

The Manager
Corporate Reporting and Accountability Unit
The Treasury
Langton Crescent
PARKES ACT 2600

28 October 2011

Dear Sir/Madam

Re: Exposure Draft - Corporations Legislation Amendment (Audit Enhancement) Bill 2011

We appreciate the opportunity to comment on the Exposure Draft of the Corporations Legislation Amendment (Audit Enhancement) Bill 2011 and value the consultative approach adopted by the Treasury in its progression of these important legislative proposals to enhance audit quality in Australia.

Deloitte supports the conclusions arising from the audit quality consultation period that Australia's audit regulation framework is robust and stable, that "the framework is in line with international best practice and that no fundamental changes to the framework are required". We also consider that the proposed amendments to the Australian Securities and Investments Commission Act 2001 and the Corporations Act 2001 will contribute to the continued high quality of audits conducted by Australian auditors.

We have provided some specific comments in relation to the proposed legislation for Treasury's consideration below. We have also provided drafting comments for Treasury's consideration in the Appendix.

Specific comments

We take this opportunity to make specific comments in relation to two of the proposed amendments; the introduction of annual transparency reports and the publication of audit deficiency notifications and reports.

Annual transparency reports

We are supportive of the introduction of a requirement for auditors to prepare and publish an annual transparency report. Although the regulations outlining the specific information to be provided in the annual transparency report have not yet been issued, we strongly encourage Treasury to pursue international harmonisation as the regulations are developed.

For many years both the Australian Accounting Standards Board and the Auditing and Assurance Standards Board have pursued international harmonisation in relation to an entity's financial reports and the audits conducted thereon. We believe it would enhance the useability and comparability of annual transparency reports, and also be more efficient and cost effective for the preparers of the reports, if the Australian requirements were harmonised, for example, with those of the European Union.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/au/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Audit deficiency notification and reports

We are supportive of the principles underlying the amendments to allow ASIC to prepare a notice of audit deficiency and publish audit deficiency reports. However, we believe that the granting of such powers must be balanced with a reasonable and appropriate process to ensure the auditor is afforded procedural fairness.

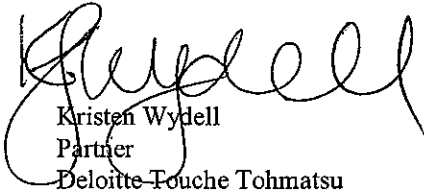
The Explanatory Material ("EM") specifically provides that "no provision has been made for a review by the AAT of ASIC's decision to publish an audit deficiency report The likely delay before an AAT review could be completed together with the 6 month period already provided for the auditor under s50B to make submissions to ASIC and to take remedial action, would effectively defeat the purpose of the audit deficiency report measures ..." (EM 4.26-4.27).

The publication of an audit deficiency report has the potential to have materially adverse reputational consequences for the auditor and, therefore, we strongly recommend that the proposed legislation provide for some form of appeal process, which does not necessitate an application to the courts. If it is considered that an AAT review process would create undue delays, the Treasury could consider other established review bodies that could more efficiently or expeditiously consider an appeal against the publication of an audit deficiency report, such as the CALDB or the Financial Reporting Panel within specified time frames. We do not believe that a fair appeal process would unduly delay the publication of the reports nor be contrary to the public interest.

We also consider that there should be an opportunity for the auditor to comment formally within the audit deficiency report, such as in the UK where the Professional Oversight Body concluded in its December 2007 paper "Reporting on Audit Quality Monitoring" that "firms should be invited to submit a letter of comment which will be included as an Appendix to the AIU report".

We look forward to continuing to contribute to Treasury's initiatives for improving audit quality. If you have any further questions please contact me on (02) 9322 5060.

Yours sincerely,



Kristen Wydell
Partner
Deloitte Touche Tohmatsu

**Corporations Legislation Amendment (Audit Enhancement) Bill 2011
APPENDIX**

Reference	Description of the proposed amendments	DTT comments
Auditor rotation		
S300(11AA) S324DAC	<p>S300(11AA) requires disclosure of the approval to extend the auditor's term in the directors report.</p> <p>The note to s324DAC provides that details of the approval and the reasons must be included in the directors' report under s300.</p>	<p>We recommend that a conforming amendment be made to the last provision in subsection 300(1) to include reference to the information required by subsection 300(11AA) as follows:</p> <p><i>Public companies, listed companies and registered schemes must include additional information under subsections (10), (11), (11A), (11AA), (11B), (12) and (13) of this section and section 300A.</i></p>
Transparency reports		
332A(2)& (3) EM2.11	<p>Draft s332A (2) gives effect to the requirement for auditors to publish an annual transparency report.</p> <p>There is an inconsistency between references to the "end of the year" in 332A (3) and "end of calendar year" in EM2.11.</p> <p>The draft legislation is currently silent on whether "the end of the year" is the end of the financial year or end of the calendar year.</p>	<p>The draft requirements include the proposed publication of financial information and other data that naturally lends itself to being considered on an annual basis in line with an audit firm's financial year.</p> <p>We recommend that consideration be given to amending the draft legislation to require that the annual transparency report be prepared and published on the auditor's website within 4 months of the end of the audit firm's financial year.</p>
332B(1) EM2.14	<p>Draft s332B (1) provides that the content of the annual transparency report must contain the information contained in the regulations.</p> <p>The EM sets out what the regulations may include when they are issued (EM 2.14).</p>	<p>The proposed regulations as set out in the EM include a number of requirements that are proposed to be included in the annual transparency report, including fees from various sources.</p> <p>We recommend that consideration be given to applying a principles based approach to the matters required to be included in the annual transparency report so that audit firms may be able to better utilise existing information to meet the aims of the legislation.</p> <p>If Treasury determines it is necessary to include more prescriptive requirements as to the information provided, then we recommend a sufficient transitional period should be provided so that auditors can establish a process whereby information is captured and categorised in accordance with the requirements.</p>

**Corporations Legislation Amendment (Audit Enhancement) Bill 2011
APPENDIX**

Reference	Description of the proposed amendments	DTT comments
Public reporting of ASIC inspection reports		
50B, 50C & 50D	ASIC will be given the power to present to the Australian auditor a notice of audit deficiency (s50B).	We recommend that the legislation define the term "Australian auditor" as it is not previously used in the Act.
50C & 50D	If after 6 months ASIC is not satisfied that the Australian auditor has taken appropriate remedial action to remedy the identified audit deficiency ASIC may prepare an audit deficiency report (s50C). ASIC may publish that report on their website (s50D).	We recommend subsection 50D (3) be amended to require ASIC to take into account any submissions made by the audit firm during the seven days before it proposes publishing the report.
50B(1) EM4.16 EM4.19	ASIC may in writing notify the Australian auditor of the identified audit deficiency (s50B (1)). The EM provides both that "ASIC is required to notify the auditor" (EM 4.16) and that "ASIC may in writing notify the Australian auditor (EM 4.19).	We consider that it is fair and reasonable that the auditor must be notified in all cases of the identified audit deficiency and we recommend that Subsection 50B (1) be amended to state that ASIC must notify the Australian auditor in writing.
50B(2)(a)(ii)	The notice must set out "any remedial action that ASIC thinks necessary to remedy the deficiency" (s50B (2) (a)(ii)).	We recommend that the remedial action that ASIC can propose to remedy the deficiency should be just and proportionate to the alleged deficiency.
50C(2)	The report must set out certain things such as the identified audit deficiency, the remedial action that ASIC thinks necessary, whether the auditor has taken remedial action and "such other matters in relation to the deficiency as ASIC thinks fit" (s50C(2)(e)).	We recommend that subsections 50C(2)(c) and (d) provide that ASIC be required to also include in the report the reasons provided by the auditor as to why it has or has not taken remedial action. We also recommend that subsection 50(3) provide that ASIC must take into account submissions received from the auditor in the preparation of the audit deficiency report, not just prior to the preparation of the report.
ASIC reporting to the audit committee		
127(2D)	The proposed amendments to s127 give ASIC the power to report findings from either the inspection process or their other surveillance programs directly to the audit committee, the directors, or senior manager of the company.	It is arguable whether the amendments in s127 are required to clarify ASIC's powers. We recommend in any case that there be a requirement for ASIC to inform the auditor prior to communicating with the audit committee, directors or senior management of the company with respect to information about how an audit of the company was conducted by the auditor.