Guidance on revising defective company accounts and reports

Registration Authority

November 2022

Table of contents

1. Overview

Guidance overview

Errors in accounts and reports can occur for a variety of reasons. For instance, complexities in the financial statement preparation process through the application of a new standard or something simple as a circular reference in a formula on a worksheet.

Oftentimes, errors like these can be corrected in the next financial statements. Material errors through a prior period adjustment and non-material errors through an adjustment in the current year figures.

However, there may be circumstances where the directors of a company wish to revise the financial statements or have been encouraged to do so by the ADGM Registration Authority. This option allows the directors to ensure the accounts are free from material misstatement for the users of the accounts, particularly shareholders.

Generally, defective accounts are those that do not comply with ADGM Companies Regulations 2020 ("**Companies Regulations 2020**") or, when applicable, the International Accounting Standards, as defined in ADGM Companies Regulations (International Accounting Standards) Rules 2015 ("**IAS Rules**").

When revising accounts, there are rules to follow that are covered in the Companies Regulations 2020 and the ADGM Companies Regulations (Revision of Defective Accounts and Reports) Rules 2022 (the "**Revision of Accounts Rules**").

The law restricts what can be revised when the annual report and accounts have been sent to members, delivered to the Registrar or, in the case of a public company, laid before the company in a general meeting.

This guidance document provides an interpretation of those rules and suggests one approach to take. You are encouraged to seek professional advice if you are in doubt.

Note: The Registration Authority cannot give technical or legal advice on your accounts or the accounts obligations in your circumstances. The Registration Authority can only give general guidance. Your company's accounts are subject to legal requirements, and you may wish to consider consulting a professional if you need technical or legal advice.

2. Applicable legislation

The relevant ADGM legislation regarding revision of defective accounts are Companies Regulations 2020 and the Revision of Accounts Rules.

This Guidance provides information on the revision of defective accounts and therefore should be read in conjunction with Companies Regulations 2020 and the Revision of Accounts Rules.

ADGM's Regulations and Rules are available on the ADGM website by following this link (https://en.adgm.thomsonreuters.com/).

3. When to revise defective accounts?

As mentioned above, revision is generally voluntary. To determine timing of when to revise, the first question to consider once a problem has been identified is whether the company ought to revise the accounts and reports identified as defective.

Discovery of the problem

The table below shows the method of revision, with reference to when the problem is discovered.

Timing of discovery	**Method of revision**
Before board approval of the accounts	Correct in the preparation process as normal adjustments
After board approval but before the accounts are distributed to members and filed with the ADGM Registration Authority	The board can withdraw approval, revise and reapprove the accounts. All copies of the original approved accounts must be destroyed.
After being sent to shareholders and/or filed with the ADGM Registration Authority	Revise defective accounts depending on meeting the conditions laid out in Companies Regulations 2020 and in the Revision of Accounts Rules or defer correction to the following period. Keep in mind, any replacement accounts must include an explanatory statement, prominently displayed.
During the preparation of the financial statements of the following period	As above. Given the timing in this case, it is more likely for correction to take place in the following period now being prepared.

Permissibility under Companies Regulations 2020

In addition to the timing, the directors will need to consider whether the error or other form of non-compliance falls within those that are permitted to be corrected under Companies Regulations 2020.

4. Permissions and restrictions under law

Applicable regulations

Any revision of defective accounts and reports will be made under the version of the ADGM Companies Regulations which applied to the original financial statements, even if the correction is made several years later.

Circumstances in which defective accounts and reports can be revised

A voluntary revision is permissible under Companies Regulations 2020 in any case when it appears to the directors of the company that any of the following did not comply with the requirements of Companies Regulations 2020 and the International Accounting Standards ("**IAS**") as applied through the IAS Rules:

- The company's annual accounts (both individual entity accounts and group accounts)
- The directors' report

If the accounts and reports have been sent to the members or filed with the Registrar or, in the case of a public company, laid before the company in a general meeting, revision is permitted.

Revision must be confined to correcting only those respects in which the previous accounts and reports did not comply with Companies Regulations 2020 or IAS, and any consequential amendments.

In practical terms, this means that legal procedure cannot be used simply to change something in the filed accounts and reports that the directors did not like. The original accounts and reports must be in breach of Companies Regulations 2020, which includes compliance with IAS. In this respect, note that any consequential amendments must be necessary consequential amendments concerning the revisions.

Companies Regulations 2020 is clear in that revised accounts must give a fair representation of the company's (or group, as the case may be) assets, liabilities, financial position and profit or loss by virtue of section 382 of the Companies Regulations 2020.

Additionally, the Revision of Accounts Rules state that the revised accounts and reports must be prepared as 'viewed as at the date of the original annual accounts'. This means that estimates for actual outcomes that were not known at the time of preparation of the original accounts do not distort the fair representation.

5. The form and content of revised accounts or reports

Introduction

The directors of a company may choose either of two methods for revising defective accounts or reports:

1) Replacement of the original with a corrected set of accounts or reports; or

2) Issue a supplementary note.

Approval of revised report and accounts

The replacement accounts and reports or supplementary note must be approved by the board of directors (see section 399 of Companies Regulations 2020), i.e., in the same way that original accounts are approved.

In the case of a supplementary note, the signature would be on the note rather than a balance sheet.

The same applies for the directors’ report (see section 404 of Companies Regulations 2020).

Audit of revised report and accounts

If the original accounts were audited, an audit report will be required on the replacement accounts and reports or supplementary note, stating whether they have been prepared in accordance with Companies Regulations 2020 and give a fair representation.

The auditors must also state whether, in the auditors’ opinion, the original accounts or reports failed to comply with Companies Regulations 2020 (this includes IAS Rules).

Distribution and filing of revised accounts and reports

The directors must, within 28 days of the revision, send a copy of the supplementary note or the replacement accounts and reports to all those who received copies of the originals under section 405 of the Companies Regulations 2020. In both cases, unless the accounts were exempt from audit, they must include a copy of the auditors’ report on the supplementary note or replacement accounts and reports.

A copy must also be sent to all those who are, at the time of the revision, members, debenture holders, or entitled to receive notice of general meetings.

If the original accounts and reports were laid before the members in a general meeting, the revised accounts and reports, with the auditors' report, must be laid at the next general meeting at which any accounts or reports are laid (unless they have already been laid before an earlier general meeting). Similarly, if the original accounts and reports were filed with the Registrar, then any revised accounts and reports must be filed with the Registrar within 28 days of the revision.

Revision by replacement

If the revision of accounts is being done by replacement, statements addressing the following matters must be made in a prominent position in the revised accounts (see Rule 3 of the Revision of Accounts Rules):

- That the revised accounts replace the original annual accounts for the financial year (specifying the year);

- That they are now the statutory accounts of the company for that financial year;

- That they have been prepared as at the date of the original annual accounts and not as at the date of revision and accordingly do not deal with events between those dates;

- The respects in which the original annual accounts did not comply with the requirements of Companies Regulations 2020 and the IAS Rules; and

- Any significant amendments made consequential upon the remedying of those defects.

Additionally, where revision of a directors' report is made by replacement, statements addressing the following matters must be made in a prominent position in the revised report (see Rule 4 of the Revision of Accounts Rules):

- That the revised report replaces the original report for the financial year (specifying the year);

- That it has been prepared as at the date of the original directors' report and not as at the date of revision and accordingly does not deal with events between those dates;

- The respects in which the original directors' report did not comply with the requirements of Companies Regulations 2020 and the IAS Rules; and

- Any significant amendments made consequential upon the remedying of those defects.

Disclaimer

Note: The Registration Authority cannot give technical or legal advice on your accounts or the accounts obligations in your circumstances. The Registration Authority can only give general guidance. Your company's accounts are subject to legal requirements, you may wish to consider consulting a professional if you need technical or legal advice.

This Guidance is a non-binding indicative guide and should be read together with the relevant legislation, in particular the ADGM Companies Regulations 2020 and any other relevant regulations and enabling rules, which may change over time without notice. Information in this Guidance is not to be deemed, considered or relied upon as legal advice and should not be treated as a substitute for a specific advice concerning any individual situation. Any action taken upon the information provided in this Guidance is strictly at your own risk and the Registration Authority will not be liable for any losses and damages in connection with the use of or reliance on information provided in this Guidance. The Registration Authority makes no representations as to the accuracy, completeness, correctness or suitability of any information provided in this Guidance.