

PART 7

OTHER ISSUES CONSIDERED DURING REVIEW

7.01 During the course of the review, some stakeholders also raised a number of issues concerning the registration and regulation of auditors (including some previously considered by the Audit Review Working Party) which did not fall directly within the scope of the audit independence issues commented on elsewhere in this report. It is appropriate to briefly mention these matters raised by stakeholders and some other matters considered by the Working Party and comment on them.

RECOMMENDATIONS OF THE AUDIT REVIEW WORKING PARTY

7.02 The Audit Review Working Party considered the following issues during its review of requirements for the registration and regulation of auditors:

- (a) Who should perform the registration and supervisory functions?
- (b) What should be the appropriate pre-requisites for registration?
- (c) What form should post registration supervision take?
- (d) How should the appointment of company auditors be undertaken and their subsequent independence be ensured?
- (e) What are the appropriate procedures for the removal of a company auditor?
- (f) Who should undertake the disciplinary function and what should be the disciplinary body's functions and powers?
- (g) The resource implications of the Working Party's preferred approach to performing the registration and supervisory functions and undertaking the disciplinary function.

7.03 A number of these issues (for example, appointment and removal of auditors, independence and discipline) have already been considered elsewhere in this report and, accordingly, are not dealt with in this section of the report.

Performing the registration and supervisory functions

7.04 The Working Party recommended that ASIC should be empowered to delegate its functions for the registration and regulation of company auditors to each professional accounting body that satisfied a series of requirements to be specified in legislation and was a party to a memorandum of understanding between an accounting body and the regulator. The Working Party also made a series of recommendations on conditions that would need to be satisfied by an accounting body before ASIC could delegate functions to it.

7.05 The issue of delegating ASIC's functions to accounting bodies was not considered during the course of the review of audit independence, primarily on the grounds that the question of who should undertake the registration function does not directly affect audit independence in the way

that other issues considered as part of the review affect independence. Similarly, stakeholders did not raise it as an issue during the consultative process.

7.06 In these circumstances, we express no views either for or against implementation of the Working Party's recommendations on this issue.

Pre-requisites for registration

7.07 The Working Party considered three issues concerning the requirements for registration for company auditors:

- (a) educational qualifications;
- (b) professional qualifications; and
- (c) the appropriate level of practical experience in auditing.

7.08 The Working Party recommended that the educational requirements for registration as a company auditor be enhanced by requiring all applicants to have completed a specialist course equivalent to the auditing module currently provided by the ICAA's Professional Year (PY) Program or CPA Australia's Certified Practising Accountant (CPA) Program.

7.09 The Working Party recommended that all registered company auditors should be required to abide by ethical requirements equivalent to the codes of ethics and other rules of the professional accounting bodies. It envisaged that where registered company auditors were members of a professional body they should comply with the rules of that body. In other cases, registered company auditors would be required to comply with rules or guidelines issued by ASIC or enter into a written undertaking with ASIC to comply with the ethical requirements and other professional rules of the professional accounting bodies as if they were members. A particular concern of the Working Party in this respect was the fact that there is a significant minority of auditors who do not belong to the professional bodies.

7.10 The question of what should be the appropriate level of practical experience for registration as a company auditor was one of the more difficult issues to confront the Working Party during the course of its review. The Working Party concluded that competency standards should ultimately be adopted as the principal basis for determining whether a person has sufficient practical experience in company auditing and auditing techniques to be registered as a company auditor. The Working Party also recommended retention of a revised time-based registration regime as an interim measure pending approval of a competency-based regime.

7.11 Adoption of the Working Party's recommendations on educational and professional qualifications have merit in terms of initially raising and then retaining an awareness of audit independence issues among company auditors. Adoption of a competency-based registration regime may also offer greater scope for ensuring applicants for registration have a greater awareness of independence and other ethical issues than may be case under the existing regime.

Post-registration supervision

7.12 Issues considered by the Working Party in the context of post-registration supervision of registered company auditors included:

- (a) the adequacy of the existing requirements for reporting to ASIC;

- (b) the need for registered company auditors to undertake continuing education; and
- (c) whether registered company auditors should be required to undertake a minimum level of audit work in order to maintain their registration.

7.13 Although the triennial statement that each registered company auditor has to lodge with ASIC under section 1288 of the Corporations Act is intended to allow ASIC to monitor the registered company auditor's audit activities, the Working Party noted that there are widely held views that the statement fails to achieve this objective. Perceived deficiencies of the statement include that it does not provide up to date information for surveillance purposes, that it requires the disclosure of information that has already been provided to ASIC, and that the particulars of audits conducted during the period give no indication of the size or complexity of those audits. The Working Party concluded that many of these concerns could be overcome by the adoption of an annual reporting requirement and the provision of revised information to ASIC. The revised statement should provide information about:

- (a) the auditor's personal particulars (serving the purpose of confirming or updating ASIC's records);
- (b) details of the nature and complexity of major audit work undertaken by the auditor; and
- (c) particulars of professional development undertaken by the auditor during the year.

7.14 The Working Party concluded that registered company auditors should be required to undertake a minimum amount of professional development, with the amount to be prescribed being similar to that required of ICAA and CPA Australia members who hold public practice certificates.

7.15 The Working Party also recommended that registered company auditors should not be required to undertake a specified level of audit work in any one year, but should be required to maintain their competence in audit work. The Working Party also recommended that where a registered company auditor has not undertaken any substantive audit work during a period of not less than five years, ASIC may require the registered company auditor to show cause why his or her registration should not be cancelled.

7.16 Finally, the Working Party recommended that the work of all registered company auditors should be subject to periodic quality reviews.

7.17 We consider that, as recommended by the Working Party, the Corporations Act should be amended to:

- (a) require an annual statement from registered auditors; and
- (b) allow ASIC to require a registered company auditor to show cause why his or her registration should not be cancelled if the auditor has not undertaken any substantive audit work during a period of not less than five years.

However, the areas of continuing education and the conduct of quality reviews, should be part of the ethical codes and other requirements of the professional accounting bodies.

Delegation by Auditors-General

7.18 The Working Party also recommended that consideration should be given to amending the Corporations legislation to make it clear that an Auditor-General may, subject to any constraints contained in the Commonwealth, State or Territory legislation establishing his or her office, delegate to a person nominated by him or her responsibility for signing an auditor's report or an audit review prepared under Part 2M.3 of the Corporations Act. This recommendation has merit as its implementation would facilitate the operation of the offices of the Auditors-General.

PROFESSIONAL LIABILITY

7.19 During the course of the audit independence review, the ICAA raised the issue of auditor's unlimited professional liability and its impact on auditors. The ICAA, after noting Australian developments during the 1980s and 1990s and recent developments in Canada, proposed that a modified proportionate liability regime similar to the one now in operation in Canada be implemented in Australia.

7.20 In Australia, there have been a number of proposals for reforming the existing regime of joint and several liability in its application to company auditors. These proposals have included the introduction of a capping regime, proportionate liability and allowing auditors to incorporate.

7.21 We note that the issue of the liability of auditors is part of ongoing discussions between the Commonwealth and State governments, and between the professional accounting bodies and government. We also note developments in this area. For example, a proposal that auditors be allowed to incorporate has been approved by the Ministerial Council for Corporations. Given the ongoing developments and discussions in this area, we do not believe it appropriate for this review to put forward recommendations concerning the liability of auditors.

RECOMMENDATIONS

7.22 The following recommendations of the Audit Review Working Party, which deal with issues not addressed elsewhere in this report, should be implemented:

- 1 Educational requirements for registration as a company auditor should be enhanced by requiring all applicants to have completed a specialist course equivalent to the auditing module currently provided by the ICAA's Professional Year Program or CPA Australia's Certified Practising Accountant Program.
- 2 All registered company auditors, whether members of professional accounting bodies or not, should be required to abide by ethical requirements equivalent to the codes of ethics and other rules of the professional accounting bodies. This can be achieved by those registered company auditors who are not members of professional accounting bodies complying with rules or guidelines issued by ASIC or entering into a written undertaking with ASIC that they will comply with the ethical requirements and other professional rules of the professional accounting bodies as if they were members.
- 3 Competency standards should be adopted as the principal basis for determining whether a person has sufficient practical experience to be registered as a company auditor.

- 4 Where a registered company auditor has not undertaken any substantive audit work during a period of not less than five years, ASIC may require the auditor to show cause why his or her registration should not be cancelled.
- 5 The requirement that registered company auditors lodge a triennial statement with ASIC should be replaced by an annual statement containing the revised information outlined in paragraph 7.13 of this report.
- 6 Registered company auditors should be required to undertake a minimum amount of professional development, with the amount to be prescribed being similar to that required of ICAA and CPA Australia members who hold public practice certificates.
- 7 The work of all registered company auditors should be subject to periodic quality reviews.
- 8 The Corporations Act should be amended to provide that Auditors-General may, subject to any constraints contained in the legislation establishing their respective offices, delegate to a person responsibility for signing an auditor's report or an audit review prepared under Part 2M.3 of the Corporations Act.