



7 August 2024

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services (Inquiry into Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry)
PO Box 6100
Parliament House
CANBERRA ACT 2600

Via email: corporations.joint@aph.gov.au

Dear Secretary

Committee Hearing 2 August 2024

During the Committee's hearing on Friday 2 August 2024, we heard witnesses questioned on two matters which we consider merit clarification or comment.

Confidentiality of investigations

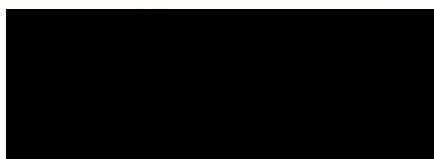
The first relates to the confidentiality of investigations. During Mr Seymour's evidence, when asked whether he thought it appropriate that CA ANZ investigations of members be confidential, the Chair (at page 85 of the proof Version of the transcript) made a statement to the effect that *investigations by professional bodies and regulatory authorities of lawyers and doctors are public*.

This statement is not correct, and we would be very concerned if the Committee decides to make recommendations on the basis of this misapprehension. Investigations by the various state-based law societies and regulatory authorities for medical practitioners are *not* publicised. Public registers of disciplinary decisions provide details of matters which have been investigated, determined against the practitioner and sanctions imposed. The reasons for this are self-evident: individuals' right to privacy pending any disciplinary finding is a basic principle of procedural fairness and the Australian legal system. The harm which may be caused to a person as a result of disclosure of an investigation into allegations or suspicions of misconduct is weighed against public protection, such that it is only in exceptional circumstances that a matter that has not been finally determined may become public in the interests of the protection of the public, such as through interim suspension or public warnings.

Duty to report others' suspected misconduct

The second relates to whether the PwC Australia (the firm) was under any duty to report the confidentiality breaches subject of the Tax Practitioners Board determinations to CA ANZ. In our evidence to the Committee, we advised that the CA ANZ By-Laws require Members to self-disclose their own conduct or findings or matters about themselves which are sanctionable under the By-Laws. The By-Laws require all Members to comply with APES 110 Code of Ethics for Professional Accountants (**Code**), issued by the APESB. To that extent, the By-Laws incorporate the Code by reference. One of the outcomes of CA ANZ's Professional Conduct Framework Review was that in July 2023 we requested that the APESB consider the inclusion in the Code of a duty to report others' reasonably suspected misconduct to their professional body. The APESB has advised that the matter has been considered in June 2024 and that it does not consider that an amendment to address the matter is appropriate in the absence of a statutory whistleblower protection for Members making the disclosure. This highlights the importance of harmonised whistleblower protections, and we respectfully request that the Committee give full consideration to the submissions made by CA ANZ and others on this topic with the additional suggestion that eligible reports to professional bodies be appropriately protected. A copy of the APESB's confirmation is attached for reference.

Yours sincerely



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