

6. POST-REGISTRATION SUPERVISION

601. This chapter considers issues associated with the supervision of registered company auditors. In particular, it examines the type and frequency of post-registration reporting requirements and considers whether continuation of registration should be subject to requirements such as continuing education, participation in audit quality review programs and the maintenance of a minimum level of audit work. The various functions covered by 'supervision' are listed in paragraph 402.

CURRENT SYSTEM

602. Once a person is registered as a company auditor, there is only limited regulatory supervision.

603. Section 1288 of the Law requires each RCA to lodge a triennial statement (Form 907) that contains a range of information about the auditor, including details of a maximum of ten audits that he or she has conducted since either registration or lodgment of the previous triennial statement (see Appendix E for full details of the information that has to be disclosed in the statement). Although triennial statements are not a renewal of registration, in practice they can serve that purpose since failure to lodge a statement may result in the matter being referred to the CALDB and, ultimately, cancellation of registration.

604. In addition, RCAs are required by the Law to advise the ASC of matters such as ceasing to practise as an auditor and changes to their name, their principal or other place of practice or their firm name (Form 905). They are also required to inform the ASC if they become insolvent, are convicted for fraud or dishonesty or become subject to an order prohibiting them from managing a company (Form 906). (Appendix F contains further details of these disclosure requirements.)

605. The ASC also has an auditors' surveillance program which aims to ensure that auditors perform their duties in accordance with the Law, the common law and auditing standards. The program seeks to do this by:

- (a) determining whether the auditor has complied with his or her statutory duties;
- (b) identifying whether the duties of reasonable skill, care and competence as required by common law have been exercised; and

- (c) identifying whether the requirements of accounting standards, auditing standards and related pronouncements issued by the accounting bodies have been complied with.

OVERSEAS POSITION

606. In general terms, the existing requirements in overseas jurisdictions are similar to those in Australia.

607. In Canada, the Public Accountants Council is required to renew periodically the registration of public accountants. In South Africa, each registered accountant and auditor is required to pay an annual fee to the Public Accountants and Auditors Board while they remain registered.

608. In New Zealand, the ICANZ has recently amended its rules. Under the new rules, three 'colleges' are established: Chartered Accountants, Associated Chartered Accountants and Accounting Technicians. Continuing education is mandatory for the Chartered Accountants and Accounting Technicians colleges. There is some grandfathering initially, but effectively audits of companies must be undertaken by members of the Chartered Accountants' college who hold practice certificates. Such members are required to undertake a minimum of 40 hours mandatory continuing education per annum.

ISSUES

609. Submissions that have been received by the Working Party have raised a number of issues concerning the post-registration supervision of RCAs. These issues include:

- (a) the adequacy of the existing requirements for reporting to the ASC;
- (b) the need for RCAs to undertake continuing education; and
- (c) whether RCAs should be required to undertake a minimum level of audit work in order to maintain their registration.

610. An additional issue that requires consideration is the formalisation of arrangements for monitoring the quality of auditing work undertaken by RCAs.

611. Each of these issues is considered in the following paragraphs.

612. The Working Party notes that some of the proposals for post-registration supervision of RCAs could be more efficiently implemented if one or more of the accounting bodies were authorised to register and supervise RCAs. As noted in the

previous chapter, persons registered as RCAs who are not members of an authorised accounting body would be required to comply with the code of ethics and other rules of the body to which they submitted their application for registration.

613. In addition, to ensure the efficient and effective operation of a regulatory regime in which responsibility for the registration and supervision of auditors is delegated to authorised accounting bodies, the Working Party has proposed that there be only one Register of Auditors.¹

Post-Registration Reporting

614. The triennial statement that each RCA has to lodge with the ASC is intended to allow the ASC to monitor the RCA's audit activities.

615. There are, however, widely held views that the statement fails to achieve its objectives. Some of the deficiencies drawn to the attention of the Working Party include:

- (a) because statements are lodged every three years, they do not provide up-to-date information for surveillance/supervision purposes;
- (b) the statement requires the disclosure of information (for example, details of any prohibitions or civil penalty disqualifications) that has already been provided to the ASC;
- (c) particulars of audits conducted during the period covered by the statement give no indication of the size and complexity of the audit, whether the RCA is still undertaking the audit and, in the event that he or she is no longer doing the audit, the reason for ceasing; and
- (d) the absence of information about professional development activities during the period and other monitoring carried out by the RCA's professional body.

616. On the basis of comments made to the Working Party, there would seem to be little justification for retaining the triennial statement in its present form.

617. Two principal options were seen to be available to overcome the perceived deficiencies of the triennial statement:

- (a) abolish the statement; or

¹ See chapter 4.

- (b) require a statement containing revised information to be lodged annually.

618. Abolition of the requirement for auditors to lodge a statement, whilst superficially attractive as a deregulatory measure, has the disadvantage of leaving the ASC or any other regulatory agency without a means of periodically checking the particulars of RCAs or the appropriateness of continuing their registration.

619. The other option, having an annual statement, would ensure the supply of more timely information to the ASC. The information to be included on an annual statement could cover matters such as:

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

620. The Working Party notes that the annual statement would, for practical purposes, become an annual renewal of registration.

621. If the ASC continues to be the supervisory body for RCAs, the processing of statements annually instead of every three years would add to the ASC's administrative costs. In view of the Government's policy that user pays principles should apply to the National Corporate Regulation Scheme, lodgment fees for annual statements may have to be greater than one-third of the existing fee of \$115 for triennial statements.

622. On the other hand, if authorised accounting bodies become responsible for supervising RCAs, significant efficiencies may be able to be achieved by merging the annual membership renewals of those bodies and the RCA requirements.

623. The Working Party, on the basis of the information considered by it, is of the view that the existing triennial statement should be replaced by a new annual statement. The new statement should contain information of the type proposed at paragraph 619.

Recommendation 6.1

The existing triennial statement should be replaced by a new annual statement.

Recommendation 6.2

The new annual statement should provide information about:

an RCA's personal particulars;

details of the nature and complexity of major audit work undertaken, including the aggregate hours, showing separately the work in respect of companies and other entities; and

professional development undertaken by the RCA during the year.

Recommendation 6.3

If the registration and supervision of RCAs is undertaken by authorised accounting bodies, the annual statement should be combined with the authorised accounting bodies' membership renewal forms.

Continuing Educational Requirements

624. Once a person has been registered as a company auditor, the Law does not impose any ongoing educational requirements. Yet RCAs work in a continually changing environment. They have to become familiar with new or revised auditing and accounting standards, decisions of the UIG and new or amended legislative requirements if they are to perform their auditing engagements in an efficient and effective manner.

625. Where RCAs are members of accounting bodies that have continuing education, the requirements of those bodies that their members undertake a minimum amount of continuing educational development either each year or over a set period of time largely compensates for the lack of any legislative requirements.

626. However, the accounting bodies' requirements do not, and cannot, assist in those cases where an RCA is not a member of a body. In these circumstances, it would be necessary to have a statutory requirement that each RCA undertake a prescribed level of professional development in any given period. Failure to undertake the professional development could become grounds for taking disciplinary action against the RCA. Alternatively registration as an RCA of a person not a member of an accounting body could carry with it a requirement to meet the continuing professional development obligations of members of one of those bodies.

627. A number of submissions received by the Working Party expressed firm support for the concept of professional development. The question does arise, however, whether restrictions would have to be placed on the subjects in which RCAs may receive credit in respect of professional development. The Working Party has noted that restricting professional development to ‘audit related areas’ could, and perhaps should, cover financial reporting issues in addition to the more specific subjects such as developments in auditing standards and auditing techniques. The Working Party also saw the value of maintaining broad business skills.

628. The Working Party considers that RCAs should be required to undertake a minimum prescribed amount of professional development. The amount to be prescribed could be similar to that currently required by members of accounting bodies who hold public practice certificates.

Recommendation 6.4

RCAs should be required to undertake a minimum amount of professional development, calculated on either an annual or triennial basis, and their annual statement should include particulars about the audit content of that professional development.

Recommendation 6.5

Failure to comply with a requirement to undertake a minimum amount of professional development should be grounds for disciplinary action against the RCA.

Practical Experience

629. Notwithstanding the practical experience requirements that need to be satisfied by a person seeking to become an RCA, once the person is an RCA he or she is under no obligation to undertake any particular level of audit work.

630. Triennial statements lodged with the ASC indicate that many RCAs are reporting the performance of little or no auditing work. Under present legislative requirements, the ASC cannot take steps to have the registrations of such RCAs cancelled. However, it is noted that the question about cancellation of registration that the ASC has included on the triennial statements, when combined with significantly higher fees for lodging such statements, has seen some 2,000 RCAs seek cancellation of their registrations during the last six years.

631. Submissions received by the Working Party expressed conflicting views on whether maintenance of RCA status should depend on a requirement to undertake a minimum level of audit work. The accounting bodies, for example, said that they saw

no merit in setting an arbitrary minimum threshold for the conduct of audit work as minimum thresholds place emphasis on quantity as opposed to quality. Other submissions, including those from ASC staff and the ASX, indicated support for having a minimum level of audit work, but did not seek to quantify the amount of work that should be undertaken.

632. Subject to paragraph 634, the Working Party does not favour suggestions that RCAs be required to undertake a specified level of audit work in any one year in order to retain their registrations as RCAs. It believes that the proposal that RCAs must participate in a program of continuing education obviates the need for a work level requirement as does adherence to ethical standards which require a practitioner to perform work only in areas where he or she is appropriately qualified and experienced.

633. The Working Party is not aware of any overseas jurisdictions that provide that a specified minimum amount of work must be undertaken in order to retain registration.

634. The Working Party notes, nevertheless, that the public interest requires an RCA to maintain his or her professional competence. Accordingly, it has decided that where statements submitted to the supervisory body by an RCA show that no substantive audit work has been undertaken by the RCA over a period of not less than five years, the supervisory body should be able to require the RCA to show cause why his or her registration should not be cancelled.

Recommendation 6.6

RCAs 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. Where an RCA has not undertaken any substantive audit work during a period of not less than five years or has failed to maintain competency in audit work, the supervisory body may require the RCA to show cause why his or her registration should not be cancelled.

Quality Review

635. As noted earlier in this chapter, the ASC has an auditors' surveillance program which results in visits being made to RCAs to examine various aspects of their audit work. The scope of the program varies from state to state and, in many cases, the level of compliance and type of problems detected dictate the nature of subsequent work.

636. The quality review programs being implemented by the ICAA and the ASCPA are wider in scope than the ASC's program but, to the extent that they examine audit work, the two programs overlap. However, the Working Party understands that the focus of the accounting bodies' programs is significantly different to that of the ASC's

surveillance program. At present, and for the immediate future, the programs of the accounting bodies are largely of an educative nature. As a consequence, the ASC will need to maintain its current targeted surveillance program, which also responds to complaints. Only when the accounting bodies decide to use quality review programs for investigative as well as educative purposes will it be possible for the ASC to phase down its surveillance program (including specific cases where its special powers are needed).

637. The accounting bodies believe that continuation of registration as an RCA should be based on a satisfactory report from the quality review program. Under the accounting bodies' proposal, an RCA would be expected to undergo a quality review at least once every five years.

638. Where a quality review identifies significant deficiencies in the work of an individual RCA, two courses of action would be available to the supervisory body:

- (a) issue a warning to the RCA and schedule his or her work for more frequent reviews; or
- (b) refer the matter for appropriate disciplinary action.

639. The Working Party believes that quality review programs are an essential element in ensuring that the standard of audit work is not only maintained but progressively improved.

640. However, the Working Party notes that such programs are expensive to implement and maintain. Given the present budgetary climate, it is unlikely that sufficient Government funding would be available to enable the supervisory body to undertake a quality review program on the scale envisaged by the accounting bodies.

641. In these circumstances, any quality review program that is implemented may have to be limited in scope. A range of criteria, including random checking and investigating complaints, could be used to select the RCAs whose work is to be reviewed.

642. The Working Party notes that implementation of quality review programs may raise a series of legal issues, including auditor-client confidentiality, right of access by reviewer to audit working papers, liability of reviewer for defamation actions in respect of any comments made in his or her report and whether a reviewer who fails to notice deficiencies in audited accounts could be joined with the auditor in any professional negligence action.

643. While some of these concerns appear to have been largely overcome by the accounting bodies in the course of implementing their quality review programs, others may necessitate legislative amendments. Accordingly, the Law should provide that all

files in respect of audits that have been undertaken by an RCA must be available for inspection as part of a quality review conducted by an authorised accounting body.

Recommendation 6.7

The work of all RCAs should be subject to periodic quality reviews conducted by authorised accounting bodies.

Recommendation 6.8

Subject to privacy considerations, the Law should provide that all files in respect of audits that have been undertaken by an RCA must be available for inspection as part of a quality review

