

27 October 2011

The Manager
Corporate Reporting and Accountability Unit
Corporations and Capital Markets Division
The Treasury
Langton Crescent
PARKES, ACT 2600

By EMAIL: auditquality@treasury.gov.au

Dear Sir

Exposure draft - Corporations Legislation Amendment (Audit Enhancement) Bill 2011

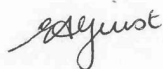
Member firms of the William Buck Network ("William Buck") appreciate the opportunity to comment on Treasury's Exposure draft; Corporations Legislation Amendment (Audit Enhancement) Bill 2011.

William Buck's response reflects our position as auditors of both listed companies and privately held companies and businesses.

Overall William Buck is supportive of the direction in which Treasury has taken the "Audit Enhancement" Bill, 2011.

Our specific comments in relation to the "Audit Enhancement" Bill 2011 are set out in Attachment 1.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'E. Giust'.

Elizabeth A Giust
National Risk Management Director
William Buck

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Attachment 1 – Specific comments from William Buck

Chapter 1 – Audit rotation requirements

We agree with the proposed changes to the Corporations Act 2001 in relation to Auditor rotation requirements. We would however make the following observations:

1. Application should be made once Royal Assent has been received and should be for annual reporting period's commencing on or after 1 July 2012.
2. Assuming Audit firms meet all of the proposed requirements for a 7 year rotation period, the proposed changes should be applicable across all Listed and Public Interest Entities ("PIE") Audit clients. This is particularly relevant given the changes to APES 110 Code of Ethics for Professional Accountants, to include listed entities within the wider PIE definition.

Chapter 2 – Annual transparency reports

We agree with the proposed changes to the Corporations Act 2001 in relation to the preparation of annual transparency reports by firms conducting external Audit engagements. We would however make the following observation:

1. The four month reporting timeframe currently proposed should be based on the relevant firm's end of financial year and not calendar year. For a firm like ours, where the financial year ended is 30 June, we believe it would be too onerous to expect financial reporting on a timeline that does not coincide with our financial year end.

Chapter 3 – Auditor independence functions

We agree with the proposed changes to the Corporations Act 2001 in relation to the monitoring of Auditor independence functions from the Financial Reporting Council to The Australian Securities & Investments Commission ("ASIC").

Chapter 4 – Audit deficiency notifications and reports

We agree with the general direction of the proposed changes to the Corporations Act 2001 in relation to the public reporting of Audit deficiencies where an Audit firm, after a period of 6 months, has not satisfactorily rectified the deficiencies reported by ASIC, in ASIC's view. We appreciate that Treasury has taken the Canadian approach as opposed to the more regimented approach of Europe and the US.

We would however make the following observations:

1. The Audit Firm, that is to be publically named, should have the right to see the content of the report and have some form of final response to ASIC prior to publication.
2. Prior to the commencement date, for application of these proposed changes, it is our view that, due consideration and consultation should be undertaken between ASIC, Treasury and

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appropriate representatives from accounting firms. Such consultation will allow for the establishment of a suitable basis for the reporting of such deficiencies. What is meant by this, is if it is Treasury and ASIC's intention to report all deficiencies this could potentially confuse readers of such reports or even worse lead them to make judgements on Accounting firms that would reasonably be deemed to be imbalanced.

By way of example at an APES 320 Quality Control of Firms level:

- If a public report was to note that ABC Accounting Firm had not implemented a whistleblower policy as is intended by APES 320 Quality Control of Firms. What impact is this, in reality, likely to have on readers pertaining to the firm?
- Alternatively, if a public report was to note that XYZ Accounting Firm had not tested its independence processes in line with APES 320 Quality Control of Firms, this is more likely to impact the readers' view of the firm.

By way of example at an engagement file level:

- If a public report was to note that ABC Accounting Firm had not documented the date on which a planning meeting occurred, and did not document all dates Audit working papers were reviewed. What impact is this, in reality, likely to have on readers pertaining to the firm?
- Alternatively, if a public report was to note that XYZ Accounting Firm had not documented its client risk assessment or how it mitigated significant Audit risks, this is more likely to impact the readers' view of the firm.

3. Further, if it is Treasury and ASIC's intention to report all deficiencies then some form of scale needs to be developed to ensure that there is no confusion of readers of the report, on how to interpret the severity of matters raised by ASIC.

We need to ensure that there is due process, such that a firm with a number of, what would reasonably be deemed, insignificant indiscretions is not viewed by readers of the report as being in the same category as a firm with one or two significant indiscretions.

4. In the spirit of true transparency, it would be our observation that prior to a report being made public; naming specific audit firms; that independent agreement is sought from the Company Auditors and Liquidators Disciplinary Board ("CALDB").

Chapter 5 – Communications with corporations, registered schemes and disclosing entities

It is our considered view that the proposals are extremely broad and could lead to inappropriate communications by ASIC with Audit clients in an unconsidered way. It is our view that this would not produce the desired outcome for the various stakeholders, ASIC, the client or the Audit firm.

A structured and transparent framework needs to be developed, where all parties are educated in the objectives, the workings and the outcomes to be achieved from ASIC's direct communication with Audit clients as a result of an ASIC inspection of an Audit firm. All parties should see that due process has occurred. To this end William Buck makes the following observations:

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1. The Corporations Act 2001 should define and clearly articulate what constitutes a “significant matter” and the circumstances in which a “significant matter” would be communicated by ASIC to an Audit client. This definition could be supported specifically by an ASIC Regulatory Guide giving examples similar to those outlined in paragraph 5.5 of Chapter 5 of the Explanatory Material accompanying the Corporations Legislation Amendment (Audit Enhancement) Bill 2011.
2. The manner under which the communication by ASIC in relation to a “significant matter” may occur should also be defined in the Corporations Act 2001, perhaps similar in nature to that contained in Section 311 of the Corporations Act 2001, which sets out an appropriate consultation process;
3. In our considered view an appropriate consultation process may include the following:
 - 3.1. If during the course of an inspection of an Audit firm, ASIC becomes aware of a “significant matter” (as defined in the Corporations Act 2001) which in ASIC’s view, by its nature, may require communication directly with the Audit client, ASIC should be required to bring the matter to the attention of the Audit firm in writing as soon as practicable and in any case within 5 days of first becoming aware of the “significant matter”.
 - 3.2. This communication should include:
 - The “significant matter” noted during the inspection of the Audit firm, and why in ASIC’s view it meets the Corporations Act 2001 definition of a “significant matter”; and
 - An outline of what ASIC expects from the Audit firm in response to the “significant matter” to satisfy ASIC that communication directly with the Audit client is not necessary.
 - 3.3. Upon receipt of the letter notifying the Audit firm of ASIC’s intention to communicate a “significant matter” directly with an Audit client, the Audit firm should be required to respond in writing as soon as practicable and in any case within 5 days clearly outlining the action it has taken or proposes to take to remedy the “significant matter”, if any.
 - 3.4. ASIC should then make a determination as to the adequacy of the Audit firms response as soon as practicable and in any case within 2 days of receiving the response, then consider which of the following actions is appropriate:
 - 3.4.1. If ASIC is satisfied that the appropriate action has been taken in relation to the “significant matter” identified during the inspection of the Audit firm, this should then conclude the matter, with communication directly with the Audit client deemed unnecessary under the Corporations Act 2001. ASIC should notify the Audit firm of this outcome as soon as practicable and in any case within 2 days of making its determination.

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(It is acknowledged that the matter may still be raised in the overall report issued by ASIC at the conclusion of the inspection process of the Audit firm.)

3.4.2. If ASIC is not satisfied that the appropriate action has been taken or is proposed to be taken in relation to the “significant matter” identified during the inspection of the Audit firm, then ASIC should have the power, at this point, to issue a formal notification of its intent to communicate directly with the Audit client to the Audit firm.

3.4.3. On receipt of ASIC’s notification of intent to communicate directly with an Audit client, the Audit firm should have the ability to notify ASIC of any objection to the proposed communication in writing via legal counsel. This should only be extended to instances where there is a clear basis for such an objection by reference to Law or Regulation. This objection should be communicated as soon as practicable and in any case within 2 days of receiving the notification.

3.4.4. On receipt of an objection from the legal counsel of the Audit firm, ASIC should consult with its legal counsel as to the validity of the objection under relevant Law and/or Regulation referenced in the objection. Should ASIC’s legal counsel reject the objection on the basis of the relevant Law and/or Regulation, the decision should be communicated to the Audit firm as soon as practicable and in any case within 2 days of receiving the objection.

Should the objection be accepted by ASIC’s legal counsel then the process as described in 3.4.1 could sensibly apply.

3.5. On completion of the process articulated in 3.1 – 3.4 above, ASIC should then be authorised to communicate directly with the Audit client in writing. This communication should be sent to both the Audit client and the Audit firm concurrently setting out:

- The significant matter;
- The response from the Audit firm;
- The reasons why ASIC do not believe the response from the Audit firm is appropriate with specific reference to Law and/or Regulation;
- Details of any objections made by legal counsel for the Audit Firm; and
- The outcome desired by the communication, from the client and ASIC and potentially the company’s stakeholders.

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4. It is our view that the communication framework suggested above gives ASIC it's opportunity to communicate directly with Audit clients when in its view "significant matters" have been identified as part of an Audit inspection in a more structured and consultative way.
5. The communication framework also allows Audit firms the opportunity to appropriately defend their position, from a legal and regulatory standpoint. It also affords an Audit firm an appropriate means for managing potentially troublesome matters with clients. It would be inappropriate for a regulator to expose Audit firms to unnecessary litigation.

Chapter 6 – Regulation impact statement

William Buck has no specific comments to add in response to the matters raised in this Chapter.

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