ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Oversight of ASIC, the Takeovers Panel and the Corporations Legislation

2022 - 2023

Division: Foreign Investment Division
Topic: Quality of audits
Reference: Spoken
Senator: Deborah O'Neill

Question:

CHAIR: Can I just make an observation there: there's some concern for me about the quality and standards of audit, conflicts of interest and what independence means. When a person who is marking their own homework determines whether they should look at the back of the book for the answer in the maths quiz, there are serious concerns for me about the quality of audit and its vital importance. So if you could have a look at how those entities interact with you and provide something to the committee, given the critical nature of assurance to the work that you do in the national interest, that would be helpful.

Answer:

Independent audits are compliance assurance audits mandated by a reporting condition in a No Objection Notification (NON) or Exemption Certificate (EC) that requires the foreign person to engage an independent assurance practitioner to assess their compliance with conditions imposed by that NON or EC. The assurance practitioner is procured by the foreign person, not Treasury.

Treasury's Independent Audit Program manages the condition-mandated independent audits and its framework rests on the independence of the engaged assurance practitioner. To this end, the reporting conditions require that before an independent audit can commence, the foreign person must receive Treasury approval of:

- the identity of the independent audit firm
- the individuals from the independent audit firm that will undertake the work
- the scope of work underlying the audit report
- the level of assurance provided by the audit report (together, the ‘audit proposal’).

Under the reporting conditions, the foreign person must ensure that the audit and resulting audit report is prepared in accordance with a relevant Australian Standard and that the audit report is submitted to Treasury in accordance with the timeframe established by the reporting condition. Guidance is available on the Foreign Investment website to assist foreign persons and assurance practitioners preparing an audit proposal. It includes Treasury’s expectations in relation to independence and quality control.

Treasury’s role is to assess the audit proposal against criteria relating to the independence and capabilities of the audit firm and individuals, and to review the findings of the audit report. Treasury’s assessment relies on the professional standards under which the assurance engagement is conducted (which includes ethical and quality control requirements), the assurance practitioner’s declaration of independence in both the audit proposal and audit report (including disclosure of all previous engagements by the foreign person in the audit proposal), and the quality of previous audit reports prepared by the practitioner. Should independence or quality concerns be raised in relation to a specific assurance practitioner and/or firm, Treasury would take all necessary action to ensure the integrity of the Independent Audit Program, including requiring the removal of the practitioner from current and/or future audit engagements under the Program. No such instances have occurred to date.

Treasury officers (on behalf of the Commonwealth) are also able to provide instruction directly to the audit firm in advance of the audit work commencing in accordance with provisions in the reporting conditions. As part of this process, Treasury officers may interact with assurance practitioners to discuss audit procedures and scope, and audit report findings. In all instances, written authorisation on behalf of foreign persons is obtained by Treasury before officers engage with assurance practitioners (or any third party) in respect to any matters relating to a foreign person's obligations under a NON or EC, and the F*oreign Acquisitions and Takeovers Act 1975* more broadly.

Where an audit report identifies non-compliance with any of the audited conditions, it is the responsibility of the foreign person to remedy that non-compliance. In accordance with the reporting conditions, remedial actions proposed by the foreign person must be set out in a work program prepared by the foreign person and approved by Treasury.