



Australian Government

Australian Government response to the
Financial Reporting Council's
Auditor Disciplinary Processes: Review

April 2019

AUSTRALIAN GOVERNMENT RESPONSE TO THE FINANCIAL REPORTING COUNCIL'S AUDITOR DISCIPLINARY PROCESSES: REVIEW

The Government recognises the important role that auditors play in fostering confidence in the integrity of our markets. The Government is committed to ensuring auditors are held to a high standard, and auditors that fail to discharge their statutory or professional duties are appropriately sanctioned.

In line with this commitment, on 7 November 2018, the Government requested that the Financial Reporting Council (FRC) conduct a review of the adequacy of disciplinary processes for auditors. The request to the FRC was made in response to the recommendation of the Parliamentary Joint Committee on Corporations and Financial Services in its *Report on 2016-2017 Annual Reports of Bodies Established under the ASIC Act*.

The FRC's *Auditor Disciplinary Processes: Review* report was presented to the Assistant Treasurer, the Hon Stuart Robert MP on 7 March 2019. The Government agrees, agrees-in-principle, or supports 17 recommendations and does not support one recommendation made by the FRC in its report.

The Government agrees with the FRC's view that the Australian Securities and Investments Commission's (ASIC) processes should be improved, that the Companies Auditors Disciplinary Board (CADB) conduct its affairs with less formality and technicality, and that professional accounting bodies should refer disciplinary matters to ASIC where it suspects the law may have been breached.

The Government has agreed and supported several recommendations to improve the transparency of auditor disciplinary processes. This includes CADB publishing the commencement of proceedings including naming the registered company auditor (RCA) subject to the proceedings and his or her firm, and the naming of firms that are found by ASIC's audit inspection program to have conducted audits that do not meet Australian standards.

In agreeing to these recommendations, the Government acknowledges that effective auditor disciplinary processes should provide a general deterrent against poor audit quality or auditor misconduct, as well as the specific deterrent provided by existing mechanisms.

The Government thanks the FRC for conducting its review.

| | Recommendation | Government response |
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| ASIC's detection, investigation, and enforcement processes | | |
| 1. | ASIC should adopt a more structured and consistent approach to preliminary investigations of Registered Company Auditor (RCA) misconduct matters. | The Government supports ASIC acting on this recommendation. |
| 2. | ASIC should improve its record keeping and data management systems to ensure key decision points in relation to RCA matters are easily tracked across the organisation. | The Government supports ASIC acting on this recommendation. |
| 3. | ASIC should evaluate whether the criteria used for resourcing a RCA misconduct matter for enforcement action appropriately recognises the market-wide benefits of improving audit quality. | The Government supports ASIC acting on this recommendation. |
| 4. | ASIC should outline how their 'why not litigate' enforcement strategy will apply to misconduct by RCAs. | The Government supports ASIC acting on this recommendation. |
| 5. | Barriers to ASIC making a factual public announcement when a RCA voluntarily cancels his or her registration while under investigation should be identified and addressed. | <p>The Government does not agree that ASIC should be empowered to make an announcement when a RCA voluntarily cancels his or her registration while under investigation, and only supports ASIC publishing such a notice where a RCA consents to this announcement.</p> <p>The Government notes that naming RCAs while under investigation could cause reputational damage to the RCA without due process. Instead, the Government considers expanding CADB's disciplinary powers and remit beyond the extension proposed in recommendation 8 to include auditors that have been deregistered would strengthen the disciplinary process and ensures disciplinary action can still take place even where an auditor voluntarily cancels his or her registration.</p> |

| Companies Auditors Disciplinary Board (CADB) | | |
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| 6. | CADB and ASIC should work to adopt a less formal and a more timely approach to the carriage of CADB matters. This should include a review of CADB's practice and procedures manuals. | The Government supports CADB and ASIC acting on this recommendation. |
| 7. | The Government should consider revising provisions so that CADB may publish the commencement of proceedings including naming the RCA subject to the proceedings and his or her firm. | The Government agrees with this recommendation and will consider revising provisions, with regard to ensuring that proceedings are publicised only when it is appropriate to do so. |
| 8. | The Government should consider providing CADB with additional disciplinary powers, including powers to suspend registration during a CADB proceeding and impose fines against individual RCAs or the firms that employ them, if adverse findings are made. | The Government agrees-in-principle with this recommendation and will consult on reforms to provide CADB with additional disciplinary powers. Additionally, the Government will consult on reforms to expand CADB's remit and powers to allow CADB to impose sanctions against individuals for conduct while they were a RCA, even if they are no longer registered. This reform would ensure disciplinary action can still take place even where a RCA voluntarily cancels his or her registration. |
| 9. | If a greater number of applications are made to CADB as a result of current and upcoming reforms, the Government should consider whether CADB will require additional administrative support to ensure matters are dealt with. | The Government agrees with this recommendation and will monitor CADB's workload to consider whether it is appropriately resourced. |
| ASIC's Audit Inspection Program | | |
| 10. | Potential breaches of the law and failures of RCAs to meet their obligations identified in ASIC's Audit Inspection Program should be reviewed for possible enforcement action. | The Government supports ASIC acting on this recommendation. |
| 11. | ASIC should publish the results of audit inspections in greater detail, including naming firms. | The Government notes that while this is a recommendation for ASIC, it supports ASIC acting on this recommendation should it choose to do so. |

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| 12. | ASIC be given the power to compel remediation of defective audits, alongside the power to publish notices when this occurs. | The Government agrees-in-principle with this recommendation and will consult on reforms to empower ASIC to compel remediation of defective audits. |
| 13. | ASIC should consider the division of resources between audit inspection and financial reporting surveillance work to ensure that ASIC's resources are being used effectively to ensure good RCA audit quality. | The Government supports ASIC acting on this recommendation. |
| 14. | ASIC and the Financial Reporting Council (FRC) will work together to implement the Parliamentary Joint Committee on Corporations and Financial Services report Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 45th Parliament recommendation to devise a study that would track audit quality over time. | The Government supports ASIC and the FRC acting on this recommendation. |
| Professional accounting bodies | | |
| 15. | Professional bodies should refer to ASIC all matters relating to RCAs where there appears there may be a breach of the law. | The Government supports professional accounting bodies acting on this recommendation. |
| 16. | Professional bodies should accurately record all disciplinary processes, including those that lead to no substantive action, and the reasons for the decision. They should also distinguish between lack of evidence that conduct was inappropriate and lack of evidence because information was not provided. | The Government supports professional accounting bodies acting on this recommendation. |
| 17. | Professional bodies should formalise processes for advising each other and the FRC of their disciplinary proceedings, particularly regarding RCAs. | The Government supports professional accounting bodies acting on this recommendation. |
| 18. | Professional bodies should publicly report statistics on the number of complaints they receive, and the number of complaints that do not proceed. | The Government supports professional accounting bodies acting on this recommendation. |