



**Australian Government**

**Auditing and Assurance Standards Board**

Podium Level 14, 530 Collins Street  
Melbourne VIC 3000 Australia  
PO Box 204, Collins Street West  
Melbourne VIC 8007

29 January 2020

Dr Patrick Hodder  
Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
PO BOX 6100  
Parliament House  
CANBERRA ACT 2600

### **Response to Questions on Notice to the Inquiry into Regulation of Auditing in Australia**

The Auditing and Assurance Standards Board (AUASB) is an independent, non-corporate Commonwealth entity of the Australian Government that serves the public interest and is responsible for developing, issuing and maintaining high-quality Auditing and Assurance Standards.

On behalf of the AUASB please find attached our responses to the three questions on notice relating to the Inquiry into Regulation of Auditing in Australia provided in your letter dated 23 December 2019.

Several of the questions on notice referred to the AUASB relate to who is liable for offences under Chapter 2M, Part 2M.3, Division 3 of the *Corporations Act 2001*. Whilst it is the AUASB's function to set Auditing Standards, it is the Australian Securities and Investments Commission (ASIC) that is responsible for assessing compliance with the Auditing Standards and for taking enforcement action where appropriate. Accordingly, for some of the questions on notice directed to the AUASB we instead refer the Parliamentary Joint Committee to ASIC's responses to these questions.

If you wish to discuss the AUASB's responses, please contact Anne Waters

Yours faithfully

Prof. Roger Simnett AO  
Chair



**Question 1: 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?

Answer:

We refer to the responses provided by ASIC to these questions on notice, as it is ASIC who is responsible for enforcement of these sections of the *Corporations Act 2001*.

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**Question 2: Corporations Act 2001 Section 307A: Audit to be conducted in accordance with auditing standards**

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?
- b. Does this, *prima facie*, constitute a breach of Section 307A?

Answer:

When conducting audits and reviews of financial reports prepared under Part 2M.3 of the *Corporations Act 2001* (the Act), section 307A requires an auditor to comply with the Auditing Standards.

As contained in AUASB Auditing Standard ASA 200 *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Australian Auditing Standards*:

- The overall objective of an audit is to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error.
- If reasonable assurance cannot be obtained the auditor is required to issue a modified opinion, or if that is not sufficient, disclaim the opinion, or resign from the engagement.

If an auditor does not obtain reasonable assurance to support whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and an unmodified opinion is issued then, *prima facie*, this is a breach of the Act as the auditor has not complied with the Auditing Standards.



In providing our response to the question on notice we also note the following points:

- It is ASIC that is responsible for assessing compliance with the Auditing Standards and considering if any findings from their audit inspection program are of such severity that it constitutes a breach of the Act.
- Under the AUASB Auditing Standards Framework the auditor is required to comply with all Auditing Standards unless they are not relevant to the circumstances of the audit (for example, ASA 610 *Using the Work of Internal Auditors* is not required to be complied with if the entity does not have an Internal Auditor).
- The Auditing Standards consist of mandatory components (overall objective and requirements), and non-mandatory explanatory material to assist with understanding, interpreting and applying the requirements. Each Auditing Standard includes an objective which the auditor is required to achieve, in order to achieve the overall objective of the audit. The auditor is required to comply with each mandatory requirement of a relevant Auditing Standard unless it is conditional, and the relevant condition does not exist.
- The Auditing Standards are principles-based, and the auditor uses professional judgement considering the given circumstances when planning and performing the audit. Whether the objective of the Auditing Standard has been achieved is a matter of the auditor's professional judgement taking into account the results of the audit procedures performed and the auditor's evaluation of whether sufficient appropriate audit evidence has been obtained.