

**Parliamentary Joint Committee on Corporations and Financial Services**

**Inquiry into the regulation of auditing in Australia**

**Questions on Notice 017**

***Corporations Act 2001, Volume 2, Chapter 2M, Part 2M.3, Division 3—Audit and auditor's report***

1. Who is liable for criminal offences under Division 3? Is it limited to the individual auditor(s)? What liability does a company have? What liability do other partners in a partnership have?
2. Who is liable for any civil action taken as a result of offences under Division 3? Is it limited to the individual auditor(s)? What liability does a company have? What liability do other partners in a partnership have?

***Corporations Act 2001 Section 307A: Audit to be conducted in accordance with auditing standards***

1. If an auditor does not obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error:
  - a. Is the audit in accord with the auditing standards; and
  - b. Does this, *prima facie*, constitute a breach of Section 307A?
2. When ASIC reaches the view that an auditor did not obtain reasonable assurance:
  - a. What enforcement action does ASIC take?
  - b. Does ASIC inform the audited entity?
3. Does ASIC have 'practice notes' to guide its response when it reaches the view that an auditor did not obtain reasonable assurance?
4. In how many cases where ASIC formed the view that an auditor did not obtain reasonable assurance did ASIC refer the matter to the Companies Auditors Disciplinary Board?
5. In how many cases where ASIC formed the view that an auditor did not obtain reasonable assurance did ASIC accept a Court Enforceable Undertaking?
6. In how many cases where ASIC formed the view that an auditor did not obtain reasonable assurance did ASIC begin court proceedings?
7. In how many cases where ASIC formed the view that an auditor did not obtain reasonable assurance did this result in an auditor voluntarily cancelling their registration?
8. Is there anything preventing ASIC from publishing the audit inspection report for each firm in full? Why doesn't ASIC publish the audit inspection report for each firm in full?
9. Is there anything preventing ASIC from publishing the names of entities identified in an individual firm's audit inspection reports whose audits received an adverse finding? Why doesn't ASIC publish the names of entities whose audits receive an adverse finding?

10. In cases where ASIC forms the view that an auditor has not obtained reasonable assurance, does ASIC establish whether: an audit firm also provided other assurance or non-assurance work for that entity; and the value of any non-audit work? Please provide details, if possible the number of files that attracted an adverse finding in each of ASIC's audit inspection reports where the audit firm also provided non-audit work for the entity in question.

#### ***Report 648 – Audit inspection report for 2018-19***

1. For each of the six time periods listed in Table 1 of Report 648, relating to individual audit inspection reports:
  - a. What number of key audit areas reviewed attracted an adverse finding?
  - b. What number of files were reviewed?
  - c. What number of files that were reviewed attracted an adverse finding, in part or as a whole?

#### ***APES 110 Code of Ethics for Professional Accountants***

APES 110 requires auditors to be independent, including in appearance, which is defined as: The avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a Firm's or an Audit or Assurance Team member's integrity, objectivity or professional scepticism has been compromised.

1. For each of the last five years, on how many occasions has ASIC identified an auditor to be in breach of the independence requirements of APES 110?
2. When ASIC reaches the view that an auditor is not independent:
  - a. What enforcement action does ASIC take?
  - b. Does ASIC inform investors in the audited entity?
3. Does ASIC have 'practice notes' to guide its assessment of whether an auditor is independent?

#### **Audit failures**

1. What analysis does ASIC undertake of the quality of audits where a company goes into receivership? In other words: does ASIC use corporate collapses as an opportunity to identify the nature and scale of any problematic audit practices?

***APES 110 Code of Ethics for Professional Accountants***

1. As outlined in paragraph 49 of ASIC Submission to the PJC Inquiry into the Regulation of Auditing (Submission 16), ASIC's activities on auditor independence requirements under APES 110 include:
  - (a) considering possible auditor independence issues when reviewing audit files as part of ASIC's audit inspection program;
  - (b) reviewing policies, processes and approaches of the largest six audit firms to avoid potential conflicts of interest; and
  - (c) reviewing fees for non-audit services disclosed in the financial reports of ASX 300 listed entities.

The table below outlines the number of breaches of the independence requirements of APES 110 identified by ASIC over the last 5 audit inspection periods (item (a) above). Prior to the 12 months to 30 June 2019, we reported audit inspection findings on an 18 month basis. Therefore, data on an annual basis is not readily available.

Period	Number of breaches of auditor independence requirements identified by ASIC's audit inspection program		
	Identified by ASIC	Self-reported by firm	Total
18 months to 31 December 2013	7	1	8
18 months to 30 June 2015	3	1	4
18 months to 31 December 2016	-	2	2
18 months to 30 June 2018	4	-	4
12 months to 30 June 2019	-	-	-

Source: ASIC inspection reports – Report 397 *Audit inspection program report for 2012-13*, Report 461 *Audit inspection program report for 2014-15*, Report 534 *Audit inspection program report for 2015-16*, Report 607 *Audit inspection program report for 2017-18* and Report 648 *Audit inspection report for 2018-19*. No significant matters were identified from audit inspections for reporting in the 12 months to 30 June 2019.

ASIC is still undertaking the reviews mentioned in items (b) and (c) above. We plan to publish our findings by the end of 2020.

2. When ASIC reaches the view that an auditor is not independent:

a. Enforcement action taken by ASIC in relation to auditors has included:

- Referral to the CADB for deregistration or suspension of a registered company auditor (RCA);
- Accepting court enforceable undertakings;
- Imposing conditions on the registration of an RCA, relating to review of audits by another registered company auditor and professional education; and
- Action under s50 of the ASIC Act in the name of a company for damages.

Other enforcement options may include seeking a court declaration concerning the adequacy of audit work.

b. ASIC does not inform investors in the audited entity, which may be contrary to the confidentiality provisions of s127 of the ASIC Act and pre-empt any process through the CADB or Courts. However, paragraphs RG 260.27 and RG 260.38 of RG 260 outline our approach to informing directors, audit committees and senior management of audited entities pursuant to s127(2D) of the ASIC Act:

**“Assessment of independence requirements**

RG 260.27 We will disclose findings where we have concerns that the auditor of an entity does not meet the independence requirements of the Corporations Act (including professional requirements), has not addressed the matter, and cannot demonstrate that it has already satisfactorily communicated the matter in writing to the directors or in the auditor's required independence declaration.

RG 260.28 Communicating these findings may assist the directors and audit committees to consider the independence of the auditor when recommending the appointment of auditors, and on an ongoing basis.

3. ASIC has no internal guide to assist in its assessment of whether an auditor is independent. We have regard to the independence provisions of Act and the profession's Code of Ethics and assess each matter on a case-by-case basis having regard to all relevant circumstances.