three months before the date of signature of the application up to the day before the bank certified copies of the bank statements are dispatched to your email address.

[OR]

(The following paragraph has two options. Include this 2nd option if the applicant made an arrangement with the bank to email the information directly to the CA (SA) / Professional Accountant (SA)'s email address)

10. I [have made / have not made] arrangements with the bank/(s) identified above, including arrangements with the account holder/(s) to make arrangements with the bank/(s) concerned where I am not the account holder, to provide via email directly to your email address, bank certified copies of the bank statements that provide a transaction trail of the amount in cash concerned and that covers a period of at least three months before the date of signature of the application up to the day before the bank certified copies of the bank statements are dispatched to your email address.

(Also include the following paragraph where the amount in cash is still to be invested. This paragraph has two options. Use the 1st option below, if the applicant provided authorisation)

11. Furthermore, I [have provided / have not provided] you with written authorisation for the bank/(s) concerned to confirm to you, in the same email as described above, that the amount in cash is not encumbered in any way whatsoever and is available for immediate transfer, pending compliance with normal transfer requirements as applicable in the circumstances.

[OR]

(Also include the following paragraph where the amount in cash is still to be invested. This paragraph has two options. Use the 2nd option below, if the applicant made an arrangement with the bank to email the information directly to the CA(SA) / Professional Accountant (SA)'s email address)

11. Furthermore, I [have made / have not made] arrangements that the bank/(s) concerned will specifically confirm to you, in the same email as described above, that the amount in cash is not encumbered in any way whatsoever and is available for immediate transfer, pending compliance with normal transfer requirements as applicable in the circumstances.

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(The following four paragraphs, numbered 12 to 15, below, are only applicable when the application does not involve cash alone, but involves cash and a capital contribution)

12. As at the date of signature of the application, I [have available / have already invested] a capital contribution in the form of new machinery and or equipment to the value of [indicate currency and amount], which amount has been determined with reference to [the cost price paid for the identified machinery and or equipment / the contractual purchase price to be paid for the identified machinery and or equipment].

(This paragraph is included when the capital contribution is supported by a contract(s))

13. I [have provided / have not provided] you with a certified signed copy/(ies) of the contract(s) in terms of which the capital contribution [will be / has been] purchased. [Provide further descriptive details surrounding the purchase of the machinery and or equipment for purposes of the applicant's investment in a business in the Republic of South Africa in order to clarify the circumstances regarding the contract, the contracting parties and the execution of the contract].

(This paragraph is included when the capital contribution has already been purchased and is in an identified physical location, either before or after investment in South Africa)

14. The following is a list of the machinery and or equipment that comprise my capital contribution:

Purchase date	Unique / identification Number	Description, including name, make, model, purpose and other characteristics	Currency	Purchase price
As at the date of signature of the application, the following machinery and or equipment is located at [provide physical address] ¹¹				

15. Furthermore, as at the date of the application, the legal owner/(s) of the machinery and or equipment listed above is/(are): [Provide full details of the legal owner, including name, physical address and contact details, registration details (if applicable), relationship to the applicant (if not the applicant)]. [Furthermore, provide descriptive details of the circumstances surrounding the purchase of the machinery and or equipment for purposes of qualifying as the applicant's investment in a business in the Republic of South Africa].

¹¹ This section should be repeated if machinery and or equipment are located in more than one location

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(This is the last paragraph of the representation letter for all applications)

16. I [declare / am not able to declare] that I am not aware of any other information or circumstances relating to the amount in cash or in cash and capital contribution, as applicable in my circumstances, that may adversely affect my application, including, but not limited to, any matters in terms of its / their existence, ownership, rights and obligations, completeness and value.

SIGNED by applicant at *[identify physical location in terms of town, province, country]*

NAME

SIGNATURE

DATE

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ANNEXURE 3

Illustrative factual findings report

FACTUAL FINDINGS REPORT OF THE CHARTERED ACCOUNTANT / PROFESSIONAL ACCOUNTANT TO THE APPLICANT, [INSERT THE NAME OF APPLICANT] ON APPLICATION FOR [BUSINESS VISA (Section 15 and Regulation 14(1) (a) / Regulation 14(2) (a)) IN TERMS OF SECTION 15 OF THE IMMIGRATION ACT (AS AMENDED) / PERMANENT RESIDENCE PERMIT (Section 27(c) and Regulation 24(5)) IN TERMS OF SECTION 27 OF THE IMMIGRATION ACT (AS AMENDED)].¹²

TO [INSERT THE NAME OF THE APPLICANT]

We have performed the procedures agreed with you in terms of Regulation [14(1)(a) / 14(2)(a) / 24(5)]¹³ of the Immigration Regulations, set out below in respect of an application for a [business visa (Regulation 14(1)(a) or 14(2)(a) / permanent residence permit(s) (Regulation 24(5))] for [insert the name of applicant] dated [insert date] and report our factual findings¹⁴.

Our engagement was undertaken in accordance with the International Standard on Related Services (ISRS) 4400, *Engagements to perform agreed-upon procedures regarding financial information*. The procedures were performed solely to assist the applicant in the application for a [business visa / permanent residence permit]¹⁵. The responsibility for determining the adequacy or otherwise of the procedures agreed to be performed is that of the Applicant and the Department of Trade and Industry (DTI).

The procedures are summarised as follows:

Agreed-upon procedures and factual findings¹⁶

Procedures	Findings¹⁷
1. Obtain the relevant Government Notice as required by Regulation 14(1) (a) / 14(2) (a) / 24(5) and inspect it for the minimum amount that applies in relation to “an amount in cash” or “an amount in cash and a capital contribution”.	We obtained Government Notice No. [number], published in Government Gazette [number] on [date] and noted the minimum amount that applies in relation to “an amount in cash” or “an amount in cash and a capital contribution” as R[amount].
2. Request the Applicant to provide us with a signed copy of his/her application for [a business visa / a permanent	We requested and obtained from the Applicant a signed copy of his/her application for [a business visa / a

¹² Delete whichever is not applicable

¹³ Delete whichever is not applicable

¹⁴ Delete whichever is not applicable

¹⁵ Delete whichever is not applicable

¹⁶ The CA(SA) / Professional Accountant (SA) includes those procedures and factual findings that are relevant in the circumstances of the particular engagement as either relating to an application for a business visa in terms of regulation 14(1)(a) or 14(2)(a), or an application for a permanent residence permit in terms of regulation 24(5).

¹⁷ Findings should be tailored or customised in the circumstances based on the results of the procedures that were performed.

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Procedures	Findings¹⁷
residence permit] and inspect it for its date.	permanent residence permit], which was dated [date].
3. Compare the signed copy of the application for [a business visa / a permanent residence permit] to the latest application form required by the DTI. Note whether the latest application form required by the DTI was used to prepare the application.	We compared the signed copy of the application for [a business visa / a permanent residence permit] to the latest application form required by the DTI dated [date]. The latest application required by the DTI (dated [date]) was used to prepare the application.
4. Obtain from the Applicant written representations in the form and with the content as that contained in Annexure 2 of the <i>Guide on the Factual Findings Report of the Chartered Accountant / Professional Accountant to the Applicant on Application for a Business Visa / Permanent Residence Permit in terms of the Immigration Act and Immigration Regulations</i> issued by the South African Institute of Chartered Accountants (SAICA) / South African Institute of Professional Accountants (SAIPA) (the Applicant's representations). Attach the Applicant's representations as Appendix 1 to the factual findings report.	We obtained from the Applicant the Applicant's representations dated [date]. The Applicant's representations have been attached as Appendix 1 to this factual findings report.
5. Obtain the Applicant's authorisation and request the bank/(s) concerned to email the following information directly to the email address that we provided: <ul style="list-style-type: none"> Copies of bank statements which contain a bank stamp and cover a period of at least three months before the date of signature of the application up to the day before the copies of the bank statements were dispatched in accordance with this request. Confirmation that the amount in cash is not encumbered in any way whatsoever and is available for immediate transfer, pending compliance with normal transfer requirements as applicable in the circumstances. 	(Repeat the following for each individual bank concerned) We obtained the Applicant's authorisation dated [date] and, in accordance with our request, received the following information from [Name of Bank] in an email from [identify sender, including email address of sender] on [date], delivered to the email address that we provided: <ul style="list-style-type: none"> Copies of bank statements for the period from [date] to [date], which contain a bank stamp. Confirmation that the amount in cash is not encumbered in any way whatsoever and is available for immediate transfer, pending compliance with normal transfer requirements as applicable in the circumstances.

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<p>[OR]</p> <p>5. Request the Applicant to arrange for the bank/(s) concerned to email the following information directly to the email address that we provided:</p> <ul style="list-style-type: none"> • Copies of bank statements which contain a bank stamp and cover a period of at least three months before the date of signature of the application up to the day before the copies of the bank statements were dispatched in accordance with this request. • Confirmation that the amount in cash is not encumbered in any way whatsoever and is available for immediate transfer, pending compliance with normal transfer requirements as applicable in the circumstances. 	<p>[OR]</p> <p>We requested the Applicant to arrange with the bank(s) concerned to email the required information directly to the email address that we provided. The information was received in an Email from [identify sender, including email address of sender] on [date]:</p> <ul style="list-style-type: none"> • Copies of bank statements for the period from [date] to [date], which contain a bank stamp • Confirmation that the amount in cash is not encumbered in any way whatsoever and is available for immediate transfer, pending compliance with normal transfer requirements as applicable in the circumstances.
<p><i>(Delete procedure if not applicable)</i></p> <p>6. In those instances where any of the bank accounts concerned are not in the name of Applicant, request the Applicant to include descriptive details of the circumstances as part of the Applicant's representations in accordance with procedure 4, above.</p>	<p><i>(Delete if procedure is not applicable).</i></p> <p>The Applicant included descriptive information in paragraph/(s) [number/(s)] of the attached representation letter.</p>
<p>7. In relation to the foreign bank account/(s) identified, inspect the bank statements received for the bank balance as at the first date reflected on the bank statements, as at the date of the Applicant signing his / her application for [a business visa / a permanent residence permit], and as at the last date reflected on the bank statements. Furthermore, convert the foreign currency amount at each of these dates to a Rand value, using the spot rate applicable on each specific date.</p>	<p><i>(Repeat this for each foreign bank account concerned)</i></p> <p>We inspected the [Name of bank] bank statements of [Name of account holder] for account [Account number] and noted:</p> <ul style="list-style-type: none"> • The first date reflected on the bank statements is [date]. On this date the foreign currency balance was [currency and amount]. Converted at an exchange rate of [rate] as at that date, the Rand value is R[amount]. • As at the date of signature of the application, being [date], the bank statement reflected a foreign currency balance of [currency and amount]. Converted at an exchange rate of [rate] as at that date, the Rand value is

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Procedures	Findings ¹⁷
	<p>R[amount].</p> <ul style="list-style-type: none"> The last date reflected on the bank statements is [date]. On this date the foreign currency balance was reflected as [currency and amount]. Converted at an exchange rate of [rate] as at that date, the Rand value is R[amount].
<p><i>(Delete procedure if not applicable)</i></p> <p>8. In relation to the amount in cash received in South Africa, inspect the bank statements that have been provided for the individual foreign currency transactions concerned and aggregate the amounts to calculate the full amount that has been received in cash, as reflected in the bank account/(s) concerned.</p>	<p><i>(Delete if procedure is not applicable)</i> <i>(Repeat this for each South African bank account concerned)</i></p> <p>We inspected the [Name of bank] bank statements of [Name of account holder] for account [Account number] for the period from [date] to [date] and noted:</p> <ul style="list-style-type: none"> On [date] an amount of R[amount] (in foreign currency, [currency and amount]) is reflected and identified as [deposit / transfer identifier] On [date] an amount of R[amount] (in foreign currency, [currency and amount]) is reflected and identified as [deposit / transfer identifier] <i>[Add more transactions, as applicable]</i> The total Rand value of the above transactions amount to R[amount].
<p><i>(Delete procedure if not applicable)</i></p> <p>9. Inspect the copy/(ies) of the contract/(s) provided by the Applicant in relation to any capital contribution (as defined for purposes of the Immigration Regulations, 2014), for the factual information as reflected in paragraph [number] of the attached representation letter. Furthermore, where the purchase price is indicated in foreign currency, convert the foreign currency amount at the earlier of the date of signature of the application or the effective date of the contract to a Rand value, using the spot rate as at that date.</p> <p>(Do not provide further information in relation to the contract/(s) and do not make any findings in relation to the validity / legality, or otherwise of the contract/(s), or its/(their) ultimate execution and outcome,</p>	<p><i>(Delete if procedure is not applicable)</i> <i>(Repeat this for each contract concerned)</i></p> <p>We inspected the copy of the following contract provided by the Applicant and noted:</p> <ul style="list-style-type: none"> Contract under heading, [provide name / heading of the contract] The contracting parties are [Identify the contracting parties by name and identification / registration / similar number] The contract was signed by all the contracting parties; the date of the last signatory being [date] The effective date of the contract is [date] A description of the machinery and or equipment that are the subject of the contract is provided in [identify clauses in, and/or annexures to the contract].

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including whether or not it/(they) will satisfy the relevant purpose of the Immigration Regulations, 2014.)	<ul style="list-style-type: none"> • The machinery and or equipment is identified [by general description only / in a manner that allows the identification of individual items or assets]. • The total purchase price is indicated as R[amount] <p>[OR]</p> <p>The total purchase price is indicated as [foreign currency and amount]. Converted at an exchange rate of [rate] as at [date], the Rand value is R[amount].</p>
<p><i>(Delete procedure if not applicable)</i></p> <p>10. In relation to procedure 9, request the Applicant to include descriptive details of the circumstances surrounding the purchase of the machinery and or equipment for purposes of his/her investment in a business in the Republic of South Africa as part of his/her written representations requested in accordance with procedure 4, above.</p>	<p><i>(Delete if procedure is not applicable)</i></p> <p>The Applicant included descriptive information in paragraph/(s) [number/(s)] of the attached representation letter.</p>
<p><i>(Delete procedure if not applicable)</i></p> <p>11. Inspect the list of machinery and or equipment provided by the Applicant in paragraph [number] of the attached representation letter for the Rand value of such capital contribution. Furthermore, where any purchase prices are indicated in foreign currency, convert the foreign currency amount at the indicated date of the transaction to a Rand value, using the spot rate on that date. Aggregate these amounts to arrive at the total.</p> <p>(Do not provide further information in relation to the machinery and or equipment included in the list and do not make any findings in relation to the existence or otherwise of the items listed, including whether or not the items satisfy / will satisfy the relevant purpose of the Immigration Regulations, 2014.)</p>	<p><i>(Delete if procedure is not applicable)</i></p> <p>We inspected the list of machinery and or equipment provided by the Applicant in paragraph [number] of the attached representation letter and noted:</p> <ul style="list-style-type: none"> • The total Rand value of items where the purchase price is indicated in ZAR, is R[amount]. • The total Rand value of items where the purchase price is indicated in foreign currency, after conversion at the appropriate exchange rate on the date of purchase, is R[amount]. • The total of the above two amounts, is R[amount].
<p><i>(Delete procedure if not applicable)</i></p>	<p><i>(Delete if procedure is not applicable)</i></p>

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Procedures	Findings¹⁷
12. In relation to procedure 11, request the Applicant to include descriptive details of the circumstances surrounding the purchase of the machinery and or equipment, the ownership of such items and their physical location, for purposes of his/her investment in a business in the Republic of South Africa as part of his/her written representations requested in accordance with procedure 4, above.	The Applicant included descriptive information in paragraph/(s) [number/(s)] of the attached representation letter.
<p><i>(Delete procedure if not applicable)</i></p> <p>13. In relation to procedure 11, inquire from the Applicant whether the machinery and or equipment as listed in paragraph [number] of the attached representation letter is available for physical inspection by the DTI, or its authorised representative/(s), as may be arranged with Applicant or the owner or other relevant parties.</p> <p>Note that it is the responsibility of the DTI to follow this up, at its discretion.</p>	<p><i>(Delete if procedure is not applicable)</i></p> <p>In response to our inquiry the Applicant confirmed that a physical inspection of the machinery and or equipment concerned is possible.</p>

Because the above procedures do not constitute either an audit or review performed in accordance with International Standards on Auditing or International Standards on Review Engagements, we do not express any assurance on the information provided by the applicant.

Had we performed additional procedures or had we performed an audit or review in accordance with International Standards on Auditing or International Standards on Review Engagements or International Standards on Assurance Engagements, other matters might have come to our attention that would have been reported to you.

Our report is solely for the purpose set out in the second paragraph of this report to assist the applicant with his/her application for a [business visa / permanent residence permit]¹⁸. Our report is not suitable for another purpose, and the attached representation letter and application form may also not be suitable for another purpose. A copy of this report may be made available to the Department of Home Affairs, as part of the application but is not to be distributed to any other parties.

[Insert name]

Chartered Accountant (SA) / Professional Accountant (SA)

¹⁸ Delete whichever is not applicable

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[Insert date]

[Insert address]

Attachments:

- 1 – Representation letter by the Applicant**
- 2 – Application form signed by the Applicant**