

Parliamentary Joint Committee on Corporations and Financial Services
Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance
and Consultancy Industry

Question 1:

Would you please comment on the recommendations and suggestions on whistleblower protections made in written submissions to this inquiry? (See submissions 12.1, 15, 18, 22, 25, 30, 34 and 37.)

Answer:

- 1.1 The IPA made the following recommendations and suggestions regarding whistleblowing protections in its submission dated 31 August 2023:
- (a) recent whistleblowing ‘reforms have not sufficiently encouraged whistleblowing’;
 - (b) ‘state and federal whistleblowing regimes overlap and are inconsistent’; and
 - (c) ‘further consideration should be given to providing rewards/bounties to whistleblowers’, as suggested in the previous recommendations made by the Committee.¹
- 1.2 Broadly, the IPA’s submission (no. 15) supports law reform to improve whistleblower protections but does not provide a substantive view as to how the law should be reformed. The IPA considers that submissions 12.1, 18, 22, 25, 30, and 34 also echo this desire for law reform to promote whistleblower protection, however, many of these submissions provide specific examples of possible reforms.
- 1.3 Having considered submissions 12.1, 18, 22, 25, 30, 34 and 37, the IPA makes the following observations:
- (a) Submissions 22 and 34 expressly recommend the enactment of a standalone, single, whistleblower regime for non-government and private entities as well as the establishment of an independent authority to oversee whistleblower protection laws.
 - (b) Submission 30 recommends the creation of a single law protecting non-government whistleblowers in the ‘medium to long term’, however, in the first instance calls for amendments to Part 9.4AAA of the *Corporations Act 2001* (Cth) (**Corporations Act**) to include unincorporated entities (such as partnerships).
 - (c) Submission 12.1 recommends amending Part 9.4AAA of the Corporations Act so it applies to what the submission defines as ‘large registered partnerships’. Similarly, submission 25 recognises that partnerships do not fall within the scope of Part 9.4AAA of the Corporations Act and recommends stronger whistleblower protections in the professional services industry.
 - (d) Submission 37 does not make any significant recommendations or suggestions regarding law reform aimed at improving whistleblower protection, rather it suggests that the Committee may consider the adequacy of existing whistleblower regimes and whether further protections against adverse treatment arising from whistleblowing would encourage more timely disclosures.
- 1.4 The IPA recognises that submission 34 exclusively considers whistleblower protection in Australia and possible law reform opportunities. In addition to its recommendation to

¹ Institute of Public Accountants, Submission No 15 to Parliamentary Joint Committee on Corporations and Financial Services, Parliament of Australia, *Ethics and Professional Accountability: Structure Challenges in Audit, Assurance and Consultancy Industry* (31 August 2023) 9-10.

introduce a single act protecting whistleblowers in non-government bodies, submission 34 also calls for reform to the *Public Interest Disclosure Act 2013* (Cth) and for the Committee to renew the recommendations it made in 2017.

- 1.5 Overall, the IPA supports the suggested reforms, including the application of whistleblower protections to partnerships generally, including to large registered partnerships as described in submission 12.1. The IPA also generally supports the CA ANZ view that the reform road map in submission 34 deserves consideration by the Government. The IPA is supportive of the suggestion that a single body responsible for the application and enforcement of whistleblower legislation should be considered by the Government.

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Question 2:

In Submission 15, the Institute of Public Accountants suggested the establishment of the Financial Reporting Council as the single regulatory clearing-house for the accounting profession, with compulsory information gathering and information sharing powers and a power to sanction non-compliance with information gathering.

- a. Would you please provide your thoughts on that proposal?
- b. Related proposals are also made in submissions 15, 17, 20, 28, 31, and 51. The committee would welcome your thoughts on these further proposals.

Answer:

- 1.1 The IPA considers there are gaps in the coverage of disciplinary bodies where IPA members are also members of one or more other professional accounting bodies and its submission explains how the gaps could be filled by promoting better information sharing between the bodies responsible for monitoring professional accountants' conduct. Accordingly, the IPA made the following recommendations and suggestions:
 - (a) codes of conduct applicable to members of the IPA, Chartered Accountants Australian & New Zealand (**CA ANZ**) and CPA Australia could be given legislative force;
 - (b) each professional accounting body 'could report directly to the FRC, which would be invested with a function to monitor, regulate and improve conduct';
 - (c) the FRC could have 'compulsory information gathering and information sharing powers and a power to sanction non-compliance with information gathering' requests; and
 - (d) the 'FRC could delegate complaint handling to each of the professional accounting bodies'.¹
- 1.2 Having considered submissions 17, 20, 28, 31 and 51, the IPA acknowledges that its submission is unique in that it is the only response which expressly calls for the FRC to be a 'single regulatory clearing-house' for the purpose of facilitating information sharing between professional accounting bodies in the context of disciplinary actions.
- 1.3 There are some similarities between the IPA's submission and submission 20, which suggests that the effectiveness of review programs and disciplinary procedures carried out by professional accounting bodies that are designed to monitor compliance with ethical and professional standards could be improved if ASIC, or a new regulatory body, was responsible for overseeing these programs. However, the IPA believes that the existing FRC regulatory framework could be expanded to include oversight of the professional accounting bodies, which would strengthen and improve the co-regulatory function which the accounting bodies currently undertake. This framework could be streamlined if the existing functions of the APESB (which do not have the force of law) were absorbed into the FRC. We agree with submission 20 that the government could consider implementing an approach similar to that adopted by the UK, whereby the UK FRC is tasked with overseeing various bodies with

¹ Institute of Public Accountants (1) 8-9.

certain activities being delegated to the relevant responsible body.² The IPA's recommendation is also consistent with the approach adopted by the UK whereby the UK FRC is enabled to delegate tasks to any Recognised Supervisory Body (RSB) (professional associations) through Delegation Agreements. In order to ensure there are no regulatory gaps, it would necessitate that all 'accountants' submit to supervision by an RSB.

- 1.4 The recommendations made in submissions 17, 28, 31 and 51 do not specifically relate to promoting information sharing between professional accounting bodies. However, each of those submissions supports the need for change to the current regime. Submission 17 is most closely aligned with the IPA's submission, while submission 28 also is similar in broad concept. Broadly, the recommendations made in these submissions are summarised as follows:
- (a) Submission 17 does not recommend having a single regulator but supports the continuation of specialist professional bodies.
 - (b) Submission 28 broadly recommends that all financial services professionals be regulated under 'one overarching framework' for the purpose of eliminating gaps and overlaps within the current regulatory framework.
 - (c) Submission 31 recommends the establishment of 'an independent group of regulatory arrangements' to eliminate perceived conflicts of interest arising from the fact that partners and former partners of 'Big Four' professional services firms sit on the boards of the current regulatory bodies.
 - (d) Submission 51 recommends 'an accountability framework or supervisory body' that specifically monitors ASIC and APRA's utilisation of the Companies Auditors Disciplinary Board.

² Accounting Professional & Ethical Standards Board Limited, Submission No 20 to Joint Committee on Corporations and Financial Services, Parliament of Australia, *Ethics and Professional Accountability: Structure Challenges in Audit, Assurance and Consultancy Industry* (31 August 2023) 15.

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Question 3:

On pages 22–24 of Submission 50, Treasury set out principles for evaluating whether to intervene in the regulation of the audit, accounting and consulting industry. Would you please comment on how the Treasury principles might be applied to your recommendations or suggestions?

Answer:

- 1.1 Broadly, Treasury’s principles for evaluating whether to intervene in regulation relating to the audit, accounting and consulting industry can be summarised as follows:
- (a) consider the consequences and likelihood of market failure and, in doing so, having regard to incentives of a partner or a group of partners within a multi-disciplinary partnership;
 - (b) consider the factors which may drive behaviours of those impacted by the introduction of new regulation; and
 - (c) undertake a cost benefit analysis of targeted regulatory intervention.
- 1.2 The IPA considers that its recommendations and suggestions are appropriate having regard to the principles outlined above. The IPA’s recommendations and suggestions stem from the occurrence of actual recent failures which, in themselves, likely indicate a need to intervene in the regulation of the audit, accounting and consulting industry. The submission aims to ‘identify opportunities to rebuild trust through appropriate regulatory frameworks’ and acknowledges that ‘sensible reform’ may improve accountability across the profession.¹ However, the IPA acknowledges that ‘egregious actions of a few should not taint the majority of those who uphold the highest professional and ethical standards’.² Accordingly, rather than calling for a regulatory overhaul, the IPA has made targeted recommendations for the purpose of improving audit quality and the systems and mechanism in place to monitor conduct and undertake disciplinary action.

¹ Institute of Public Accountants (1) 2.

² Institute of Public Accountants (1) 2.

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Question 4:

On page 25 of its submission, Treasury suggested that the committee seek information on, firm structure, partnership frameworks in theory and practice, firm governance processes, how firms operationalize their obligations, data on firm performance, and why the current regulatory environment is deficient. Would you please provide your views on these matters?

Answer:

- 1.1 The IPA supports Treasury's recommendation that the Committee seek additional information about firm structures, partnership frameworks in practice, governance, operations and performance to assist with the identification of regulatory gaps and assessment of the impact of possible policy reform. However, as a professional accounting body, IPA is only able to provide some of this information, and to do so at an aggregated level and with varying degrees of specificity. IPA is not able to provide the requested information at an individual firm level. In the IPA's view, this question should also be directed towards a select group of individual professional services firms and partnerships.
- 1.2 Despite this, the IPA reiterates its view against the separation of audit and non-audit functions within professional services firms in the absence of the identification of a systemic issue that would warrant this. If the government determines that change is required, the IPA's preference is for restrictions that limit firms from providing consulting services to audit clients instead.
- 1.3 In relation to the deficiencies in the current regulatory environment, the IPA's submission highlights our concerns relating to the mechanisms in place for monitoring and sanctioning misconduct in the accounting profession. As a professional accounting body, the IPA is limited in its ability to investigate allegations of misconduct and carry out disciplinary functions as it is unable to compel evidence from members.¹ As discussed in the answer to 'Question 2', there are also gaps between the coverage of disciplinary bodies where a member of the IPA is also a member of another professional accounting body. In the IPA's opinion, the reforms summarised at paragraph 2.2 of this letter could facilitate better information sharing between bodies. Additionally, disclosure of member misconduct otherwise than where required by law is limited as the IPA and other professional accounting bodies are bound by privacy obligations.²
- 1.4 The IPA continues to advocate for greater accountability and transparency across regulators and the profession. This includes insight into ASIC's allocation and use of funds to carry out its functions and subjecting large professional partnerships to clearer and more comprehensive governance standards, including reforms which facilitate improved transparency.

¹ Institute of Public Accountants (1) 6.

² Institute of Public Accountants (1) 10.

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Question 5:

In Submission 6, Professor Elise Bant describes an approach called systems intentionality for seeking to understand the intentions of an organization. Would you please comment on how that approach could be applied in this inquiry?

Answer:

- 1.1 The IPA does not have sufficient expertise in relation to systems intentionality to consider that it can meaningfully contribute to the inquiry in this area.

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Question 6:

The Australian Shareholders' Association has suggested that the government legislate to make digital financial reporting standard practice in Australia. In its 2020 Interim report on Auditing, this committee recommended that the Australian Government take appropriate action to make digital financial reporting standard practice in Australia. What is your view and what are the benefits of and barriers to making digital financial reporting standard practice in Australia?

Answer:

- 1.1 The IPA supports the Committee's recommendation made in the 2020 Interim Report on Auditing for the Australian Government to take appropriate action to make digital financial reporting standard practice in Australia.
- 1.2 The IPA's 2019 submission in response to the Inquiry into the Regulation of Auditing in Australia¹ noted the issues that arise when companies elect to lodge their financial reports with ASIC in hardcopy or non-searchable electronic forms. The key issue noted is the difficulty that ASIC experiences in monitoring and enforcing the financial reporting and auditing system. Our submission also noted that stronger enforcement of accounting and disclosure rules increases the consistency and reliability of financial reports.
- 1.3 Accordingly, the IPA's view is that a key benefit of digital financial reporting would be to enhance audit quality. The key barrier to adopting digital financial reporting is the investment required in a suitable electronic lodgement system for the regulator that provides a quick translation of financial information into a proper database. Such a database would radically improve monitoring and enforcement of the financial reporting and auditing system, and it would change ASIC's current focus on minor compliance to a more holistic monitoring system that improves the overall transparency of financial reporting and auditing in Australia.

¹ Institute of Public Accountants in conjunction with the IPA-Deakin SME Research Centre, Deakin Business School - Submission No 64 to Joint Committee on Corporations and Financial Services, Parliament of Australia, *Regulation of Auditing in Australia* (28 October 2019).