

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**

**Release No. 82860 / March 13, 2018**

**ACCOUNTING AND AUDITING ENFORCEMENT**

**Release No. 3927 / March 13, 2018**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-18400**

**In the Matter of**

**KPMG INC.**

**Respondent.**

**ORDER INSTITUTING PUBLIC  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTIONS 4C AND 21C OF THE  
SECURITIES EXCHANGE ACT OF 1934  
AND RULE 102(e) OF THE COMMISSION'S  
RULES OF PRACTICE, MAKING  
FINDINGS, AND IMPOSING A CEASE-AND-  
DESIST ORDER, A CENSURE AND A CIVIL  
PENALTY**

**I.**

The Securities and Exchange Commission (“Commission” or “SEC”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted against KPMG Inc. (“Respondent” or “KPMG South Africa”) pursuant to Sections 4C<sup>1</sup> and 21C of the

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<sup>1</sup> Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (1) not to possess the requisite qualifications to represent others . . . (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations thereunder.

Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.<sup>2</sup>

## II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing A Cease-and-Desist Order, a Censure and a Civil Penalty (“Order”), as set forth below.

## III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

### A. SUMMARY

These proceedings arise out of KPMG South Africa’s improper professional conduct in the course of its audits of Issuer A. In particular, from at least 2013 through 2014 during its audits of Issuer A, KPMG South Africa failed to comply with the auditing standards of the Public Company Accounting Oversight Board (“PCAOB”).

### B. RESPONDENT

**KPMG Inc.** is a public accounting firm registered with the PCAOB and located in Johannesburg, South Africa. KPMG Inc. is a member firm of KPMG International Cooperative (“KPMG International”), a Swiss entity.

### C. OTHER RELEVANT ENTITIES

**Issuer A** is a company that is incorporated in Canada with its principal executive offices in South Africa. Issuer A’s securities are registered with the Commission pursuant to Section 12(b) of the Securities Exchange Act of 1934 (“Exchange Act”), and were previously registered with the

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<sup>2</sup> Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

Commission pursuant to Section 12(g) of the Exchange Act. Issuer A files periodic reports, including Form 20-F, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder.

**KPMG** (“KPMG Zimbabwe”) is an accounting firm located in Zimbabwe and is a member firm of KPMG International. KPMG Zimbabwe is not registered with the PCAOB.

#### **D. FACTS**

From at least 2013 through 2014, KPMG South Africa audited the financial statements of Issuer A, a Canadian company with securities registered with the Commission pursuant to Section 12(g) of the Exchange Act. As such, Issuer A is required to file periodic reports with the Commission and the financial statements contained in those reports are required to be audited pursuant to PCAOB standards.

In each independent auditor’s report of KPMG South Africa included with Issuer A’s financial statements filed with the Commission on Form 20-F for fiscal years 2013 through 2014, KPMG South Africa stated that it had conducted its audits in accordance with the standards of the PCAOB. However, those statements were inaccurate because KPMG South Africa had in fact failed to conduct its audits in accordance with certain PCAOB auditing standards identified below. Specifically, KPMG South Africa’s use of the work of another independent auditor failed to comply with PCAOB auditing standards.

#### Applicable Auditing Standards<sup>3</sup>

PCAOB AU Sec. 543, *Part of Audit Performed by Other Independent Auditors*, establishes requirements that apply when an auditor of an issuer’s financial statements “use[s] the work and reports of other independent auditors who have audited the financial statements of one or more subsidiaries, divisions, branches, components, or investments included in [that issuer’s] financial statements.” *See* AU 543.01.

In circumstances where a significant part of the audit is performed by another auditor, a firm, in considering whether it can serve as principal auditor, must decide whether its own participation in the audit is sufficient and enables it to serve as the principal auditor and to report as such on the financial statements. *See* AU 543.02.

In determining whether its participation is sufficient to serve as a principal auditor, the auditor “should consider, among other things, the materiality of the portion of the financial statements [the firm] audited in comparison with the portion audited by other auditors, the extent of [the auditor’s] knowledge of the overall financial statements, and the importance of the components [the firm] audited in relation to the enterprise as a whole.” *See* AU 543.02.

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<sup>3</sup> The references to PCAOB standards are to those that were in effect at the time of the relevant conduct.

As part of deciding whether it can use the work and report of another auditor, the principal auditor “should make inquiries concerning the professional reputation and independence of the other auditor.” See AU 543.10. In addition, the principal auditor “should adopt appropriate measures to assure the coordination of his activities with those of the other auditor in order to achieve a proper review of the matters affecting the consolidating or combining of accounts in the financial statements.” See AU 543.10.

In addition, PCAOB AU Sec. 230, *Due Professional Care in the Performance of Work*, requires “[d]ue professional care [ ] to be exercised in the planning and performance of the audit and the preparation of the report.” See AU 230.01.

### KPMG South Africa’s Role as Issuer A’s Principal Auditor and its Improper Professional Conduct

During the relevant period, KPMG South Africa served as the principal auditor of Issuer A. In that capacity, KPMG South Africa signed and issued the audit reports on Issuer A’s financial statements. During this same period, Issuer A’s largest subsidiary, located in Africa, accounted for the majority of Issuer A’s consolidated assets and revenues. For example, for fiscal year 2013, this subsidiary accounted for approximately 70 percent of Issuer A’s consolidated total assets and 100 percent of Issuer A’s consolidated revenues, respectively. In conducting its audits of Issuer A, KPMG South Africa used KPMG Zimbabwe to audit the financial statements of this subsidiary.

KPMG South Africa failed to comply with AU 543 in its use of the work of KPMG Zimbabwe. For the fiscal year 2013 audit, KPMG South Africa failed to perform any analysis under AU 543 to determine whether it could serve as Issuer A’s principal auditor and use the work of KPMG Zimbabwe. For the fiscal year 2014 audit, KPMG South Africa failed to perform any analysis under AU 543 to determine whether it could serve as Issuer A’s principal auditor and use the work of KPMG Zimbabwe until after substantially all of its audit work was completed and less than two weeks prior to signing its audit report.

The U.S. securities laws and the PCAOB rules require that accounting firms register with the PCAOB if they “prepare[] or issue[] any audit report with respect to any issuer” or “play[] a substantial role in the preparation or furnishing of an audit report with respect to any issuer.” See Section 102 of the Sarbanes-Oxley Act of 2002 and PCAOB Rule 2100. An accounting firm plays a substantial role and is thus required to register when it: (1) “perform[s] material services that a public accounting firm uses or relies on in issuing all or part of its audit report;” or (2) “perform[s] the majority of the audit procedures with respect to a subsidiary or component of any issuer the assets or revenues of which constitute 20% or more of the consolidated assets or revenues of such issuer necessary for the principal auditor to issue an audit report.” See PCAOB Rule 1001(p)(ii).

KPMG Zimbabwe played a substantial role in the preparation of the 2013 and 2014 audit reports for Issuer A having audited most of Issuer’s A assets and substantially all of its revenues. As such, KPMG Zimbabwe was required to be registered with the PCAOB. However, KPMG Zimbabwe was not registered with the PCAOB. Among KPMG South Africa’s responsibilities under AU 543 was to inquire concerning the professional reputation and independence of KPMG

Zimbabwe and under AU 230.01 to plan and perform its work with due professional care. *See* AU 543.10; AU 230.01. For the year-end 2013 audit, KPMG South Africa inquired as to KPMG Zimbabwe's professional reputation and independence and was informed by KPMG Zimbabwe that it was not registered with the PCAOB. However, KPMG South Africa failed to follow up on KPMG Zimbabwe's response and analyze whether it would prevent KPMG Zimbabwe from playing a substantial role in the audit because it was apparently unaware of the requirement that accounting firms playing a substantial role in the audit of an issuer must be registered with the PCAOB. For the fiscal year 2014 audit, KPMG South Africa was aware that KPMG Zimbabwe was not registered with the PCAOB but nonetheless failed to perform any analysis as to whether it could use KPMG Zimbabwe's audit work until after its audit work was completed and just prior to signing its audit report. An adequate inquiry and analysis performed with due professional care under AU 543 and AU 230 concerning KPMG Zimbabwe's professional reputation, based in part, on the significance of the assets and revenues audited by KPMG Zimbabwe in 2013 and 2014, should have revealed that because KPMG Zimbabwe was not registered with the PCAOB, KPMG South Africa should not have used its audit work.

#### **E. VIOLATIONS**

KPMG South Africa engaged in improper professional conduct under Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice by failing (1) to perform an adequate analysis under AU 543 regarding whether it could serve as Issuer A's principal auditor and use the work of KPMG Zimbabwe; and (2) to comply with AU 543 and AU 230 in using the audit work of an unregistered auditing firm.

Rule 2-02(b)(1) of Regulation S-X of the Exchange Act requires an auditor's report to state whether the audit was made in accordance with generally accepted auditing standards. By indicating that its audits were conducted in accordance with PCAOB standards, when in fact they had not been, KPMG Inc. violated Rule 2-02(b)(1) of Regulation S-X.

Section 13(a) of the Exchange Act and Rule 13a-1 thereunder require every foreign private issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission such information, documents and reports as the Commission may require. Implicit in this requirement is that the reports be accurate. By indicating in its audit reports accompanying Issuer A's financial statements that its audits were conducted in accordance with PCAOB standards, when in fact, they had not been, KPMG Inc. caused Issuer A to violate Section 13(a) of the Exchange Act and Rule 13a-1.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent KPMG Inc.'s Offer.

Accordingly, it is hereby ORDERED that:

A. KPMG Inc. is censured;

B. KPMG Inc. shall cease and desist from committing or causing any violations and any future violations of Rule 2-02 of Regulation S-X and causing any violations and any future violations of Section 13(a) of the Exchange Act and Rule 13a-1; and

C. KPMG Inc. shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$100,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying KPMG Inc. as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Amy L. Friedman, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5010.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Brent J. Fields  
Secretary