

STATEMENT 1.303
GENERAL GUIDANCE
RESTRICTIONS ON APPOINTMENTS AS
SECRETARIES AND DIRECTORS OF AUDIT CLIENTS

(Issued August 1999; revised September 2004 (name change); revised May 2015)

1. The Companies Ordinance provides, at section 393(2) that:

"The following are disqualified for appointment as auditor of a company under this Subdivision -
 - (a) a person who is an officer or employee of the company;
 - (b) a person who is a partner or employee of a person mentioned in paragraph (a);
 - (c) a person who –
 - (i) is, by virtue of paragraph (a) or (b), disqualified for appointment as auditor of any other undertaking that is a subsidiary undertaking, or a parent undertaking, of the company or is a subsidiary undertaking of that parent undertaking; or
 - (ii) would be so disqualified if the undertaking were a company"
2. Section 2 of the Companies Ordinance states that officer, in relation to a body corporate, includes a director, manager or company secretary of the body corporate. Section 2 also states that manager, in relation to a company –
 - (a) means a person who performs managerial functions in relation to the company under the directors' immediate authority; but
 - (b) excludes –
 - (i) a receiver or manager of the company's property; and
 - (ii) a special manager of the company's estate or business appointed under section 216 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap.32).

Therefore, an individual cannot hold the posts of auditor and secretary to a company. Furthermore, an individual who is a partner in a firm of certified public accountants (practising) cannot hold the post of auditor to a company if one of his fellow partners is also acting as secretary to that company.
3. A director has a duty of care and a direct control over the administration of a company. Hence, the professional independence of a member may be impaired if he is acting both as a director and an auditor of a company.

Accordingly, no partner or employee of a firm of certified public accountants (practicing) or director or employee of any of its controlled or affiliated companies can be a director of a company which is audited by that firm. Neither can a limited liability company controlled by or affiliated in any way with a firm of certified public accountants (practicing) serve as a director in any way of a company which is audited by the firm.
4. The restrictions in (2) and (3) above refer to partners of a firm of certified public accountants (practising), and they apply equally to directors of a corporate practice.