

Author: P Scott	Social Accountability Accreditation Services	Issue: 1.1
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## SOCIAL ACCOUNTABILITY ACCREDITATION SERVICES

To: All SAAS Accredited Certification Bodies

### **A. Subject**

SA8000 Interpretation/Clarification (Clauses 9.2.1 & 9.5.1): Verifying a Certified Company's Ownership of, and Responsibility for, its SA8000 System – Use of Consultants by an SA8000 Applicant or Certified Company.

#### *Guidance Note:*

*This document applies only to a company's SA8000 Management System activities. It is recognised that a consultant may support other certified management systems that a company has in place (for example, ISO9001, ISO14001, ISO45001).*

### **B. Background**

Following a recent targeted investigation in India (and past MSVs in India, Italy, China, and Vietnam), SAAS has determined that many SA8000 certified companies are unable to comply with SA8000 requirements without relying on the continued use of a consultant (even long after SA8000 Certification is achieved). In doing so, these companies are in breach of the requirement of Clause 9.2.1 of SA8000 which requires that "Compliance accountability for the Standard *shall* solely rest with Senior Management." Furthermore, in many SA8000 certified companies, company management is unable to respond appropriately to a CB's SA8000 oversight audit requests unless a Consultant represents the company during that audit.

SAI & SAAS recognise the good work that consultants perform in helping a company achieve SA8000 certification. We also understand that a company may need ongoing guidance to effectively and efficiently implement its SA8000 management system and other management systems for which they are certified (e.g. ISO9001), particularly in the case of small companies in the early stages of the company's certification. To meet SA8000 requirements, however, the company's senior management must take full ownership of its SA8000 management system (i.e. the company must not rely on a consultant to meet requirements).

### **C. Normative Status & CB Response Requirements**

This document is mandatory for all CBs and becomes effective immediately upon issue as an 'Advisory Supplement' to Procedure 200:2020 v4.2: March.2020: Audit Requirements for Accredited Certification Bodies for the SA8000 Program. Each accredited Certification Body (CB) is required to:

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- immediately evaluate the global risks associated with this document – see particularly Clause H, “Responsibilities/Requirements for a Certification Body,” below.

Each Certification Body (CB) shall subsequently ensure that all SA8000:

- certification clients (both applicant and certified companies) are notified of the interpretive requirements within this document and the need for them to comply with the same;
- audits and follow-up reviews taking place after March 1, 2023 apply these interpretive requirements, (where appropriate, evaluating applicant/certified SA8000 company conformity against all aspects of this document);
- applicant/certified SA8000 company companies fully conform to the requirements of this document by December 31, 2023.

*Guidance Note: The requirements of this document will be fully integrated with Procedure 200 requirements at the time of that document’s next revision.*

#### **D. Consultant Definition/Requirements**

*(Characterization of consultant services permitted/not permitted within an SA8000 system.)*

A consultant may be an individual, an organisation, or part of an organisation.

For the purposes of this Advisory, a Consultant is a person (or persons) that is not directly employed (i.e. full-time employee status with benefits and company remittances to authorities) by the applicant/certified company that provides, or may provide the applicant/certified company with limited-time external expertise/assistance such as ...

- expert SA8000-related opinions, analysis, information, advice, and recommendations; and/or
- training, guidance, and mentoring of management and staff in how to achieve initial and ongoing SA8000 conformity; and/or
- occasional specialised labor to assist with implementation of SA8000-related processes.

... but does not, and may not (directly, or indirectly) ...

- assume any decision-making authority on behalf of the company with respect to the company’s SA8000 Management System; or
- act as a proxy for the company’s management; or
- communicate with the CB or its Auditors.

#### **E. Interpretive Requirement to be applied by CB and CB Auditors**

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A company's use of external expertise/assistance fully in accordance with the "Consultant Definition/Requirements" (above) and "Responsibilities/Requirements for an Applicant or Certified SA8000 Company" (below) is acceptable.

A company's use of external expertise/assistance in breach of the "Consultant Definition/Requirements" and/or "Responsibilities/Requirements for an Applicant or Certified SA8000 Company" (below) constitutes a non-conformance against SA8000 requirement 9.2.1 and/or 9.5.1 in accordance with Procedure 200:2020 Clause 22 "Non-Conformity Classification" and requires the immediate issuance of an appropriately classified nonconformity in accordance with Procedure 200:2020.

*Guidance Note: In most cases, it is anticipated that the CB Lead Auditor will need to raise a 'Major NC' (absence or total breakdown management controls to meet SA8000 9.2.1 and/or 9.5.1). A 'Critical NC' may be appropriate where consultant participation and contributions have resulted in a breach of ethical standards (e.g. falsification of records, or conflicts of interest). It is also possible that a 'Minor NC' may be appropriate where a company's failure to operate in full accordance with this document has been an isolated matter and minor in nature.*

#### **F. Interpretive Requirement to be applied by SAAS and SAAS Auditors**

SAAS Auditors shall review global implementation of the requirements in this document with immediate effect. A SAAS auditor identifying a CB's (or CB auditor's) acceptance of a certified company's continuing inappropriate use of a consultant (in accordance with the requirements of this document respecting the CB's implementation timeline, above) shall raise a non-conformity in accordance with SAAS Procedure 201A: 2015 v1: October 2015: Accreditation Requirements For Use By Certification Bodies Performing SAAS Accredited SA8000:2014 Certification Audits.

#### **G. Responsibilities/Requirements for an Applicant or Certified SA8000 Company**

- 1) An applicant/certified SA8000 company wishing to utilise the services of a consultant shall enter into a formally documented and legally binding contractual agreement with the consultant (the "consultant contract").
- 2) The consultant contract shall specify the requirements, expectations/deliverables and limitations for a limited-time consultant engagement in accordance with the "consultant definition" (outlined above, see Clause D) and the other requirements of this document.
- 3) Upon request, the consultant contract shall be made readily available to representatives of the CB, or SAAS, for review and evaluation.
- 4) The applicant/certified SA8000 company's management shall ensure that the consultant always operates in accordance with the terms of the consultant contract in a transparent and ethical manner with respect to SA8000 and related requirements.

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- 5) The consultant's responsibilities and relationship to the applicant/certified SA8000 company's management shall be transparent within the management system and understood by the company's personnel at all levels.
- 6) Applicant/certified SA8000 company management shall retain overall control of, and responsibility for, any and all SA8000-related services provided by a consultant. Such control shall include demonstrating appropriate understanding of related processes; immediate access to process-related records; transparency of, and accountability for process decision-making and results.

*Guidance Note: When interviewed by an SA8000 Auditor, the applicant/certified SA8000 company management must be able to readily demonstrate adherence to above requirements without the intervention of a consultant).*

- 7) An applicant/certified SA8000 company that is unable to meet the requirements of this document (after completion of CB non-conformity/corrective action process, where applicable) shall relinquish its SA8000 certification and inform the certifying CB, its customers, and other SA8000 interested parties, as applicable.

*Guidance Note: A company's relationship with a consultant would normally be short-term in nature (for example: up to and beyond certification, but would typically terminate during the certified company's first certification cycle). In order to satisfy the above requirements, some, or all, of the following controls should also typically be in place:*

- *Consultant accountability to applicant/certified SA8000 company's management is clearly defined.*
  - *For example, within a company organisational chart (or similar).*
- *Consultant roles and responsibilities are defined, documented, and made known throughout the company.*
  - *For example, through an agreement (and extracts therefrom).*
- *Careful management scrutiny of information/documents/data provided by consultant to ensure their veracity, relevance, accuracy etc.*
- *Clearly documented contractual terms that address:*
  - *The legal, ethical, and commercial obligations of both parties;*
  - *Consultant deliverables;*
  - *Consultant quality requirements;*
  - *Conditions for, and date(s) for, contract termination.*
- *Clearly documented definition of the consultant's involvement, role, and limited authority with respect to:*
  - *Internal Audits;*
  - *Social Performance Team activities;*
  - *Health & Safety Representative responsibilities;*
  - *Management Review activities;*
  - *Any ancillary services\* provided.*

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*\*SA8000-related ancillary services include, but are not limited to: licensing/credentialing; worker health monitoring; insurance; information technology; payroll; external communications; document maintenance; record-keeping.*

#### **H. Responsibilities/Requirements for a Certification Body**

*(To be fully implemented no later than March 1, 2023)*

- 1) Neither the CB, nor any of its staff/auditors shall enter into any agreement (documented or undocumented) with a consultant that could be perceived as a potential conflict of interest for the credibility of SA8000 certification.
- 2) Should a CB wish to enter into an agreement with a consultant, such agreement shall meet requirements outlined in this document and shall be:
  - a. comprehensively documented;
  - b. in accordance with documented requirements defined and approved by the CB's Senior Management;
  - c. subject to periodic risk assessment;
  - d. subject to periodic approval by the CB's SA8000 Certification Manager;
  - e. transparent within the CB's operational processes;
  - f. subject to SAAS review and evaluation, upon request.
- 3) The CB shall add detailed controls to its risk assessment process(es) that address minimization of inappropriate consultant influence or interference.
- 4) Any "finder's fee" arrangement (or similar benefit a CB may give to a consultant for providing CB with business opportunity) shall be:
  - a. comprehensively documented;
  - b. acknowledged and recorded by the CB's Impartiality Committee;
  - c. transparent within the CB' management system;
  - d. subject to SAAS review and evaluation, upon request.
- 5) The CB shall train its auditors how to audit against the criteria in this advisory, such as, but not limited to:
  - a. CB code of ethics;
  - b. CB certification contracting and audit protocols;
  - c. falsified or fabricated client records;
  - d. compliance with SA8000 Clause 9.2.1;
  - e. compliance with SA8000 Clause 9.5.1;
  - f. the contract between the client company and a consultant;

Records of such training shall be subject to SAAS review and evaluation, upon request.
- 6) The CB shall ensure all its offices, staff, and auditors (including contract, subcontract, and directly employed) remain independent from the (potential) influence or interference of consultants. In particular, ensuring that all CB staff and auditors (both contract and directly

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employed), and/or related parties, have no relationship with a consultant or consultant organisation that could be perceived as a conflict of interest.

- 7) The CB shall ensure that communications regarding certification and audit activities that take place between CB staff/auditors, and with certified/applicant client companies, are effectively controlled. As a minimum, the following requirements shall apply to delivery of the CB’s SA8000 certification and audit services:
- a. Wherever practicable, CB shall provide its staff and auditors with a recognizable CB email address (for example, “michaelsmith@cbname.com”) for exclusive use when communicating on behalf of the CB on SA8000 matters.
    - If furnishing auditors with a CB email address is not practicable (for example, where legal restrictions prohibit the granting such address to a subcontracted auditor), the CB shall maintain a log of all official email addresses used in lieu of a CB email address. The CB shall require that communications not originating from a CB email address be copied to a CB email address (an individual’s address, or a common repository address – for example, “ClientCommCopies@cbname.com”).
  - b. CB shall require that each outgoing email is signed in a manner to clearly indicate that the communication is made on behalf of the CB, (for example through the sender’s job title and CB name, or “... on behalf of CB Name”)
  - c. Except as provided for above (in paragraph 6a, above) all SA8000-related communications shall take place exclusively through official CB email addresses and email servers.
    - The use of any messaging apps, social media, non-official emails, etc. for communication of official SA8000 certification/activities is strictly prohibited.
  - d. All SA8000-related communications shall take place between CB staff/auditors and the management of the applicant/ certified company only.
    - Under no circumstances may any communication take place directly between CB staff/auditors and a consultant.
    - For expediency, it is permissible for CB staff/ auditor to copy (cc) a consultant with outgoing email communication from the CB.
  - e. CB Senior Management shall have the ability to access, and reserve the right to review, all communications sent/received on behalf of the CB.
    - Appropriate arrangements shall be established for those auditors using an email address that cannot be accessed via the CB’s email server. In order to provide transparency, clarity and traceability, the CB should require each subcontracted auditor using his/her own email address to use a unique email address (and similarly for each CB with which the individual is contracted to provide SA8000 services. e.g., michaelsmith-ABCLtd-SA8000@outlook.com; michaelsmith-XYZLtd-SA8000@outlook.com).

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- It is not anticipated that CB Senior Management or SAAS Auditors routinely access such communications, but they shall retain the ability and authority to investigate communications should this be required.
- f. The CB shall communicate with its auditors exclusively via each auditor’s official email address (see 6a, above).
- 8) The CB shall enter into the SAI Audit Tool the details of any consultant used by a company to achieve and/or maintain SA8000 certification.

**I. Responsibilities/Requirements for SAAS**

- 1) SAAS shall take appropriate steps to promote these requirements to all CBs.
- 2) SAAS shall perform Market Surveillance Visits MSVs on a selection of CB clients every year to ensure that this Advisory is being adhered to by all parties.

*Guidance Note: See SAAS Procedure 201A for a definition of an MSV.*

**J. Indicators of an Inappropriate SA8000 Consultant-Company Relationship.**

*Guidance Note: Requirements for ‘consultant’ in the paragraphs below apply equally to any individual or organisation related to the consultant.*

- 1) Company management is unable to provide prompt access to its premises and/or to requested SA8000-related documents and records due to reliance on an external consultant.
- 2) A Consultant takes a leading or interventionist role in CB certification and SA8000 audit activities.
- 3) A Consultant communicates directly with CB Staff and/or Auditors.
- 4) A Consultant provides, or arranges the provision of, SA8000-related records on behalf of a company (for example: Internal Audit, Management Review; SPT Activity; Fire Inspection; Occupancy Inspection; Fire Drill; Worker Attendance Summary; Production Summary; Payroll, etc.). Particular attention needs to be given to determine whether company records presented during an audit may be boilerplate, cut & pasted, falsified, or fabricated.
- 5) A Consultant provides audit services for the certifying CB. This is a clear conflict of interest.
- 6) A Consultant performs internal audits, management review, or other verification activity on systems/processes developed by the consultant. This can represent a conflict of interest.
- 7) A Consultant requires that a company use the services of consultant (or related individual/organisation) to provide SA8000-related services (for example: to resolve a CB non-conformity; to provide services ancillary to maintaining SA8000 certification, etc.).
- 8) Any indication that a CB may have instructed its auditors to apply a lenient approach (e.g. not evaluating the full scope of a company’s operations; not raising non-conformities; or raising minor non-conformities in lieu of major non-conformities) in cases where the company’s management system and/or operations do not fully conform to SA8000 requirements.

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9) A CB auditor, or auditor’s relative, or business associate, provides services to the Consultant that advises company SA8000 management system in the company.

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