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Parliamentary Joint Committee on Corporations and Financial Services  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Via email: [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

Dear Committee Secretary,

EY Australia welcomes the opportunity to contribute to the Parliamentary Joint Committee's inquiry into Ethics and Professional Accountability in professional services.

We recognise that the work of this Committee will play an important role in the Government's reform agenda, reform that we believe is a critical step in rebuilding the public trust and confidence in our profession that has been damaged through the misconduct of one of our competitors.

As we have shared previously, EY Australia welcomes the Government's comprehensive reform package, and fundamentally believes that the Commonwealth should play a more significant role in the regulation and oversight of partnerships. Our submission contains a number of recommendations to assist the whole of Government response under development by Treasury.

EY Australia fundamentally believes that the interests of its clients and the public are well protected through our comprehensive policies, procedures and processes, enforced by oversight and regulation from 33 different regulatory bodies and agencies. However, the fragmentation of the approach that has developed organically over the past decades is one of the reasons we support greater Commonwealth oversight through a single regulator to oversee and coordinate the regulatory framework for partnerships and indeed all professional services providers, regardless of their structures.

As part of a comprehensive suite of recommendations, our submission also calls for the development of a partnership disciplinary board.

However, we also note that there has been significant public discussion of items that we believe have already been comprehensively examined in prior inquiries.

We particularly draw the Committee's attention to its 2020 report into the Regulation of Auditing, a comprehensive examination of the safeguards to ensure the delivery of quality, independent audits for Australian investors. This report concluded that the quality of audit in Australia is of a high standard. It highlighted the strength of Australia's auditor independence framework and the necessity of multi-disciplinary firms to the delivery of high-quality audits.

This is one reason that when the global EY organisation contemplated Project Everest, the project envisioned separating into two structurally separated multi-disciplinary organisations. This is because it was essential that the audit organisation could draw on the complete range of specialist skills that are essential to the delivery of high-quality audits.

Importantly, the Regulation of Auditing inquiry also comprehensively examined the safeguards to manage Conflicts of Interest in APES 110, the Code of Ethics for Professional Accountants. The Committee made one recommendation to improve the safeguards around Auditor Independence, which has been implemented by the Accounting Professional & Ethical Standards Board and had already been enacted by EY Australia (and the EY Global network) prior to the inquiry commencing.

We believe that APES 110 is effective at managing Conflicts of Interest, which inevitably need to be considered in the conduct of professional services - even when a provider only services one sector of the economy.

Finally, the Regulation of Auditing inquiry also heard evidence from EY Australia and witnesses from other large firms that Audit is not a "loss leader" for non-audit services and that little if any "consulting" services are provided to audit clients. As part of its inspections in 2019 of the large auditing firms in Australia, ASIC was satisfied that audit is not a loss leader at EY Australia and that the margins of our audit practice are comparable to our other service lines.

We believe it is important for this Committee to understand what constitutes non-audit services provided to audit clients, given the erroneous public statements that have been made. Auditors are prohibited from providing a large range of services to audit clients and it is prohibited for audit partners to sell non-audit services or be incentivised to do so.

The delivery of quality audits is the main determinant in the annual performance evaluation of our audit partners.

Of the fees EY Australia earned from recent ASX300 audit clients, 70% comprises audit fees and 30% represents non-audit services. These non-audit services equate to approximately 2% of EY Australia total revenue for the year ending 30 June 2022. Of these non-audit service fees, 77% represents other assurance services, 15% represents taxation compliance services and 8% (approximately \$4.5 million) of other services.

These other services requested by our ASX300 audit clients, represents less than 3% of EY Australia total revenue from these audit clients and less than 1% of total EY Australia revenue for 2022. Little if any of these non-audit services could be classified as what would defined traditionally as "consulting services" due to the strict independence requirements, requirements that all our auditor partners attest to when signing the independence declaration associated with each of our audits.

This inquiry is an opportunity to gather evidence and understanding of issues in the sector to support reform that advances the public interest in the regulation of an important sector of the economy, and we look forward to contributing to this process.

Yours sincerely

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EY Oceania CEO and Regional Managing  
Partner

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# Ethics and Professional Accountability Inquiry Submission

29 August 2023

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## Introduction

### About EY Australia

EY Australia (hereinafter also “we”, “us” or “our”) is a member firm of EY, a global network of multidisciplinary professional services firms. Our purpose is to build a better working world for our people, our clients and our communities; and the insights and quality services we deliver help build trust and confidence in the capital markets and our institutions and we employ over 9000 Australians.

We believe a better working world is one where economic growth is sustainable and inclusive. We work continuously to improve the quality of all our services by investing in our people, our clients and innovation for ourselves and across all sectors. We are proud of our work with clients and our engagement with stakeholders across Australia and around the world, using our knowledge, skills and experience to help fulfil our purpose and create positive change.

Our values are the fundamental beliefs of our organisation. They guide our actions and behaviours, influence the ways in which we work with each other, and steer the ways in which we serve our clients and engage with our communities.

These values inform the decisions and actions that each one of us makes every day; decisions that directly affect the way we experience each other, as well as the way our clients and wider communities experience us.

EY Australia adheres to the EY Global Code of Conduct which provides a clear set of ethical business conduct standards that build upon our purpose, values and culture to provide the ethical and behavioural framework on which we provide services to our clients and base our decisions every day.

The code is anchored in our values and beliefs and is embedded in our policies and procedures.

Our procedures, training and compliance approach gives us confidence that we are applying the same principles to help us make these decisions throughout our organisation.

### Our services

We support a range of organisations across the economy with audit, tax, consulting services, and as commercial advisors through market segments as varied as finance, mining, government, education, retail and telecommunications.

Through the delivery of these specialist services, we help clients improve their service delivery, their management of risk and to build trust and confidence in their operations. In responding to these needs, we draw on our broad network of specialists in areas such as taxation, commercial strategy, digital capability, assurance, security, cyber and data.

### Our approach

We are committed to delivering exceptional quality services and maintaining professional integrity at all times.

#### Our values

We are people:

- ▶ Who demonstrate integrity, respect and teaming.
- ▶ Have the energy, enthusiasm and courage to lead.
- ▶ who build relationships based on doing the right thing.

These fundamental principles are contained in the EY Global Code of Conduct and form a key component of our strategy, performance management systems, client service mindset, policies, training and internal communications.

These fundamental principles:

- Implement the relevant professional standards that EY Australia is required to abide by, such as the APES 110 Code of Ethics for Professional Accountants issued by the Accounting Professional and Ethical Standards Board
- Assist our compliance with regulatory and relevant legislative requirements
- Provide a Quality Management System framework for the establishment and review of Quality objectives
- Support the continual improvement and effectiveness of the Quality Management System
- Satisfy client and stakeholder expectations

EY Australia was one of the first professional services organisations globally to be certified under the Quality Standard ISO 9001, having obtained it in 1994, and we proudly continue to hold that certification today.

Our partners are members of and regulated by CAANZ. Through this, we are required to follow the Australian Standard of Quality Management (ASQM1), the quality management standard for firms that perform audits or reviews of financial statements, or other assurance or related services engagements.

ASQM1 is a comprehensive risk management framework that supports all reports we issue under the assurance framework and has the force of law in respect to audits, holding EY Australia accountable. It replicates an equivalent global standard.

APES 320, the professional standard for Quality Management for Non-Assurance Services, draws from ASQM1 to implement a set of quality standards for all work that EY Australia delivers that isn't performed under an assurance standard.

Our policies implement the relevant professional and quality standards that we are required to follow as members of CAANZ, in addition to addressing our ethical obligations under APES 110 the Code of Ethics for Professional Accountants, and any legal requirements. These policies cover:

- Client acceptance and continuance
- Professional independence
- Conflicts of Interest
- Confidentiality, insider trading and access to working papers
- Personnel policies
- Supervision and review
- Quality of working papers
- Technical referral and consultation
- Quality assurance reviews (both internal and external)
- Physical and digital security

EY Australia maintains a comprehensive quality control approach. To drive the effective implementation of key policies, our partners and people complete formal declarations and undergo stringent review processes.

As an ongoing measure of quality, EY Australia partners are subject to regular quality reviews performed by senior executives independent from the engagement subject to review. Individual EY engagement leaders as well as EY Australia's premises are also subject to regular reviews as required by our ISO certification, either by EY internal Quality Review Teams or the ISO9001 external reviewers. These reviews focus on monitoring compliance with policies and procedures.

## EY Australia’s response to the Terms of Reference

In responding to the Terms of Reference, we offer 11 recommendations for consideration.

These 11 are listed below and are detailed with the relevant Term of Reference.

### Summary of Recommendations

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## Term of Reference 1: Global and national firm structures

### Partnerships and other structures

EY Australia is as a professional services firm in Australia in the form of a partnership and is a member firm of the EY Global network. As is common in the case of many partnerships, a formal partnership agreement is entered into between each partner of EY Australia. The EY Australia partnership agreement is subject to and governed by the laws of the Australian Capital Territory (ACT).

Partnerships are a type of business structure commonly used in Australia by professional services providers such as Accountants, Lawyers, and Engineers. The legislative framework for partnerships lies with individual State or Territory legislation, so it follows that each State and Territory therefore has primary responsibility for regulating large partnerships, including those of multi-disciplinary professional services firms such as EY Australia.

EY Australia was and is not constituted as a partnership for the purposes of avoiding scrutiny, accountability or transparency.

On the other hand, companies in Australia are governed federally under the Corporations Act 2001 (Cth) which is the principal legislation regulating companies in Australia. Until the introduction of Commonwealth uniform legislation regulating the State and Territory company legislation in the 1960's, companies were also regulated separately by each State and Territory.

The introduction of a uniform Corporations Law across Australia did not address regulation of Partnerships, apart from an introduction of size limits on Partnerships.

The Corporations Act (2001) and ASIC Act (2001) includes in some regulatory requirements for professionals who must be registered on ASIC's professional registers, including those professionals who may operate in a partnership structure, such as:

- Registered auditors
- Registered liquidators
- Official liquidators
- Australian Financial Services (AFS) licensees
- AFS authorised representatives
- Credit licensees
- Credit representatives
- Credit registered persons
- Roles recorded on the pre-financial services regime register of licensees and authorisations.

While these individual professionals are required to be registered on ASIC's professional registers, they are not required to operate under a business structure that is subject to ASIC oversight.

Some alternate structures do exist, such as Authorised Audit Companies, which include specific requirements for insurance and liability to address market concerns regarding audit quality. These Authorised Audit Companies arose from the introduction of CLERP 9 in 2004, which established a general standard for auditor independence, audit partner rotation and cooling off periods, and the duty for auditors to report suspected breaches of the Corporations Act to ASIC.

Large partnerships in Australia that provide audit services may naturally want to take advantage of this regulation by re-incorporating as Authorised Audit Companies, however, in practice the ability



of large partnerships to do this has been limited due to a range of other structural issues that would impact the ability of large firms to continue as multi-disciplinary organisations (which as we outline elsewhere in this submission, is critical to the delivery of high-quality audits) in addition to the prohibitive costs of transition.

To enable greater regulatory oversight of professional services that are delivered via a partnership structure, the Committee may wish to consider regulatory options to enable Federal oversight of "Large Registered Partnerships", those with a specified number of partners and/or revenue. EY Australia believes the Committee should ensure partnerships with over 100 partners and/or \$50m revenue should be captured by the definition of Large Registered Partnerships.

Alternatively, the Committee may want to explore the introduction of legislation to introduce Commonwealth oversight of all partnerships.

**Recommendation 1:** Implementation of Commonwealth legislation that uniformly regulates Large Registered Partnerships (as defined above)

We note that other jurisdictions such as the UK and US introduced regulatory reform of partnerships earlier this century. In particular, we draw the Committee's attention to the UK model, where large firms are regulated by the equivalent to our Corporations legislation, but are allowed to operate as limited liability partnerships.

We believe this model has public interest merit, as it does impose Corporations Act like obligations, such as directors' duties, accountability and financial reporting requirements on large professional services firms.

Through the inclusion of partnerships in Commonwealth legislation, Parliament and the Senate would have greater oversight over professional services that are delivered through partnership structures. As the Government has acknowledged<sup>1</sup>, reform of this nature will require collaboration with the States and Territories given the cross jurisdictional regulation of partnerships.

## Issues arising from cross border structures and operations

EY Australia is a member firm of Ernst & Young Global Ltd. (EY Global) Limited, a UK company limited by guarantee and the central coordinating entity of the global EY network. EY Global coordinates the various activities of the member firms and promotes cooperation among them, and its objectives include the promotion of exceptional high-quality client service by member firms worldwide.

As a legally distinct business, EY Australia is responsible for the conduct of its local operations, which are enhanced through the application of EY Global professional standards, is responsible to the regulator CAANZ, and must comply with the standards of the Australian Professional and Ethical Standards Board.

### An important contributor to quality

The EY Network structure increases the quality of operations across all member firms, as it provides for direct access to subject matter experts, diverse expertise and professional insight from other jurisdictions. This also allows for increased investments in technology and practices globally to deliver higher quality services to clients.

For example, in June 2022, the EY Global network announced a US\$1billion investment in the next generation assurance technology platform. This platform will securely integrate technologies such

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<sup>1</sup> [Government taking decisive action in response to PwC tax leaks scandal | Treasury Ministers](#)

as Artificial Intelligence, which EY Australia will be able to leverage in its business and would not have been able to invest in as an individual firm.

The advantages of the EY Network structure is particularly relevant to the conduct of an audit, but equally applicable to the delivery of all other professional service by EY Australia for multi-national corporations.

For example, when conducting the external audit of an Australian-headquartered multi-national company, EY Australia can seamlessly interact with other EY member firms in over 150 countries. These firms are all bound by the same engagement delivery protocols, including quality, risk management and independence policies, ensuring that these teams can seamlessly integrate for the delivery of a high-quality global audit for a global client.

### **Confidence in the EY Global network**

Issues can arise when confidence in the EY Global network is impacted by a member firm not meeting the standards of the network. In the event of a member firm not meeting these standards, significant resources, effort and investment can be mobilised with a view to an appropriate uplift in professional and ethical standards.

EY Global network coordinates significant investment in proactive reviews of the member network through regular audits of compliance with the EY Global network's standards.

EY member firms such as EY Australia manage compliance risk through the "Three Lines Model", where the "first line" sits with the businesses and places a requirement on all EY people to uphold EY policies, processes, and procedures. The "second line" focuses on compliance, a responsibility that is shared between compliance owners across EY Australia. The "third line" is that of the internal audit function.

The implementation of compliance programs for applicable legal and regulatory compliance requirements are a responsibility of each EY member firm.

### **EY Global Internal Audit**

The EY Global network has a Global Internal Audit (GIA) function whose mission is to provide those member firms with independent, objective assurance with respect to the subject matter audited to help enable that member firm to strengthen its controls and improve its operations.

This mission is supported through a systematic and disciplined approach to evaluate and improve the effectiveness of risk management, internal controls, and compliance processes across the EY Global network. In pursuing this objective, and to help member firms provide a level of consistency and quality, GIA has adopted the International Professional Practices Framework (IPPF) as promulgated by the [Institute of Internal Auditors](#), including the IIA Standards, associated guidance, and the Code of Ethics.

GIA also maintains contact with each member firm's internal audit functions. The goal is to share leading practices and information to optimize audit planning and execution.

Through this, the EY Global Network is able to identify potential deficiencies in compliance with professional and ethical standards and provide this information to member firms to assist in enhancing systems, operations, policies and procedures to achieve compliance.

## The impact of such structures on confidence in the advisory and audit market for regulatory supervision and accountability to public and corporate sector clients

In addition to the regulatory oversight referred to earlier in this submission, as members of CAANZ, all EY Australia partners are accountable for the professional delivery of every client engagement through ISQM1 and APES 320.

Further, the regulation of auditing was comprehensively reviewed by the PJC in 2019 and its report tabled in 2020, which contained several evidence-based recommendations to strengthen industry regulation and oversight. To assist the Committee with this inquiry, a summary of these recommendations and the industry's response has been included in Appendix 1.

Many of the comments regarding the regulation of auditing made in recent public hearings of the Finance and Public Administration Committee's Consulting inquiry directly references incomplete or incorrect information or a presumption that there is a continued systemic problem with audit quality. This issue was addressed directly in the PJC's 2020 interim report:

*"Many of the issues raised during the inquiry appear to stem from incomplete information or presumptions. In this regard the Committee stresses the importance of distinguishing between issues that impact on audit quality 'in fact' versus those that are a matter of perception<sup>2</sup>"*

This includes several specific issues that have been raised in the hearings and submitted as evidence and which have been comprehensively addressed and disproven by regulators or through academic research. Some of these specific matters are addressed below.

### Audit is not a "loss leader"

The perception that audit is a "loss leader" to win more lucrative consulting work has been presented by witnesses in hearings of the Finance and Public Administration Committee, reported in the media and will likely also be presented in submissions to this inquiry.

This is incorrect. Audit is not a "loss leader."

Evidence was presented to ASIC by the six largest firms in 2019 to demonstrate that audit and other service lines generate similar levels of profitability, and all audit firms that presented to the Regulation of Auditing Inquiry attested to this. EY Australia's submission to the Regulation of Auditing Inquiry detailed our expectations of partners who conduct audit engagements:

*"We operate our business with the expectation that our audit engagements be profitable, hold partners accountable for this and do not price our audit engagements with the expectation or consideration of non-audit related services we may be asked to provide. The suggestion that audit is a loss-leader for the sale of non-audit services is not correct<sup>3</sup>."*

We believe it is important for the Committee to understand which non-audit services are legally permissible in Australia, given recent erroneous public statements in this regard by a range of stakeholders. Auditors are prohibited from providing a large range of services to audit clients and it is prohibited for audit partners to sell non-audit services. They have no incentive to do so. The delivery of quality audits is the main determinant in the annual performance evaluation of our audit partners.

Of the fees EY Australia earned from recent ASX300 audit clients, 70% comprises audit fees and 30% represents non-audit services. These non-audit services equate to approximately 2% of EY

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<sup>2</sup> Chapter 4, Interim Report, Parliamentary Joint Committee on Corporations and Financial Services Regulation of Auditing in Australia Inquiry,

<sup>3</sup> Page 6, EY Submission, Parliamentary Joint Committee on Corporations and Financial Services, Regulation of Auditing Inquiry

Australia total revenue for the year ending 30 June 2022. Of these non-audit service fees, 77% represents other assurance services, 15% represents permitted taxation compliance services and 8% or about \$4.5 million represents other services requested by our audit clients.

These other services requested by our ASX300 audit clients, represents less than 3% of EY Australia total revenue from these audit clients and less than 1% of total EY Australia revenue for 2022. Little if any of these non-audit services could be classified as what would defined traditionally as “consulting services” due to the strict independence requirements that all our auditor partners attest to when signing the independence declaration associated with each of our audits.

### Multi-disciplinary firms

Witnesses at other inquiries have put forward the theory that “audit only” firms would improve audit quality.

This presumption is incorrect and contradicts both academic research and a range of evidence that was presented to the Regulation of Auditing Inquiry that demonstrated multi-disciplinary firms are a key component in ensuring the delivery of high-quality audits. This enhanced quality is delivered through having all the required specialists available on-demand, and all these specialists are required to comply with the firm’s stringent audit independence obligations. Often specialists are required on extremely short notice when matters requiring their expertise arise while executing audits.

The following are examples of the commonly used specialist skills required to execute high-quality audits:

- Taxation
- Information technology
- Cyber
- Climate change
- Rehabilitation
- Mining reserves
- Actuarial
- Property valuations
- Business valuations
- Financial modelling
- Insolvency
- Debt financing
- Forensics

In the scenario where “audit only” firms exist, there is a significant risk that the “audit only” firm could not access the specialist skills required to execute high quality audits, that meet the legally binding independence obligations at the scale that would be required to deliver those high-quality audits. This would represent a significant and unacceptable risk to the capital markets.

In EY Australia’s 2019 submission to the Parliamentary Joint Committee, we shared that in the financial year ended 30 June 2019, 8.7% of time spent on ASX300 audits conducted by EY Australia, was incurred by specialists from non-audit service lines as their expertise was required in the execution of the audit. When specialists from the other service lines assist in audits, they are subject to the same strict independence rules applicable to core audit team members.

We have updated this data and our latest analysis shows that 19.4% of time incurred across all of our recently completed ASX300 audits is incurred by non-audit specialists. This represents more than 135,000 hours of specialist time. This number increases significantly when we consider our entire audit client base.

The level of specialist involvement in the delivery of audits and its doubling since 2019 demonstrates the scale of specialist resources that are essential to the delivery of high-quality audits as well as the increasing complexity of delivering a quality audit. For our largest and most complex ASX300 audits in excess of 40% of total time incurred is represented by specialists.

EY Australia was a participant in Project Everest, a global project that contemplated the separation of the EY Global network into two global multidisciplinary organisations. As the EY Oceania CEO and Regional Managing Partner shared with the Finance and Public Administration Committee, an audit-only firm would not enhance audit quality; in fact it would detract from audit quality:

*"We very quickly formed the view, as we have shared in our previous PJC appearance, that the multidisciplinary capability is required, including to serve our audit clients. We had landed the concept of two multidisciplinary firms. Firm one would have retained the EY brand, anchored in audit but also sustainability capability, tax capability, cyber capability and tech capability—all of the capability that is required to deliver a high-quality audit but also provide growth and attract talent. Firm two was about releasing certain services that are restricted under independence arrangements today<sup>4</sup>."*

The interim report of the Regulation of Auditing Inquiry supported this view:

*"The Committee is of the view that multidisciplinary firms with specific expertise in specialised areas are best placed to deliver high quality audits that address the needs of modern business."<sup>5</sup>*

The Committee was satisfied that alternative solutions to enhance existing auditor independence safeguards could be followed – namely improving disclosures of non-audit services and enhancing auditor independence declarations to manage any independence concerns.

In the absence of regulatory change, EY Australia has adopted both steps since 2020, and these proactive reforms are summarised in Appendix 1.

In summary EY Australia believes that there is not an evidence base to suggest that there is a systemic issue with audit quality in Australia, nor that there is inadequate regulation of the audit profession.

EY Australia would encourage this Committee to treat such claims to the contrary with an appropriate degree of scepticism.

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<sup>4</sup> Page 15, Hearing Transcript 18 July 2023, Finance and Public Administration Committee Consulting Services inquiry

<sup>5</sup> Chapter 4, Interim Report, Parliamentary Joint Committee on Corporations and Financial Services Regulation of Auditing in Australia Inquiry,

**Term of Reference 2: The extent to which governance obligations applying to a professional services firm may vary depending on the structure adopted, such as a partnership, a company, a trust, or other structure.**

Governance obligations applying to a professional services firm operating as a partnership arise from the relevant State and Territory legislation that governs the partnership, the terms of the partnership agreement and the requirements of the professional associations they are members of.

EY Australia believes that existing governance obligations that apply to partnerships are appropriate for ensuring that the business of the partnership is conducted appropriately.

For example, as members of CAANZ, EY Australia partners are required to follow the Australian Standard of Quality Management (ASQM1) and APES 320, Quality management for firms that provide Non-assurance Services, which include governance requirements that specifically relate to quality. A number of other requirements speak to the governance requirements of EY Australia and other firms which are members of CAANZ.

However, there is no governance framework or risk framework that can entirely eliminate fraud, greed, and self-dealing, as has been detailed in a range of corporate collapses in Australia and in the events that have led to this inquiry.

Separate to the regulatory oversight due to EY Australia's operating a business with a large number of employees (e.g. Safework/Worksafe, Fair Work Commission and Ombudsman, etc), EY Australia is also subject to reporting, inspections and other regulatory requirements across a number of different professional bodies, regulators and oversight bodies due to the nature of the services we provide.

These bodies include:

- Chartered Accountants Australia and New Zealand
- Government Audit offices - Australian National Audit Office and state Auditor General's offices
- AusIndustry R&D
- AUSTRAC
- Australian Securities and Investments Commission (ASIC)
  - Company and Self-Managed Superannuation auditors
  - Australian Financial Services Licensee
  - Registered liquidators
- Australian Computer Society
- Australian Property Institute
- Clean Energy Regulator (CER)
- Consumer Affairs Victoria
- Consumer and Business Services - SA
- Department of Commerce - WA
- Fair Trading (NSW, ACT, QLD)
- Institute of Actuaries
- Law Society of NSW
- Law Society of WA
- Law Institute of Victoria
- Queensland Law Society
- Revenue Office (VIC, NSW, WA, QLD, SA, NT, ACT, TAS)
- Tax Practitioners Board (TPB)

- Valuers Registration Board (QLD, NSW, VIC, WA)

Despite the wide range of oversight and regulation of the profession, there is no single body that provides oversight of EY Australia as a whole, nor any other multi-disciplinary professional services firm, whether a partnership, a company or a trust. Much of this regulatory oversight operates regardless of the entity structure providing the professional services.

To address community concerns, EY Australia would welcome the implementation of Recommendation 1, which would provide for greater regulation of Large Registered Partnerships by the Commonwealth.

The transfer of this responsibility could provide the immediate mechanisms to impose reporting requirements, transparency, regulation and oversight by an appropriate body, such as ASIC, and any other governance requirements that further enhance the accountability of partnerships.

**Recommendation 2:** Enact suitable Commonwealth legislation to establish a regulatory authority with oversight of Large Registered Partnerships.

Further commentary on the application of governance and regulatory obligations as they apply to partnerships and company structures is provided below in response to each item in the Term of Reference.

EY Australia would also encourage the committee to consider whether entities that operate under a partnership-like structure in the delivery of professional services, but are constituted as companies, should also be required to register as Large Registered Partnerships and follow the requirements of Large Registered Partnerships.

## Entity reporting and transparency

As EY Australia provides audit services to listed entities, EY Australia is subject to reporting requirements under the Corporations Act (2001) which requires the publication of an annual Transparency Report.

Beyond this reporting, partnerships have limited requirements for reporting, an observation that is supported by the Australian Government's business.gov.au website that observes [partnerships are relatively easy and inexpensive to set up and have minimal reporting requirements](#).

Through enacting Recommendations 1 and 2, the Commonwealth could look to a legislative requirement for Large Registered Partnerships to submit annual reports to ASIC.

EY Australia recommends consideration of similar reporting requirements as those that are currently required by large proprietary companies. Applying the large proprietary companies reporting requirement would ensure that future modifications to this framework will immediately apply to Large Registered Partnerships. This is consistent with the practice in leading international jurisdictions, such as the UK.

Such reporting obligations would require Large Registered Partnerships to submit annual reports that are compliant with Australian Accounting Standards and have their financial statements audited.

Further, there are currently limited reporting requirements for multinational corporate structures that provide professional services in Australia, with most offering limited entity level reporting. A professional services company operating under a corporate structure in Australia is only subject to significant annual disclosure requirements if it satisfies at least two of the below criteria:

- ▶ the consolidated revenue for the financial year of the company and any entities it controls is \$50 million or more
- ▶ the value of the consolidated gross assets at the end of the financial year of the company and any entities it controls is \$25 million or more, and
- ▶ the company and any entities it control have 100 or more employees at the end of the financial year.

Through enacting recommendation number 3 and including partnership-like professional services firms operating under a corporate structure, further disclosure would be required by all professional services firms in Australia.

**Recommendation 3:** Require Large Registered Partnerships to submit annual reports including audited financial statements

## Executive accountability and remuneration

We are aware that remuneration is a topic that is of interest to this, and other, Committees.

EY Australia believes that any disclosure of executive remuneration in a partnership should be undertaken in a considered, measured and appropriate manner, and is committed to working with other industry participants to develop and implement a disclosure framework. We also believe that this disclosure should apply equally to entities incorporated as partnerships and under a private company corporate structure.

To develop an executive remuneration framework, EY Australia has identified four clear principles that we believe should guide such disclosures:

1. The form of remuneration disclosures should be responsive to a public interest need
2. Disclosure should be aligned to a common industry standard derived from existing financial reporting frameworks
3. Disclosure should be appropriate for owner-managers, recognising the fundamental difference to a corporate entity accountable to shareholders - inherent in partner remuneration is a return on their labour and an equity return, which cannot be separately identified
4. Disclosure should clearly take into consideration structural differences between salaried/fixed draw partners and equity partners

There are two elements to consider, executive (or Key Management Personnel or KMP) and broader partner pay disclosure.

The utility of remuneration disclosures related to large private companies and listed companies in meeting the public interest need should be considered, together with global best practice examples related to firms such as ours in international jurisdictions.

The Committee may also want to consider the UK's transparency reforms in considering an executive remuneration disclosure framework.

Given that we believe this executive remuneration disclosure framework should be developed with industry participants, we have not provided more detailed recommendations in this submission.



This disclosure framework may be more effective if it is given the force of law through legislation.

**Recommendation 4:** Legislate a remuneration disclosure framework to apply to all providers of professional services in Australia

## Fit and proper person requirements

There are a number of different standards that apply in relation to whether someone who is a partner of a professional services firm is considered fit and proper. For example:

- Australian Prudential Regulatory Authority: Prudential Standard CPS 520 Fit and Proper for 'responsible persons' which for EY Australia would include certain registered company auditors and appointed actuaries
- The Tax Practitioners Board Fit and proper requirements, which for EY Australia includes individuals who are registered as tax agents
- The ASIC Fit and Proper standard for credit licensees, which are consistent with the Prudential Standard CPS 520 described above, for EY Australia this includes individuals who are our licensees for credit licenses

While ASIC's use of APRA's prudential standard CPS 520 is welcome, the lack of a clear definition of Fit and Proper person creates a fragmented regulatory requirement.

**Recommendation 5:** Direct the Australian Professional and Ethical Standards Board to create a single definition of Fit and Proper and update the relevant legislation to give this definition the force of law

As shared earlier, all EY Australia partners are members of CAANZ and are held to the professional and ethical standards of APES 110.

However, APES 110 does not have specific character requirements, which a "fit and proper person" test applies.

Incorporating a requirement for each partner in a Large Registered Partnership to be a Fit and Proper person would have a similar effect to the Banking Executive Accountability Regime (BEAR) that establishes Accountable Persons for Authorised Deposit-taking Institutions.

This would give the oversight body the ability to regulate both the behaviour of partners on an industry wide basis, and also prevent individuals who do not satisfy these requirements from becoming or returning to a role within a partnership.

There could also be additional obligations requiring partnerships to register individual partners with ASIC, which in effect would create a register of partners in Large Registered Partnerships. The registration requirement would also be accompanied by a positive reporting obligation for removal or resignation of a partner, where an agreed misconduct criteria is met and a requirement to explain the reasons to ASIC or an equivalent regulatory body.

Through this register and a positive reporting requirement, all Large Registered Partnerships would provide a new mechanism to track and register partner misconduct where those individuals don't meet the ethical standards of the profession.

**Recommendation 6:** Require all partners in Large Registered Partnerships to be Fit and Proper persons, and establish a register and reporting mechanism for partner resignation or removal

There are also no requirements for all partners in a professional services firm to hold any common licenses or qualifications. Requirements depend on the obligations applicable to specific practice areas and the individual partnerships choice - for example, as shared earlier, all EY Australia partners are members of CAANZ.

EY Australia recommends that partners in a Large Registered Partnerships be required to hold a Certificate of Public Practice from CAANZ or the equivalent from a professional association that requires members to adhere to the requirements of a common set of professional and ethical standards.

Consideration should be given to an expansion of the Australian Professional and Ethical Standards Board role and funding to provide this standard, which would ensure that all partners in professional services partnerships in Australia would be subject to a uniform code of ethics, a revised APES 110 Code of Ethics for Professional Accountants to apply across professions.

**Recommendation 7:** Require partners in a Large Registered Partnership to be members of a professional association that adheres to a common set of professional and ethical standards

## The structure of contracts and the fiduciary responsibility to public and corporate sector clients

As all EY Australia partners are members of CAANZ, EY Australia operates under a Professional Standards Scheme. Professional standards schemes are overseen by the Professional Standards Council. Critically, the Professional Standards Scheme specifically does not limit liability for a breach of trust, fraud or dishonesty, and this means that liability for this type of misconduct is uncapped.

A Professional Standards Scheme is a legal instrument that caps the damages that participating members of an occupational association can be liable for if a court upholds a relevant claim against them. Through this, associations with an approved scheme must show that it regulates members to improve their professional standards and protects consumers of their professional services.

This benefits both the association by increasing consumer confidence in the profession, but also protects the interests of consumers through ensuring associations continuously improve the standards of competence and conduct of members.

It is well established that partners owe one another fiduciary duties.<sup>6</sup> Those duties, together with the terms of the partnership agreement, and the provisions of the relevant Partnership Act,<sup>7</sup> govern the relationship between the partners.

The courts have been reluctant to set out an exhaustive list of fiduciary duties, however in a recent decision the Supreme Court of Victoria undertook a helpful analysis of fiduciary duties applying to partners, which were held to include:<sup>8</sup>

- ▶ the duty of good faith, which requires that the partners all act for the common good of the partnership rather than in their own personal interest;
- ▶ the duty not to use their positions as partners or the knowledge or influence that they gain through their involvement in the partnership to make a personal profit;

<sup>6</sup> *Birtchnell v Equity Trustees, Executors and Agency Co Ltd* [1929] HCA 24; (1929) 42 CLR 384, 407 (Dixon J) ('Birtchnell'); *Hospital Products Ltd v United States Surgical Corporation* [1984] HCA 64; (1984) 156 CLR 41, 68 (Gibbs CJ) and 96 (Mason J) ('Hospital Products').

<sup>7</sup> The Firm Partners' Agreement (Australia) is governed by the Partnership Act 1963 (ACT).

<sup>8</sup> *Chickabo Pty Ltd & Ors v Zphere Pty Ltd & Ors* [2019] VSC 73 (22 February 2019) at [42] - [68]; K Fletcher, *The Law of Partnerships in Australia* (Lawbook, 2007, 9th ed) [4.10]; See also Stephen Graw "Making Partners Accountable Rochweg v Truster Reaches Australia" [2020] JCU LawRw 7.

- ▶ the duty to provide full accounts of all information and assets in one's possession or control;
- ▶ the duty not to put themselves in situations where there could be a conflict between their duties or interests as a partner and any duties or interests that they have outside the partnership.

These duties are reinforced by provisions in the Partnership Act 1963 (ACT)<sup>9</sup>:

- ▶ a partner must give true accounts and full information about everything affecting the firm to other partners;<sup>10</sup>
- ▶ a partner must account to the firm for any benefit derived by the partner from a transaction concerning the firm;<sup>11</sup>
- ▶ a partner must not engage in business that competes with that of the firm without the consent of other partners;<sup>12</sup>
- ▶ the rules of equity and common law applying to partnerships continue in force unless there are any inconsistencies with the Act.<sup>13</sup>

The courts have held that it is possible for partnership agreements to limit the scope of fiduciary duties,<sup>14</sup> however there are no such limitations in the EY partnership agreements for Australia.

## Prevailing cultural practices

In September 2022, EY Australia commissioned independent experts Elizabeth Broderick & Co to conduct a deep examination of workplace culture, work practices and psychological health and safety in EY Oceania's two largest member firms, Australia and New Zealand. When EY Oceania commissioned the review, we also committed to publish the findings, in full, to our people and the public.

This review was commissioned following the tragic death of Aishwarya Venkat in the EY Australia Sydney office. Aishwarya's death saddened and shocked all of EY Oceania's partners and professionals and was a catalyst for EY Oceania to understand the workplace experiences of our people more deeply.

EY Oceania also wanted to better understand the workplace experiences of our people following COVID-19, a period of unprecedented anxiety and uncertainty for many, and to help inform meaningful actions to build a more inclusive, safe and respectful workplace.

EB&Co. confirmed the Review is the most comprehensive examination of workplace culture ever undertaken in the Australian professional services industry.

More than 4,500 current and former employees of EY Australia and EY New Zealand participated in the Review via an online survey, confidential one-on-one interviews, written submissions, and group listening sessions. This enabled EB&Co. to gather information to identify what is working well, areas for improvement and actions EY Oceania can take to continue to promote an inclusive and respectful workplace.

The Report, [published on 27 July 2023](#), included the following key findings, many of which are consistent with the experiences of individuals working in partnership or corporate environments:

- ▶ Overall, the vast majority of people feel safe in EY Oceania workplaces and believe people behave in a respectful manner towards others. Over nine in ten of our people agreed that

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<sup>9</sup> The Firm Partners' Agreement (Australia) is governed by the Partnership Act 1963 (ACT): see regulation 3.12.

<sup>10</sup> Partnership Act 1963 (ACT), s 33.

<sup>11</sup> Partnership Act 1963 (ACT), s 34.

<sup>12</sup> Partnership Act 1963 (ACT), s 35.

<sup>13</sup> Partnership Act 1963 (ACT), s 5.

<sup>14</sup> *Chickabo Pty Ltd & Ors v Zphere Pty Ltd & Ors* [2019] VSC 73 (22 February 2019) At [50] - [52]

they always feel safe in their workplace (94 per cent) and that people behave in a respectful manner towards others (92 per cent).

- ▶ Some 74 per cent of people report that they rarely feel excluded in the workplace, suggesting that a significant minority at times do feel excluded.
- ▶ However, positive experiences are not experienced by all, and negative experiences have a significant impact on individuals, teams and the firm.
- ▶ Despite initiatives to advance a safe, inclusive and respectful culture, in the last five years 15 per cent of people have experienced bullying, ten per cent indicated they had experienced sexual harassment, and eight per cent of people experienced racism.
- ▶ Long working hours and overwork are having a negative impact on individual wellbeing, team cohesion and retention with 46 per cent reporting that their health has been negatively affected as a result, and two in five people considering quitting.
- ▶ 31 per cent of people at EY Oceania are working 51 or more hours in a week, at least one week out of every four; approximately one in ten (11 per cent) are working 61 or more hours in a week, at least one week out of every four.
- ▶ There is a relatively high level of confidence that EY Oceania can address many of the issues explored in the Review with 78 per cent feeling confident the organisation will make meaningful change in relation to sexual harassment, 74 per cent in relation to racism, and 70 per cent in relation to bullying. However, only 31 per cent of people are confident EY Oceania can change a culture of long work hours and overwork.
- ▶ The Report identifies that many of these issues are known challenges across professional services firms in Australia, particularly balancing productivity and wellbeing, and that these issues lend themselves to shared learning and shared problem solving across firms.

The Report includes 27 recommendations to help EY Oceania make meaningful improvements to its workplace culture and positively promote the wellbeing of its people.

The EY member firms in EY Oceania accepts all the recommendations and EY Australia as a member firm of EY Oceania is working to implement all of them on behalf of our people.

As we committed to do so when we commissioned the report, the full report was released to the public on 27 July 2023, and is [publicly available on our website](#).

## Consumer and client protection

Continuous improvement of our standards of conduct are expected by our regulator CAANZ.

As the Professional Standards Council outlines: *"We demand high levels of professional standards and practices from those that participate in Professional Standards Schemes. We expect associations within our regulated communities to make sure their members uphold these standards through education and guidance, monitoring and enforcement, and other measures. This plays an important role in protecting consumers."*<sup>15</sup>

Clients also have a range of regulatory bodies that they can report misconduct or malpractice too, including:

- Chartered Accountants Australia and New Zealand
- Tax Practitioners Board (TPB)
- Australian Financial Complaints Authority

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<sup>15</sup> <https://www.psc.gov.au/professional-standards-schemes/what-are-schemes>

- Australian Securities and Investments Commission (ASIC)
- Australian Computer Society
- Australian Property Institute
- Consumer Affairs Victoria
- Consumer and Business Services - SA
- Department of Commerce - WA
- Fair Trading (NSW, ACT, QLD)
- Institute of Actuaries
- Law Society of NSW
- Law Society of WA
- Law Institute of Victoria
- Queensland Law Society
- Valuers Registration Board (QLD, NSW, VIC, WA)

## Duties of care

The term “duty of care” is used in many contexts. As a professional services provider, EY Australia owes a well-established duty of care to our clients to act with reasonable care and skill in the provision of services to our clients.

## Management of conflicts of interest

EY Australia manages conflicts of interest through our comprehensive policies, processes and procedures, as has been comprehensively examined during the Finance and Public Administration Committee’s Consulting Services Inquiry.

EY Australia manages conflicts of interest through APES 110, the Code of Ethics for Professional Accountants. As CAANZ outlined in their submission to that inquiry, APES 110 is based on the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants.

The submission further outlines that in Australia “*APES 110 is issued by the Accounting Professional and Ethics Standards Board Limited (APESB), a company limited by guarantee. The APESB has three members: CA ANZ, CPA Australia Limited, and the Institute of Public Accountants. In accordance with the APESB’s constitution, each member of APESB funds its operations, nominates Board members, and undertakes to require its members to adopt the APESB’s pronouncements.*”

However, this means that requirements of APES 110 only apply to professional services firms where the partners, or executives, are members of CAANZ, CPA Australia Limited, or the Institute of Public Accountants. As there is no obligation in legislation for providers of professional services to follow APES 110, CAANZ can only regulate and penalise members.

To ensure conflicts of interest are managed appropriately across all professional services providers, EY Australia believes the committee may want to consider extending Recommendation 7 to require professional services providers to hold memberships of a professional association that requires members to adhere to the requirements of APES 110.

**Recommendation 8:** Require all partners in Large Registered Partnerships in Australia to hold memberships of a professional association that requires members to adhere to APES 110

It should be noted that APES 110 is a dynamic standard, and following this Committee’s Regulation of Auditing inquiry report, published in 2020, APES 110 was revised to include a stricter requirement prohibiting audit partners from being incentivised, either directly or indirectly, to sell non-assurance services to all audit clients of EY Australia, which was effective from 1 Jan 2023.

For the Committee's reference, Appendix 1 of this document includes a comprehensive examination of the industry's response to the Regulation of Auditing inquiry.

EY Australia believes the committee may also want to specifically consider how this requirement could be extended to all professional services firms operating in Australia, whether through expanding the membership of APESB or other mechanisms.

As suggested earlier and reinforced in Recommendation 8, one path to implementing this requirement across all professional services firms would be to require all providers operating in a partnership like structure to be considered Large Registered Partnerships and members of a professional association.

### **Access to whistle-blower protections**

EY Australia provides policy, training and reporting mechanisms for whistleblowing by employees. EY Australia, also enables the receipt of whistleblowing matters from clients and other external persons. All EY Australia professionals and partners have access to whistleblowing protections pursuant to EY Australia policies.

EY Australia's whistleblowing policy is [available on our website](#).

While this would have no immediate impact on EY Australia's operations, the Committee may want to consider extending the whistleblower protection framework in the Corporations Act (2001) to Large Registered Partnerships.

**Recommendation 9:** Extend the legislative whistle-blower protection framework to apply to Large Registered Partnerships in the same way as they apply to corporations

**Term of Reference 3: Mechanisms available to governments, government departments, statutory authorities, professional standards bodies, regulators, and non-government clients to monitor and sanction misconduct and poor performance.**

There are a wide range of mechanisms available to governments, government departments, statutory authorities, professional standards bodies, regulators and non-government clients to monitor and sanction misconduct and poor performance.

As discussed earlier in this submission, EY Australia is subject to oversight by 33 different Federal, State and Territory regulators and holds 18 different memberships and licenses .

EY's Australia's primary regulator is CAANZ, who have a range of oversight and enforcement mechanisms available as all of our partners are CAANZ members of .

CAANZ promotes high ethical standards and protects the reputation of our profession and the Chartered Accountant designation by ensuring members comply with a code of ethics, backed by a robust [reporting and] discipline process.

### **Accountability frameworks for governance obligations**

The legislative framework for partnerships lies with individual State or Territory legislation.

Other accountability frameworks are established by, and for, the partners within a partnership agreement as operators and owners of the business, such as those covering conduct, financial reporting and remuneration.

### **Coverage of disciplinary bodies**

EY Australia is currently covered by 21 disciplinary bodies that are specific to the discipline of the particular partner and/or staff working within that Service line. Some of these disciplinary bodies are also established by the regulator, for example, the Company Auditor Disciplinary Board.

All EY Australia partners are accountable to CAANZ as members of the professional association, however, there is not a requirement for all professional services firms to be members of CAANZ. As described earlier in our submission the result of this is that there is not one disciplinary body that covers all partnerships, nor the activities of executives within professional services firms incorporated under company structures.

The committee may want to consider establishing an independent disciplinary board for professional services partners and executives who are required to be Fit and Proper persons and covered by the requirements of APES 110 via the mechanism provided for in Recommendations 8 and 9.

This disciplinary board should have the capability to independently launch investigations, accept referrals from clients and via a positive reporting obligation for breaches from Large Registered Partnerships and professional services providers, and accept referrals from other regulators, such as CAANZ, oversight boards and relevant bodies.

It is important that appropriate consultation is undertaken to ensure that this does not override or conflict with the joint and several liability that holds partners in a partnership accountable to one another.

The disciplinary board could also have the legislative ability to levy fines, refer individuals for prosecution and make findings or impose other sanctions in regard to the individual being Fit and Proper.

The Committee may also want to consider whether this disciplinary board should also have the power to suspend a partnership from taking on new government or private sector clients for egregious misconduct.

**Recommendation 10:** Establish a professional services disciplinary board overseen by an appropriate Commonwealth regulator

## Self-reporting policies and practice

EY Australia has a wide range of self-reporting policies within our firm. These policies cover everything from managing confidential information, to independence violations and conduct matters.

There is no central register of self-reporting, as these cover a wide range of requirements which sit across different business functions. However, as an example of the type of self-reporting that EY Australia undertakes, we can confirm that in 2023 EY Australia tested 385 partners and other personnel as part of our annual Personal Independence Compliance Testing.

During 2023, we identified five breaches of APES110 and/or the Corporations Act 2001. These related to instances where:

- ▶ Two junior team members, who were last minute additions to the audit team, did not realise the audit client was owned by a company they had invested in.
- ▶ An immediate family member of a partner held an employment related superannuation financial interest in an audit client where the lead audit engagement partner was in the same office. The partner did not provide any services to the audit client.
- ▶ A non-audit engagement team member that was providing permitted non-audit services to an audit client held an immaterial financial interest in the audit client from their previous employment.
- ▶ An immediate family member of an associate partner held a financial interest in an audit client where the lead audit engagement partner was in the same office. The associate partner did not provide any services to the audit client.

Four of these matters were identified as part of our independence monitoring controls and one was self-reported by the individual as soon as they became aware of the issue.

In line with our policies, the financial interest was disposed of, or the individual removed from the audit engagement, and in all cases the matter was reported to those charged with governance at the audit client.

## Whistle-blower policies and established pathways to report

As covered in Recommendation 11, partnerships are not covered under existing Corporations Act (2001) whistleblower requirements to have a formal whistleblower policy, or protections for whistleblowers.

However, as discussed in response to Term of Reference 2, all of EY Australia's partners and professionals are able to make a protected disclosure to EY Australia.



EY Australia has also recently appointed an independent workplace ombudsman, who will assist us with managing staff complaints and issues. This independent workplace ombudsman will help strengthen our people's trust and confidence in EY Oceania's reporting mechanisms

### **Interaction with and self-referral to regulatory bodies**

EY Australia has frequent interaction with regulatory bodies and makes self-referrals as required by these bodies.

However, we would note that most regulatory bodies operate under a model of referral from those impacted by misconduct or malpractice of a professional services provider. This model is entirely appropriate for professional services, and the inclusion of positive reporting requirements for individuals in professional services firms who don't meet Fit and Proper person requirements (as discussed above) would create a self-reporting requirement that addresses any perceived gaps in reporting requirements for professional services firms.

### **Interaction between regulatory bodies**

There is limited formal interaction between regulatory bodies in Australia, as no provision has been made for this legislatively, an issue that has been covered extensively due to the difficulties the ATO and TPB faced in the investigation into PwC's misconduct.

To address this issue, EY Australia believes the committee may want to consider directing ASIC to form a Council of Regulators and provide this committee with legislated powers to share confidential information about investigations into the conduct of individuals who they regulate. Including the Professional Services Disciplinary Board in this Council would have the effect of ensuring that the Council would be able to access information on all Large Registered Partnerships and their partners.

**Recommendation 11:** Establish a Council of Regulators with appropriate legislative support to enable the sharing of confidential information between regulators

### **Competition in the audit market**

The ACCC is Australia's competition regulator. EY Australia believes that the audit market is subject to intense competition and would welcome a specific inquiry from the ACCC that addresses any concerns the Committee may have.

### **Appendix 1: Summary of PJC Regulation of Auditing Inquiry Recommendations and Industry Response**

On 1 August 2019, the Senate referred an inquiry into the regulation of auditing in Australia to the Parliamentary Joint Committee on Corporations and Financial Services (PJC).

The interim report comprising 10 recommendations with bipartisan support was issued on 27 February 2020 and the final report endorsing the recommendations was issued on 11 November 2020.

A FRC PJC Inquiry Working Group was established comprising representatives from the FRC, ASIC, AASB, AUASB and APESB to ensure that the industry's response to this inquiry was coordinated appropriately and duplicated effort does not occur.

This Working Group, and individual firms, immediately initiated action in response to these sensible recommendations. In many cases, members of the working group and industry participants have stepped ahead of regulation to enact these recommendations.

This table provides a summary of the recommendations made by the PJC and the changes that have been enacted following the final report being issued on 11 November 2020.

PJC Recommendation	Status
<p>1. The committee recommends that ASIC:</p> <ul style="list-style-type: none"> <li>• formally review the manner in which it publicly reports the periodic findings of its audit inspection program, giving appropriate consideration to approaches used internationally; and</li> <li>• based on this review, develop and implement, by the end of the 2020-21 reporting period for its audit inspection program, a revised framework for reporting inspection findings, with a focus on the transparency and relative severity of identified audit deficiencies.</li> </ul>	<ul style="list-style-type: none"> <li>• ASIC consulted the six largest firms on a severity categorisation framework.</li> <li>• ASIC has announced changes to its audit inspection approach by combining it with its Financial Reporting Surveillance Program (FRSP). The first public reports under the revised approach are expected to be released in October 2023.</li> <li>• ASIC issued <a href="#">Regulatory Guide 260</a> explaining its approach to communicating audit quality findings to directors and audit committees. It also provides guidance on the process and timing of such communication.</li> </ul>
<p>2. The committee recommends that the Australian Government introduce, by the end of the 2020-21 financial year, through appropriate legislation, a requirement that ASIC publish all future individual audit firm inspection reports on its website once ASIC has adopted a revised reporting framework referred to in Recommendation 1.</p>	<ul style="list-style-type: none"> <li>• The six largest firms' individual inspection reports have been published on ASIC's <a href="#">website</a> since FY 30 June 2020.</li> </ul>

<p>3. The committee recommends that the Financial Reporting Council, in partnership with ASIC, by the end of the 2020-21 financial year, oversee consultation, development and introduction under Australian standards of:</p> <ol style="list-style-type: none"><li>i. defined categories and associated fee disclosure requirements in relation to audit and non-audit services; and</li><li>ii. a list of non-audit services that audit firms are explicitly prohibited from providing to an audited entity.</li></ol>	<p><u>3.i. Fee disclosure</u></p> <ul style="list-style-type: none"><li>• The AASB published <a href="#">Research Report 15</a> on auditor remuneration in February 2021 and was discussed in its February Board meeting. Five categories were recommended:<ul style="list-style-type: none"><li>○ Audit services</li><li>○ Audit-related services</li><li>○ Taxation services (possibly with further breakdown)</li><li>○ Other assurance services</li><li>○ All other non-audit services</li></ul>Any further action by the AASB is expected to only occur following a formal Government response to the 2020 PJC report.</li><li>• ASIC requested the six largest firms to encourage listed clients to amend their audit fee disclosures consistent with the Research report above. EY has been doing so accordingly.</li><li>• APESB <a href="#">strengthened</a> the fees provisions of APES 110, aligning to the International Ethics Standards Board for Accountants (IESBA) revisions that enhance the transparency and governance of fees paid to the external auditor. Amendments were effective from 1 January 2023.</li></ul> <p><u>3.ii. Non Audit Services prohibition</u></p> <ul style="list-style-type: none"><li>• The APESB <a href="#">strengthened</a> the Non-Assurance Services provisions of APES 110, aligning to IESBA revisions that enhance the independence of the auditor by restricting other services an auditor can provide, especially in relation to Public Interest Entities (PIEs). The amendments are effective from 1 July 2023. Key revisions include:<ul style="list-style-type: none"><li>- Prohibit non-assurance services to PIE audit clients that may create a self-review threat</li><li>- New prohibition relating to certain tax services, legal advice and corporate finance services</li><li>- Enhanced clarity about assessing materiality when assessing the permissibility of non-audit services</li></ul></li></ul>
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	<ul style="list-style-type: none"> <li>The APESB issued a summary of the specific prohibitions contained within APES 110 <a href="#">APES 110 Prohibitions Audit Clients 12 Aug 2020.pdf (apesb.org.au)</a>, which is in the process of being updated for the above revisions</li> </ul>
<p>4. The committee recommends that the Corporations Act 2001 be amended so that an auditor's independence declaration is expanded to require the auditor to specifically confirm that no prohibited non-audit services have been provided.</p>	<ul style="list-style-type: none"> <li>This requires legislative change which would only occur following the Government formally responding to the 2020 PJC report.</li> <li>EY have voluntarily adopted this change by amending our auditor's independence declarations as follows:</li> </ul> <p><b>Auditor's Independence Declaration to the Directors of [REDACTED] Limited</b>                  As lead auditor for the audit of the financial report of [REDACTED] Limited for the financial year ended 31 December 2022, I declare to the best of my knowledge and belief, there have been:</p> <ol style="list-style-type: none"> <li>no contraventions of the auditor independence requirements of the <i>Corporations Act 2001</i> in relation to the audit;</li> <li>no contraventions of any applicable code of professional conduct in relation to the audit; and</li> <li>no non-audit services provided that contravene any applicable code of professional conduct in relation to the audit.</li> </ol> <p>This declaration is in respect of [REDACTED] Limited and the entities it controlled during the Financial Year.</p>
<p>5. The committee recommends that the Accounting Professional and Ethical Standards Board consider revising the APES 110 Code of Ethics to include a safeguard that no audit partner can be incentivised, through remuneration advancement or any other means or practice, for selling non-audit services to an audited entity.</p>	<ul style="list-style-type: none"> <li>In July 2022, the APESB <a href="#">revised</a> APES 110 to include a stricter requirement - audit partners are prohibited from being incentivised, either directly or indirectly, to sell non-assurance services to all audit clients of the Firm.</li> <li>EY already had such a global policy in place prior to the PJC making this recommendation.</li> </ul>

<p>6. The committee recommends that the Financial Reporting Council, by the end of the 2020-21 financial year, oversee the revision and implementation of Australian standards to require audited entities to disclose auditor tenure in annual financial reports. Such disclosure should include both the length of tenure of the entity's external auditor, and of the lead audit partner.</p>	<ul style="list-style-type: none"> <li>• The AUASB's preference is for audit tenure to be disclosed in the Director's Report (requiring changes to the Corporations Act) but acknowledge that other jurisdictions include a requirement in the auditor's report (which would require a change to the relevant Australian Auditing Standard).</li> <li>• In September 2022, the AICD and AUASB jointly <a href="#">issued</a> a new Periodic Comprehensive Review of the External Auditor - Guide for Audit Committees. This document recommended that the incumbent auditor's tenure is publicly disclosed by listed companies as part of a number of recommendations as to how Boards and Audit Committees can manage audit relationships and audit independence.</li> </ul>
<p>7. The committee recommends that the Corporations Act 2001 be amended to implement a mandatory tendering regime such that entities required to have their financial reports audited under the Act must:</p> <ul style="list-style-type: none"> <li>• undertake a public tender process every ten years; or</li> <li>• if an entity elects not to undertake a public tender process, the entity must provide an explanation to shareholders in its annual report as to why this has not occurred.</li> </ul> <p>The committee further recommends that such a tender process be implemented by 2022 for any entity that has had the same auditor for a continuous period of ten years since 2012. <i>[PJC final report suggests deferring implementation due to COVID-19]</i></p>	<ul style="list-style-type: none"> <li>• There has been an increase in ASX200 market audit tender activity since the PJC report was released in 2020, in the absence of any regulatory change .</li> <li>• In the AICD and AUASB guide referred to above, it is recommended that a comprehensive review of the external auditor is undertaken every 5 years, which would help the audit committee in forming a view as to whether and when the audit should be put out for tender.</li> </ul>

<p>8. The committee recommends that the Financial Reporting Council oversee a formal review, to report by the end of the 2020–21 financial year, of the sufficiency and effectiveness of reporting requirements under the Australian standards in relation to:</p> <ul style="list-style-type: none"> <li>• the prevention and detection of fraud; and</li> <li>• management's assessment of going concern.</li> </ul>	<ul style="list-style-type: none"> <li>• The AUASB is waiting for the IAASB to finalise revisions to <i>ISA 570 Going Concern</i>. An <i>Exposure Draft</i> is currently under consultation. Final approval of the revised ISA 570 is expected in December 2024. The amendments are aimed to:             <ul style="list-style-type: none"> <li>- Strengthen auditor’s evaluation of management’s going concern assessment</li> <li>- Enhance transparency with respect to auditor’s responsibilities and work related to going concern</li> </ul> </li> <li>• The AUASB <a href="#">issued</a> a corresponding consultation on IAASB’s proposed revisions to seek Australian stakeholder views.</li> <li>• The IAASB is developing an <i>Exposure Draft</i> on revisions to <i>ISA 240 The Auditor’s Responsibilities Relating to Fraud</i>, this is expected to be released for public consultation in December 2023. The AUASB will issue a corresponding consultation thereafter.</li> </ul>
<p>9. The committee recommends that the Corporations Act 2001 be amended such that entities required to have their financial reports audited under the Act must establish and maintain an internal controls framework for financial reporting. In addition, such amendments should require that:</p> <ul style="list-style-type: none"> <li>• management evaluate and annually report on the effectiveness of the entity's internal control framework; and</li> <li>• the external auditor report on management's assessment of the entity's internal control framework.</li> </ul> <p><i>[PJC final report suggests careful consideration of appropriate implementation timelines and thresholds given Covid-19]</i></p>	<ul style="list-style-type: none"> <li>• This would require legislative change, which has not occurred in the absence of a formal Government response to the PJC 2020 report.</li> <li>• The AUASB has been engaging with the ASX Corporate Governance Council about whether recommendation 4.2 (i.e. CEO and CFO declaration on financial statements) should be enhanced.</li> </ul>
<p>10. The committee recommends that the Australian Government take appropriate action to make digital financial reporting standard practice in Australia.</p>	<ul style="list-style-type: none"> <li>• This would require legislative change, which has not occurred in the absence of a formal Government response to the PJC 2020 report.</li> </ul>