

EXPOSURE DRAFT

2010-2011

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

EXPOSURE DRAFT

Corporations Legislation Amendment (Audit Enhancement) Bill 2011

No. , 2011

(Treasury)

A Bill for an Act to amend the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*, and for related purposes

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1 **A Bill for an Act to amend the Corporations Act**
2 **2001 and the Australian Securities and Investments**
3 **Commission Act 2001, and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Corporations Legislation Amendment*
7 *(Audit Enhancement) Act 2011*.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.

13

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	The 28th day after this Act receives the Royal Assent.	
3. Schedule 2	The day this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

3 Schedule(s)

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.
12

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Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

1
2 **Schedule 1—Amendment of the Corporations**
3 **Act 2001**

4 **Part 1—Auditor rotation requirements**

5 **1 Subsection 300(11) (heading)**

6 Repeal the heading, substitute:

7 *Special rules for listed companies and schemes*

8 **2 After subsection 300(11)**

9 Insert:

10 (11AA) If an individual plays a significant role in the audit of a listed
11 company or listed registered scheme for the financial year in
12 reliance on an approval granted under section 324DAA, the report
13 for the company or scheme must also include details of, and
14 reasons for, the approval.

15 **3 Subsection 311(5)**

16 Omit “2M.3”, substitute “2M.3, or section 324DAA, 324DAB or
17 324DAC,”.

18 **4 Paragraph 324DA(3)(a)**

19 Repeal the paragraph, substitute:

20 (a) either:

- 21 (i) the directors of the company or scheme grant an
22 approval under section 324DAA in relation to the
23 individual; or
24 (ii) ASIC makes a declaration under paragraph 342A(1)(a)
25 in relation to the individual; and

26 **5 Paragraph 324DA(3)(b)**

27 Omit “the declaration”, substitute “the approval or the declaration”.

28 **6 After section 324DA**

29 Insert:

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

324DAA Directors may extend eligibility term

- 1
- 2 (1) Subject to section 324DAB, the directors of a listed company, or of
3 a listed registered scheme, may, by resolution, grant an approval
4 for an individual to play a significant role in the audit of the
5 company or scheme for not more than 2 successive financial years
6 in addition to the 5 successive financial years mentioned in
7 subsection 324DA(1).
- 8 (2) The approval must be granted before the end of those 5 successive
9 financial years.
- 10 (3) If the directors grant the approval, subsection 324DA(1) applies to
11 the individual, in relation to the audit of the company or scheme, as
12 if the references in that subsection to 5 successive financial years
13 were references to:
- 14 (a) if the approval is for one additional successive financial
15 year—6 successive financial years; or
16 (b) if the approval is for an additional 2 successive financial
17 years—7 successive financial years.

324DAB Requirements for directors to approve extension of eligibility term

Requirements if company or scheme has audit committee

- 18
- 19
- 20
- 21 (1) If a listed company, or the responsible entity of a listed registered
22 scheme, has an audit committee:
- 23 (a) an approval under section 324DAA must not be granted
24 unless it is in accordance with a recommendation provided by
25 the audit committee; and
26 (b) the resolution granting the approval must set out the reasons
27 why the audit committee is satisfied as mentioned in
28 paragraph (2)(d) of this section.
- 29 Note: Directors are not required to grant an approval merely because the
30 audit committee has recommended that an approval be granted.
- 31 (2) An approval is taken to be made in accordance with a
32 recommendation provided by the audit committee only if:
- 33 (a) the approval is consistent with the audit committee's
34 recommendation; and

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Amendment of the Corporations Act 2001 **Schedule 1**
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- 1 (b) the recommendation is endorsed by a resolution passed by
2 the members of the audit committee; and
3 (c) the recommendation is in writing signed by a member of the
4 audit committee on behalf of the audit committee and given
5 to the directors of the company or scheme; and
6 (d) the recommendation states that the audit committee is
7 satisfied that the approval:
8 (i) is necessary to safeguard the quality of the audit
9 provided to the company or scheme; and
10 (ii) would not give rise to a conflict of interest situation (as
11 defined in section 324CD);
12 and sets out the reasons why the committee is so satisfied.

13 *Requirements if company or scheme does not have audit committee*

- 14 (3) If a listed company, or the responsible entity of a listed registered
15 scheme, does not have an audit committee:
16 (a) an approval under section 324DAA must not be granted
17 unless the directors of the company or scheme are satisfied
18 that the approval:
19 (i) is necessary to safeguard the quality of the audit
20 provided to the company or scheme; and
21 (ii) would not give rise to a conflict of interest situation (as
22 defined in section 324CD); and
23 (b) the resolution granting the approval must set out the reasons
24 why the directors are so satisfied.

25 *Auditor must have agreed to extension*

- 26 (4) The directors of a listed company, or of a listed registered scheme,
27 must not grant an approval under section 324DAA unless:
28 (a) if the individual to whom the approval relates does not act on
29 behalf of an audit firm or company—the individual agrees, in
30 writing, to the approval being granted; or
31 (b) if the individual to whom the approval relates acts on behalf
32 of an audit firm or company—the audit firm or company on
33 whose behalf the individual acts agrees, in writing, to the
34 approval being granted.

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

1 **324DAC Notifications about approval to extend eligibility term**

2 If the directors of a listed company, or of a listed registered
3 scheme, grant an approval under section 324DAA, the directors
4 must, within 14 days of granting the approval, give a copy of the
5 resolution granting the approval to:

- 6 (a) ASIC; and
7 (b) if the individual to whom the approval relates does not act on
8 behalf of an audit firm or company—the individual; and
9 (c) if the individual to whom the approval relates acts on behalf
10 of an audit firm or company—the audit firm or company on
11 whose behalf the individual acts.

12 Note: Details of the approval, and the reasons for the approval, must be
13 included in the directors' report under section 300.

14 **324DAD Approval ineffective unless it complies with requirements**

15 A purported grant of approval under section 324DAA is ineffective
16 unless the requirements of sections 324DAA, 324DAB and
17 324DAC are complied with in relation to the approval.

18 **7 Section 344 (heading)**

19 Repeal the heading, substitute:

20 **344 Contravention of Part 2M.2 or 2M.3, or of certain provisions of**
21 **Part 2M.4**

22 **8 Subsection 344(1)**

23 Omit “2M.3”, substitute “2M.3, or section 324DAA, 324DAB or
24 324DAC”.

25 **9 Subsection 601HG(11)**

26 Omit “2M.3”, substitute “2M.3, or section 324DAA, 324DAB or
27 324DAC,”.
28

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Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

1

2

Part 2—Annual transparency reports

3

10 Section 9

4

Insert:

5

annual transparency report has the meaning given by subsection
332A(2).

6

7

11 Section 9

8

Insert:

9

transparency reporting auditor has the meaning given by
section 332.

10

11

12 After Part 2M.4

12

Insert:

13

Part 2M.4A—Annual transparency reports for auditors

14

15

16

332 Meaning of *transparency reporting auditor*

17

A *transparency reporting auditor* is:

18

(a) an individual auditor; or

19

(b) an audit firm; or

20

(c) an authorised audit company.

21

332A Transparency reporting auditors must publish annual transparency reports

22

23

(1) This section applies if, during a calendar year, a transparency
reporting auditor conducts audits, under Division 3 of Part 2M.3,
of 10 or more bodies of any of the following kinds:

24

25

26

(a) listed companies;

27

(b) listed registered schemes;

28

(c) ADIs (authorised deposit-taking institutions) within the
meaning of the *Banking Act 1959*;

29

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

1 (d) bodies mentioned in paragraph (c) or (e) of the definition of
2 **body regulated by APRA** in subsection 3(2) of the *Australian*
3 *Prudential Regulation Authority Act 1998*;

4 (e) bodies prescribed by the regulations for the purposes of this
5 paragraph.

6 Note: The 10 or more bodies do not all have to be of the same kind. This
7 section applies (for example) if, during the year, the transparency
8 reporting auditor conducts audits of 6 listed companies and 4 listed
9 registered schemes.

10 (2) The auditor must publish an **annual transparency report** for the
11 year, containing the information required by section 332B, on the
12 auditor's website within the period of 4 months after the end of the
13 year (or that period as extended under section 332C).

14 Note: Failure to comply with this subsection is an offence (see subsection
15 1311(1)).

16 (3) The auditor must send an electronic copy of the report to ASIC on
17 or before the day it is first published on the auditor's website.

18 Note: Failure to comply with this subsection is an offence (see subsection
19 1311(1)).

20 (4) An offence based on subsection (2) or (3) is an offence of strict
21 liability.

22 Note: For strict liability, see section 6.1 of the *Criminal Code*.

23 **332B Content of annual transparency report**

24 (1) Subject to subsection (2), an annual transparency report must
25 contain the information prescribed by the regulations.

26 (2) The report may omit information that would otherwise be included
27 under subsection (1) if the inclusion of the information is likely to
28 result in unreasonable prejudice to the transparency reporting
29 auditor. If material is omitted, the report must say so.

30 **332C Extension of period for publication of annual transparency** 31 **report**

32 (1) On an application made by a transparency reporting auditor in
33 accordance with subsection (3), ASIC may make an order
34 extending the period within which the auditor must publish an
35 annual transparency report.

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Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

- 1 (2) The order may be expressed to be subject to conditions.
- 2 (3) The application must be:
- 3 (a) in writing; and
- 4 (b) lodged with ASIC before the end of the period within which
- 5 the auditor would otherwise be required to publish the report;
- 6 and
- 7 (c) if the auditor is an individual auditor—signed by the auditor;
- 8 and
- 9 (d) if the auditor is an audit firm—signed by a member of the
- 10 firm who is a registered company auditor both:
- 11 (i) in the firm name; and
- 12 (ii) in the member’s own name; and
- 13 (e) if the auditor is an audit company:
- 14 (i) authorised by a resolution of the directors; and
- 15 (ii) signed by a director.
- 16 (4) ASIC must give the auditor written notice of the making of the
- 17 order.
- 18 (5) If the order is expressed to be subject to conditions, the auditor
- 19 must comply with those conditions.
- 20 Note: Failure to comply with this subsection is an offence (see subsection
- 21 1311(1)).
- 22 (6) An offence based on subsection (5) is an offence of strict liability.
- 23 Note: For strict liability, see section 6.1 of the *Criminal Code*.

24 **332D Exemption from requirements relating to annual transparency**

25 **reports**

- 26 (1) On an application made by a transparency reporting auditor in
- 27 accordance with subsection (3), ASIC may make an order in
- 28 writing relieving the auditor from compliance with all or specified
- 29 requirements of sections 332A and 332B.
- 30 Note: For the criteria for making orders under this section, see section 332E.
- 31 (2) The order may:
- 32 (a) be expressed to be subject to conditions; and
- 33 (b) be indefinite or limited to a specified period.

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

- 1 (3) The application must be:
2 (a) in writing; and
3 (b) lodged with ASIC; and
4 (c) if the auditor is an individual auditor—signed by the auditor;
5 and
6 (d) if the auditor is an audit firm—signed by a member of the
7 firm who is a registered company auditor both:
8 (i) in the firm name; and
9 (ii) in the member's own name; and
10 (e) if the auditor is an audit company:
11 (i) authorised by a resolution of the directors; and
12 (ii) signed by a director.
- 13 (4) ASIC must give the auditor written notice of the making or
14 revocation of the order.
- 15 (5) If the order is expressed to be subject to conditions, the auditor
16 must comply with those conditions.
- 17 Note: Failure to comply with this subsection is an offence (see subsection
18 1311(1)).
- 19 (6) An offence based on subsection (5) is an offence of strict liability.
20 Note: For strict liability, see section 6.1 of the *Criminal Code*.

21 **332E Exemption orders—criteria for orders**

- 22 (1) To make an order under section 332D exempting a transparency
23 reporting auditor from one or more requirements of sections 332A
24 and 332B, ASIC must be satisfied that complying with the
25 requirements would:
26 (a) be inappropriate in the circumstances; or
27 (b) impose unreasonable burdens.
- 28 (2) In deciding for the purposes of subsection (1) whether complying
29 with the requirements would impose an unreasonable burden on a
30 transparency reporting auditor, ASIC is to have regard to:
31 (a) the expected costs of complying with the requirements; and
32 (b) the expected benefits of having the auditor comply with the
33 requirements; and
34 (c) any practical difficulties that the auditor faces in complying
35 effectively with the requirements; and

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- 1 (d) any unusual aspects of the operations of the auditor; and
2 (e) any other matters that ASIC considers relevant.

3 **332F Offences by members of audit firm**

- 4 (1) This Part applies to an audit firm as if it were a person, but with the
5 changes set out in this section.
- 6 (2) An obligation that would otherwise be imposed on the firm by a
7 provision of this Part is imposed on each member of the firm
8 instead, but may be discharged by any of the members.
- 9 (3) An offence based on a provision of this Part that would otherwise
10 be committed by the audit firm is taken to have been committed by
11 each member of the firm.
- 12 (4) A member of the firm does not commit an offence because of
13 subsection (3) if the member:
- 14 (a) does not know of the circumstances that constitute the
15 contravention of the provision concerned; or
- 16 (b) knows of those circumstances but takes all reasonable steps
17 to correct the contravention as soon as possible after the
18 member becomes aware of those circumstances.

19 Note: A defendant bears an evidential burden in relation to the matters in
20 subsection (4)—see subsection 13.3(3) of the *Criminal Code*.

21 **13 Schedule 3 (after table item 116NB)**

22 Insert:

116NC	Subsection 332A(2)	10 penalty units.
116ND	Subsection 332A(3)	10 penalty units.
116NE	Subsection 332C(5)	10 penalty units.
116NF	Subsection 332D(5)	10 penalty units.

23

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

1

2 **Part 3—Transitional provisions**

3 **14 At the end of Chapter 10**

4 Add:

5 **Part 10.18—Transitional provisions relating to the**
6 **Corporations Legislation Amendment**
7 **(Audit Enhancement) Act 2011**
8

9 **1526 Definitions**

10 In this Part:

11 *amending Act* means the *Corporations Legislation Amendment*
12 *(Audit Enhancement) Act 2011*.

13 *commencement* means the commencement of Schedule 1 to the
14 amending Act.

15 **1527 Application of amendments relating to annual transparency**
16 **reports**

17 The amendments made by Part 2 of Schedule 1 to the amending
18 Act apply in relation to annual transparency reports for:

- 19 (a) the first calendar year that ends after commencement (even if
20 part of that year occurs before commencement); and
21 (b) all later calendar years.
22

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Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

1
2 **Schedule 2—Amendment of the Australian**
3 **Securities and Investments**
4 **Commission Act 2001**

5 **Part 1—Auditor independence functions**

6 **1 Subsection 5(1) (definition of *auditor independence***
7 ***requirements*)**

8 Repeal the definition.

9 **2 Paragraph 225(1)(c)**

10 Repeal the paragraph.

11 **3 Paragraph 225(1)(d)**

12 Omit “(a), (b) and (c)”, substitute “(a) and (b)”.

13 **4 Paragraph 225(1)(e)**

14 Omit “(specific auditor independence functions)”, substitute “(specific
15 auditor quality functions)”.

16 **5 Subsection 225(2B)**

17 Repeal the subsection, substitute:

18 *Specific auditor quality functions*

19 (2B) The FRC functions include giving strategic policy advice and
20 reports, to the Minister and professional accounting bodies, in
21 relation to the quality of audits conducted by Australian auditors.

22 (2C) Without limiting subsection (2B), the FRC functions also include
23 giving strategic policy advice and reports, to the Minister and
24 professional accounting bodies, in relation to any of the following:

25 (a) the systems and processes used by Australian auditors to
26 comply with:

27 (i) the provisions of the Corporations Act dealing with the
28 conduct of audits; and

29 (ii) the auditing standards; and

30 (iii) applicable codes of professional conduct;

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

- 1 (b) the systems and processes used by professional accounting
2 bodies for planning and performing quality assurance reviews
3 of audit work undertaken by Australian auditors;
- 4 (c) the action that Australian auditors who have been subject to
5 such quality assurance reviews have taken in response to the
6 reports prepared as a result of those reviews;
- 7 (d) the action taken by professional accounting bodies to ensure
8 that Australian auditors who have been subject to such
9 quality assurance reviews respond appropriately to the
10 reports prepared as a result of those reviews;
- 11 (e) the investigation and disciplinary procedures of professional
12 accounting bodies as those procedures apply to Australian
13 auditors;
- 14 (f) the adequacy of:
15 (i) the provisions of the Corporations Act dealing with the
16 conduct of audits; and
17 (ii) the auditing standards; and
18 (iii) applicable codes of professional conduct;
19 in light of international developments in relation to audit
20 quality;
- 21 (g) the teaching of professional and business ethics by, or on
22 behalf of, professional accounting bodies to the extent to
23 which the teaching of those subjects relates to audit quality.

24 (2D) A report under subsection (2B) or (2C) is not a legislative
25 instrument.

26 **6 Subsections 225A(5) and (6)**

27 Repeal the subsections.

28 **7 Subsection 225A(7)**

29 Omit “or (5)”.

30 **8 Paragraph 225A(7)(a)**

31 Omit “or Australian auditor”.

32 **9 Paragraph 225A(7)(b)**

33 Omit “or auditor”.

34 **10 Subsection 225A(8)**

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Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

1 Omit “or Australian auditor”.

2 **11 Subsection 225A(8)**

3 Omit “or auditor”.

4 **12 Paragraph 225A(9)(a)**

5 Omit “or (5)”.

6 **13 Subsections 225A(11), (12) and (13)**

7 Repeal the subsections.

8 **14 Section 235BA**

9 Repeal the section.

10

EXPOSURE DRAFT

Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

1

2 Part 2—Audit deficiency reports

3 15 Subsection 5(1)

4 Insert:

5 *audit deficiency report* has the meaning given by subsection
6 50C(1).

7 16 After Division 5 of Part 3

8 Insert:

9 Division 5A—Audit deficiency notifications and reports

10 50A Application

11 (1) This Division applies to an audit deficiency (the *identified audit*
12 *deficiency*) that:

- 13 (a) is identified by ASIC in circumstances described in
14 subsection (2) in relation to an audit conducted by an
15 Australian auditor; and
16 (b) consists of any of the following:
17 (i) a failure by the auditor to comply with the auditing
18 standards;
19 (ii) a failure by the auditor to comply with the auditor
20 independence requirements in the Corporations Act;
21 (iii) a failure by the auditor to comply with any applicable
22 code of professional conduct;
23 (iv) a failure by the auditor to comply with the provisions of
24 the Corporations Act dealing with the conduct of audits.

25 (2) For the purposes of paragraph (1)(a), the circumstances are that the
26 identified audit deficiency is identified by ASIC while exercising
27 its powers or functions:

- 28 (a) in relation to audit-related matters (*Corporations Act audit*
29 *requirements*) under Chapter 2M or Part 9.2 or 9.2A of the
30 Corporations Act or under other provisions of that Act that
31 relate to that Chapter or that Part; or

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Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

- 1 (b) for the purposes of ascertaining compliance with
2 Corporations Act audit requirements; or
3 (c) in relation to:
4 (i) an alleged or suspected contravention of Corporations
5 Act audit requirements; or
6 (ii) an alleged or suspected contravention of a law of the
7 Commonwealth, or of a State or Territory in this
8 jurisdiction, being a contravention that relates to an
9 audit matter and that either concerns the management or
10 affairs of a body corporate or involves fraud or
11 dishonesty and relates to a body corporate; or
12 (d) for the purposes of an investigation under Division 1 of this
13 Part relating to a contravention referred to in paragraph (c).

14 **50B Notice of audit deficiency**

- 15 (1) ASIC may, in writing, notify the Australian auditor of the
16 identified audit deficiency.
17 (2) The notice must:
18 (a) set out:
19 (i) the identified audit deficiency; and
20 (ii) any remedial action that ASIC thinks necessary to
21 remedy the deficiency; and
22 (iii) such other matters in relation to the deficiency as ASIC
23 thinks fit; and
24 (b) invite the auditor to make written submissions to ASIC,
25 within 6 months, about the deficiency and any remedial
26 action taken, or proposed to be taken, to remedy the
27 deficiency.

28 **50C Audit deficiency report**

- 29 (1) At any time after the end of the 6 month period, ASIC may prepare
30 an **audit deficiency report** if ASIC is satisfied that the Australian
31 auditor has not taken appropriate remedial action to remedy the
32 identified audit deficiency.
33 (2) The report must set out:
34 (a) the identified audit deficiency; and

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

- 1 (b) the remedial action that ASIC thinks necessary to remedy the
2 deficiency; and
- 3 (c) if the auditor has taken remedial action to remedy the
4 deficiency—details of the remedial action; and
- 5 (d) if the auditor has not taken any remedial action—that fact;
6 and
- 7 (e) such other matters in relation to the deficiency as ASIC
8 thinks fit.
- 9 (3) Before preparing the report, ASIC must take into account:
- 10 (a) any submissions received from the auditor in response to an
11 invitation under paragraph 50B(2)(b); and
- 12 (b) whether or not the auditor has taken any remedial action to
13 remedy the deficiency.
- 14 (4) The report is not a legislative instrument.

50D Publication of report

- 15
- 16 (1) Subject to subsections (2) and (3), ASIC may, if it considers it
17 appropriate to do so, publish the report on its website.
- 18 (2) If ASIC publishes the report on its website, the report:
- 19 (a) if the audit to which the report relates was conducted by an
20 audit firm or audit company:
- 21 (i) may disclose identifying particulars of the audit firm or
22 audit company; but
- 23 (ii) must not disclose identifying particulars of any
24 professional member of the audit team involved in the
25 audit; and
- 26 (b) if the audit to which the report relates was conducted by an
27 individual auditor who did not act on behalf of an audit firm
28 or audit company:
- 29 (i) may disclose identifying particulars of the auditor; but
- 30 (ii) must not disclose identifying particulars of any other
31 professional member of the audit team involved in the
32 audit; and
- 33 (c) must not disclose identifying particulars of the audited body.

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Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

- 1 (3) At least 7 days before publishing the report on its website, ASIC
2 must give a copy of the report to the Australian auditor to which
3 the report relates.
- 4 (4) In this section:
- 5 *identifying particulars:*
- 6 (a) in relation to an audit firm, an audit company, an individual
7 auditor referred to in paragraph (2)(b) or an audited body,
8 means:
- 9 (i) the name, or a business name, of the firm, company,
10 auditor or body; or
- 11 (ii) any other particulars that would enable the firm,
12 company, auditor or body to be identified; or
- 13 (b) in relation to a professional member of an audit team (other
14 than an individual auditor referred to in paragraph (2)(b)),
15 means:
- 16 (i) the name of the member; or
17 (ii) any other particulars that would enable the member to
18 be identified.
19

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Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

1

2

Part 3—Communications with corporations, registered schemes and disclosing entities

3

4

17 After subsection 127(2C)

5

Insert:

6

(2D) If the Chairperson is satisfied that:

7

(a) information is obtained by ASIC in circumstances described
in subsection (2E); and

8

9

(b) the information is:

10

(i) about how an audit of a company, registered scheme or
disclosing entity was conducted by an Australian
auditor; or

11

12

13

(ii) about the company's, scheme's or entity's compliance
with the requirements in Chapter 2M of the
Corporations Act to prepare financial statements and
reports, or with the continuous disclosure requirements
of sections 674 and 675 of the Corporations Act; and

14

15

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18

(c) the information should be disclosed to the company, to the
responsible entity of the registered scheme, or to the
disclosing entity, in order to assist the company, scheme or
entity to properly manage its affairs;

19

20

21

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the disclosure of the information, by a person whom the
Chairperson authorises for the purpose, is taken to be authorised
use and disclosure of the information if the information is disclosed
to the directors, the audit committee, or a senior manager, of the
company, responsible entity or disclosing entity (as the case
requires).

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(2E) For the purposes of paragraph (2D)(a), the circumstances are that
the information is obtained by ASIC while exercising its powers or
functions:

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(a) in relation to audit-related matters (*Corporations Act audit
requirements*) under Chapter 2M or Part 9.2 or 9.2A of the
Corporations Act or under other provisions of that Act that
relate to that Chapter or that Part; or

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(b) for the purposes of ascertaining compliance with
Corporations Act audit requirements; or

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EXPOSURE DRAFT

Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

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- (c) in relation to:
 - (i) an alleged or suspected contravention of Corporations Act audit requirements; or
 - (ii) an alleged or suspected contravention of a law of the Commonwealth, or of a State or Territory in this jurisdiction, being a contravention that relates to an audit matter and that either concerns the management or affairs of a body corporate or involves fraud or dishonesty and relates to a body corporate; or
- (d) for the purposes of an investigation under Division 1 of Part 3 of this Act relating to a contravention referred to in paragraph (c).

EXPOSURE DRAFT

Schedule 1 Amendment of the Corporations Act 2001

Part 1 Auditor rotation requirements

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2 Part 4—Transitional provisions

3 18 At the end of the Act

4 Add:

5 Part 19—Transitional provisions relating to the 6 Corporations Legislation Amendment 7 (Audit Enhancement) Act 2011 8

9 292 Definitions

10 In this Part:

11 *amending Act* means the *Corporations Legislation Amendment*
12 *(Audit Enhancement) Act 2011*.

13 *commencement* means the commencement of Schedule 2 to the
14 amending Act.

15 293 Amendments made by Part 1 of Schedule 2—final report on 16 auditor independence functions

17 (1) Subject to subsection (2), section 235BA of the *Australian*
18 *Securities and Investments Commission Act 2001* continues
19 (despite its repeal) to apply so as to require a report for the period
20 beginning on 1 July 2011 and ending on commencement, as if that
21 period were a year ending on 30 June.

22 (2) The report referred to in subsection (1) must be included in the
23 report, for the year ending on that 30 June, given to the Minister
24 under section 235B of the *Australian Securities and Investments*
25 *Commission Act 2001*.

26 294 Application of amendments made by Parts 2 and 3 of Schedule 2

27 (1) The amendments made by Part 2 of Schedule 2 to the amending
28 Act apply in relation to audit deficiencies identified by ASIC after
29 commencement.

EXPOSURE DRAFT

Amendment of the Corporations Act 2001 **Schedule 1**
Auditor rotation requirements **Part 1**

- 1 (2) The amendment made by Part 3 of Schedule 2 to the amending Act
2 applies in relation to information obtained by ASIC after
3 commencement.