



ASIC

Australian Securities & Investments Commission

CONSULTATION PAPER 50

CLERP 9: Auditor registration

April 2004

Your comments

You are invited to comment on the proposals and issues for consideration in this paper, including the explanation sections.

Comments are due by 18 May 2004 and should be sent to:

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You can also contact the ASIC Infoline on 1300 300 630 for information and assistance.

What this policy proposal is about

1 The Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003 (the CLERP 9 Bill) will 'update and enhance' the existing regulatory requirements in Pt 9.2 of the *Corporations Act 2001* (the Act), which apply to accountants seeking registration as company auditors.

2 Part 2 of Schedule 1 of the CLERP 9 Bill applies to individuals who wish to become registered as auditors. It:

- (a) revises the educational requirements for registration to include completion of a specialist course in auditing;
- (b) allows the practical experience requirements for registration to be satisfied by completion of all the components of an auditing competency standard (competency standard);
- (c) makes an auditor's continued registration subject to compliance with any conditions that may be imposed by ASIC in accordance with the regulations; and
- (d) replaces the requirement for auditors to lodge a triennial statement with a new requirement to lodge an annual statement with ASIC.

3 Part 4 of Schedule 1 of the CLERP 9 Bill applies to companies that wish to register as authorised audit companies. It:

- (a) sets out the regulatory requirements for a company to be registered as an authorised audit company;
- (b) makes that company's continued registration subject to compliance with any conditions that may be imposed by ASIC; and
- (c) requires the authorised audit company to lodge an annual statement with ASIC.

4 This policy proposal paper sets out:

- (a) our approach to registration of an individual as a company auditor or a company as an authorised audit company (**Section A**);

- (b) our approach to how we will use the power to approve an auditing competency standard under cl 1280A of the CLERP 9 Bill (**Section B**); and
- (c) our approach to the lodgment of annual statements by registered company auditors and authorised audit companies (**Section C**).

5 The **Schedule** aims to provide you with an indication of the general systems and procedures that we intend to put in place for the auditor registration process. Although it does not form part of the auditor registration policy proposals in the main paper, we welcome any feedback you may have.

6 This paper does not discuss the professional indemnity insurance arrangements that you must have to register a company as an authorised audit company. That will be covered by a separate policy proposal paper.

7 This paper is part of a series of CLERP 9 policy publications and should be read in conjunction with *Building the CLERP 9 Administrative Framework: Policy to implement the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003—An ASIC guide*, February 2004 (CLERP 9 Administrative Framework Guide).

8 We do not expect the CLERP 9 Bill to commence until 1 July 2004 at the earliest. Note that cl 1456 of the CLERP 9 Bill provides that applications for registration as a company auditor made before 1 July 2004 will be processed in accordance with the requirements in force at the time the application was lodged. Where relevant, further information regarding transitional arrangements is provided in the policy proposal explanations. The CLERP 9 Bill does not require auditors already registered with us to re-register.

Important note: This paper is based on the CLERP 9 Bill as introduced into Parliament on 4 December 2003. It refers to proposed amendments to the Act set out in the CLERP 9 Bill. This paper is not final ASIC policy. The timing and content of ASIC's policy and other publications depends on the timing of the CLERP 9 Bill's progress through Parliament, whether amendments are made to it during the legislative process and the content of any regulations.

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Policy proposals

In this paper we have three sections:

- (a) **Section A** discusses our approach to registration of an individual as a company auditor or a company as an authorised audit company.
- (b) **Section B** discusses our approach to how we will use the power to approve an auditing competency standard under cl 1280A of the CLERP 9 Bill.
- (c) **Section C** sets out our approach to the lodgment of annual statements by registered company auditors and authorised audit companies.

The **Schedule** includes the proposed process and requirements for auditor registration.

For each section we set out the proposals and identify issues that we would like you to comment on. Where necessary we have also included explanations of our proposals.

Special note: There may be other issues that you consider important. We are keen to hear from you on our general approach and any other issues you consider important, as well as your answers to our specific questions.

A Registration of company auditors and authorised audit companies

Policy proposal	Your feedback
<p>Individual company auditors</p> <p>A1 To become registered as a company auditor, you must lodge with us documents establishing that you meet all of the relevant statutory requirements. These include that you:</p> <ul style="list-style-type: none"> (a) have completed the educational requirements specified in cl 1280(2A) of the CLERP 9 Bill, or that you have qualifications and experience that are, in our opinion, equivalent to those requirements; and (b) can meet the prescribed practical experience requirement (to be set out in regulations) or an approved competency standard; and (c) are capable of performing the duties of an auditor and are otherwise a fit and proper person. <p>Note: These requirements will be set out in s1280 of the Act (as amended by the CLERP 9 Bill).</p> <p>Educational qualifications</p> <p>A2 To establish qualifications and experience equivalent to the requirements in cl 1280(2A) of the CLERP 9 Bill you must lodge with us evidence that you have:</p> <ul style="list-style-type: none"> (a) qualifications and experience relevant to company auditing; and (b) a sufficient knowledge of Australian company law, tax law and Australian accounting and auditing standards. <p>Note: This requirement only applies if the individual does not already meet the test in cl 1280(2A) of the</p>	<p>A2Q1 Do you agree with this approach? If not, give reasons.</p>

Policy proposal	Your feedback
<p>CLERP 9 Bill: see also policy proposal (a) in paragraph [A1].</p> <p>A3 To ensure that any qualifications and experience we recognise is equivalent to the requirements in cl 1280(2A) of the CLERP 9 Bill, we will require independent evidence of your qualifications and experience. We will focus on whether you have both qualifications and experience relevant to company auditing in making our assessment.</p> <p>A4 We will generally accept that you have satisfied the equivalent qualifications requirement under the CLERP 9 Bill if you can give us:</p> <ul style="list-style-type: none"> (a) a certified copy of a certificate showing that you have completed a course of study of accountancy (including auditing) of not less than three years duration, and of commercial law (including company law of not less than two years duration), as well as a certified copy of your academic record; (b) evidence that you have at least three years practical experience in company auditing in a place where ASIC considers the auditing standards are equivalent to Australian standards; (c) evidence showing that you have sufficient knowledge of Australian company law, tax law, and Australian accounting and auditing standards (e.g. if your practical experience was gained overseas, you should give us a certified copy of a document showing that you have completed appropriate conversion courses); and (d) evidence that you have at least 12 months practical experience in company audits of financial 	<p>A3Q1 Do you agree with this approach? If not, give reasons.</p> <p>A4Q1 Do you agree these documents adequately demonstrate equivalent qualifications as referred to in the Bill? If not, how else can equivalent qualifications be demonstrated to us? Give details.</p> <p>A4Q2 Which jurisdictions should we recognise as having auditing standards equivalent to Australian standards? What criteria should we use in assessing these jurisdictions? Give details.</p>

Policy proposal	Your feedback
<p>information in accordance with Australian accounting and auditing standards.</p> <p>We will consider applications for registration that do not meet these requirements on a case-by-case basis.</p> <p>Capable of performing the duties of an auditor</p> <p>A5 We consider that a person is ‘capable’ of performing their professional responsibilities as an individual auditor if they can meet their general duty of care and skill, and perform their duties in a manner that is not negligent.</p> <p>A6 To help establish that you are capable of performing duties as an auditor you should provide us with two referees’ reports from people who know your work. At least one of the reports should be from a registered company auditor who has supervised your work.</p> <p>Note: Prior to registration, we must be satisfied an applicant is capable of performing the duties as an auditor: see s1280(2)(c) of the Act. See policy proposal paragraph [A1] for other requirements for registration.</p>	<p>A5Q1 Do you agree with this approach? If not, give reasons.</p>
<p>Fit and proper person</p> <p>A7 You must tell us whether you have been found guilty of (or whether you have proceedings pending for) acts of:</p> <ul style="list-style-type: none"> (a) dishonesty, such as theft and fraud; (b) professional misconduct, such as serious breaches of the regulations of a professional body that you are a member of; or (c) other misconduct, such as other criminal offences. <p>Note 1: Prior to registration, we must be satisfied an applicant is a fit and proper person: see s1280(2)(c) of</p>	<p>A7Q1 Do you agree with this approach? If not, give reasons.</p> <p>A7Q2 Are there other categories of misconduct that should be specified? If so, what are they?</p>

Policy proposal

the Act. See policy proposal paragraph [A1] for other requirements for registration.

Note 2: Paragraph 9 of the Explanation sets out what we think may constitute professional misconduct.

Conditions on registration

A8 We will impose conditions on all new individual auditors applying for registration. These may include, for example, conditions to ensure that similar levels of training and quality assurance to those required by professional accounting bodies apply to all auditors. To ensure appropriate standards, or if we have concerns about the conduct of an auditor or auditors, we may also impose conditions even if the auditor is already registered.

Note 1: The bodies that are professional accounting bodies are yet to be set out in regulations.

Note 2: We may only make conditions relating to certain topics that are yet to be set out in regulations.

Authorised audit companies

A9 We may cancel or suspend the registration of an authorised audit company if it ceases to be eligible to be registered or fails to comply with any conditions of registration. We will impose a condition on registration requiring a company to notify us of any matter that makes it ineligible for registration.

A10 In deciding whether to cancel or suspend the registration of an authorised audit company under cl 1299I of the CLERP 9 Bill, we will consider:

- (a) the seriousness of the breach;
- (b) whether the breach has been remedied;
- (c) the impact on clients and users of

Your feedback

A8Q1 Do you agree with this approach? If not, give reasons.

A8Q2 Should we impose conditions on all new auditors even if they are members of a professional accounting body? If not, how can we adequately supervise auditors who cease to be members at some time in the future?

A9Q1 Is our proposed condition appropriate? If not, give reasons.

A9Q2 What other conditions should we impose on authorised audit companies? Why?

A10Q1 Are there any other factors that we should consider? Why?

Policy proposal	Your feedback
financial reports; and (d) any other matters we consider relevant.	

Explanation

Individual company auditors

1 Our auditor registration proposals aim to set minimum standards of both **competence** and **integrity**. This will help protect investors and other users of financial reports. We intend to generally require you to lodge with us statements and documents from third parties that establish you meet the requirements to become an auditor.

2 Specifically, a person who applies to be registered as a company auditor must demonstrate sufficient competence and integrity to express a professional opinion that the financial report of a company, registered scheme or disclosing entity is reliable and in accordance with the Act. This will require an understanding of Australian requirements and practices.

3 Our proposed policy aims to interpret and apply the CLERP 9 Bill provisions in line with the objective of the legislature. The Explanatory Memorandum to the CLERP 9 Bill states that the ‘Bill will update and enhance the qualification requirements applying to accountants who seek registration as company auditors’: para 5.77.

Educational qualifications

4 Under cl 1280(2A) of the CLERP 9 Bill, you must have:

- (a) completed a degree from a prescribed institution covering accounting (three years) and company law (two years); and
- (b) completed a prescribed course in auditing.

We may also consider other qualifications and experience to decide if they are equivalent to these formal qualifications: cl 1280(2B) of the CLERP 9 Bill.

5 In assessing if experience and qualifications are equivalent to the requirements in cl 1280(2A) of the CLERP 9 Bill, we will focus on whether the applicant has **both** qualifications and training relevant to company auditing, and experience that relates to the conduct of an audit in Australia and Australian regulatory requirements. In particular, if you have overseas auditing experience and qualifications, you must also have 12 months practical company auditing experience under Australian accounting and auditing standards. We will consider applications to register people who do not meet these requirements on a case-by-case basis.

- 6** To qualify for registration, an auditor must:
- (a) have practical experience in auditing that is prescribed in regulations (current regulation 9.2.04(a) requires at least three years practical experience, including at least one year during the last five years as a supervisor); or
 - (b) comply with an approved competency standard (for a full discussion on competency standards see Section B).

Capable of performing the duties of an auditor

7 For us to assess whether you are capable of performing your duties as an auditor, you must usually give us two referees' reports. At least one report should be from a registered company auditor who has directly supervised your work. It should not be from an employee, a fellow employee or a relative. The second report could be from a former employer, an audit client or some other person who can comment on your auditing experience.

8 The referees' reports should comment on how long they have known you and in what capacity, and whether, in their opinion, you are capable of performing the duties of an auditor. They should also comment on whether the referee believes you are a fit and proper person to be registered as an auditor.

Fit and proper person

9 Auditors have a fiduciary duty to perform their duties with the highest standards of honesty and integrity. To assess whether you are a fit and proper person we will require you to state whether you have ever been found to have committed (or have proceedings pending) for professional misconduct. This includes details about whether you have:

- (a) ever been excluded from practice as an auditor or liquidator;
- (b) had your registration as an auditor or liquidator suspended;
- (c) had any prior application for registration as an auditor or liquidator refused; or
- (d) been the subject of any disciplinary action by a regulatory or professional body.

Other requirements

10 Under cl 1280, we:

- (a) must not register as an auditor a person who is disqualified from managing a corporation under Pt 2D.6 (including because the person is bankrupt); and
- (b) may refuse to register as an auditor a person who is not resident in Australia.

You must provide us with information about these issues as part of the auditor registration process.

Conditions on registration

11 Clause 1289A of the CLERP 9 Bill notes that an individual auditor's continued registration may be subject to compliance with any conditions we impose in accordance with regulations.

12 Paragraph 5.94 of the Explanatory Memorandum to the CLERP 9 Bill notes that the:

‘purpose of this amendment is to provide ASIC with enhanced post-registration supervision of registered auditors (for example, where a person is not a member of a professional accounting body it might impose conditions such as a requirement to undertake continuing professional development and to participate in a quality assurance program)’.

13 If you apply for registration as an auditor after the Bill commences we will generally impose conditions on your registration that are allowed under the regulations. While no regulations have yet been finalised, the Explanatory Memorandum indicates conditions on subject matters such as continuing professional development and participation in a quality assurance program may be allowed.

14 To ensure appropriate standards or if we have concerns about the conduct of an auditor or auditors we may also impose conditions, even if the auditor is already registered. If we intend to impose conditions on an already registered auditor we will first give the person the opportunity to appear before, or be represented at, a private hearing and to make submissions on the matter.

Transitional arrangements

15 The new provisions will apply for all applications lodged after 1 July 2004. If an application has been lodged with us before 1 July, but has not been determined by that day, s1280 of the Act as currently drafted will continue to apply to that application: see cl 1456 of CLERP 9 Bill. Auditors who are already registered do not need to reapply for a new registration.

Authorised audit companies

16 We must register a company as an authorised audit company if it meets the eligibility criteria in cl 1299B of the CLERP 9 Bill about:

- (a) ownership and control of the company by individual registered company auditors;
- (b) professional indemnity insurance; and
- (c) the company not being in external administration.

17 Conditions may be imposed on registration. Conditions for the registration of authorised audit companies are not limited to those specified in the regulations: we have power to impose other conditions we consider necessary.

18 We aim to apply the CLERP 9 Bill provisions in line with the objective of the legislature—that is, to:

- (a) provide a system that sets minimum standards of competence and integrity (as for auditor registration for individuals, above); and
- (b) help accounting firms better manage risks of professional liability by providing an additional option of incorporation. Allowing auditors to incorporate will address some of the concerns about the professional liability of auditors. It also provides accounting firms with an additional option for the way they structure their operations: paragraph 5.201 of the Explanatory Memorandum to the CLERP 9 Bill.

19 Clause 1299F of the CLERP 9 Bill requires that a company must notify us of any contravention of a registration condition or restriction.

20 The CLERP 9 Bill also allows us to cancel or suspend the registration of an authorised audit company if it ceases to be eligible to be registered. However, there is no requirement in the CLERP 9 Bill for an authorised audit company to notify us if it becomes aware that it is no longer eligible to be registered.

21 We intend to make it a condition of registration that we are notified if the authorised audit company becomes aware that it is no longer eligible to be registered. We may impose other conditions on authorised audit companies from time to time as we consider necessary.

Documents lodged with us

22 Auditors applying for registration should ensure their application and any documents lodged with it are correct and complete. Under s1308 of the Act, there are serious consequences if you knowingly or negligently provide, or authorise the provision of, a false, incomplete or misleading statement in a document lodged with ASIC.

B Approval of competency standards

Policy proposal	Your feedback
<p>Our approach</p> <p>B1 We will not approve an auditing competency standard unless:</p> <ul style="list-style-type: none"> (a) The standard requires those who seek to rely on it to be assessed by a registered company auditor. To be approved, the standard must also require that the assessing auditor lodge with us a statement verifying that (i) the applicant's performance meets each component of the standard and (ii) they have sufficient knowledge of the applicant's work to verify the person's performance. (b) The application to approve the competency standard is accompanied by a statement that the standard is not inconsistent with any law of the Commonwealth under which we have regulatory responsibilities. (c) The application satisfies us that the level of practical experience required by the competency standard is adequate for registration as a company auditor: see policy proposal paragraph [B2]. (d) The standard is harmonised to the greatest possible extent with other approved competency standards. <p>Note: The requirements for approval of a competency standard are set out in cl 1280A(3) of the CLERP 9 Bill. See policy proposal paragraph [A1] for other requirements for registration.</p>	<p>B1Q1 Do you agree with our proposed approach? If not, give reasons.</p>

Policy proposal	Your feedback
<p>Practical experience</p> <p>B2 The competency standard regime will be available as an alternative to complying with the time-based practical experience requirements currently prescribed in regulation 9.2.04. A competency standard may not necessarily require that an applicant meet the same minimum time period of practical experience as in regulation 9.2.04.</p> <p>B3 However, the competency standard must be sufficiently rigorous, transparent and objective in ensuring that an applicant's practical experience is adequate for registration as a company auditor.</p> <p>B4 As a minimum, a competency standard should require evidence of at least the following in regard to the person's practical experience:</p> <ul style="list-style-type: none"> (a) the competency in assessing risk, planning an audit, internal control reviews, substantive testing, documentation and forming opinions; (b) the ability to apply in practice, your knowledge of auditing standards, accounting standards, the Corporations Act and Australian tax law; (c) the ability to supervise staff and manage an audit; and (d) the ability to exercise independent decision making on financial reporting and other issues. 	<p>B2Q1 Do you agree with this approach? If not, give reasons.</p> <p>B4Q1 Do you agree with this approach? If not, give reasons.</p> <p>B4Q2 Are there any practical difficulties in applying this approach? If so, give reasons.</p>
<p>Inconsistency</p> <p>B5 In determining whether an inconsistency exists with the Act, we will focus on whether compliance with a provision in a</p>	<p>B5Q1 Is this an appropriate interpretation of cl 1280A(3) of the CLERP 9</p>

Policy proposal	Your feedback
<p>competency standard would make it impossible to comply with the Act. In our view, where a competency standard requires a higher standard of conduct or practice than the Act, and compliance with that provision is not inconsistent with the Act, no such inconsistency exists.</p> <p>Note: An example of this may be where a competency standard requires educational qualifications additional to those in the Act.</p> <p>Harmonisation</p> <p>B6 We believe the interpretation of the requirement for harmonisation involves two main elements:</p> <ul style="list-style-type: none"> (a) All approved competency standards must meet the requirements under the CLERP 9 Bill discussed in policy proposal paragraph [B1]. (b) Standards should be consistent with other approved competency standards. <p>Where there are slight differences, it may still be appropriate to approve a competency standard that sets a higher standard of conduct or practice, or addresses issues not covered by existing approved competency standards.</p> <p>B7 To establish that the competency standard is harmonised with any existing approved competency standards, in your application you should compare the standard with those existing approved standards.</p>	<p>Bill? If not, give reasons.</p> <p>B6Q1 Is this an appropriate interpretation of cl 1280A(3) of the CLERP 9 Bill? If not, give reasons.</p>

Explanation

Our approach

Practical experience

1 Consistent with the legislative objectives of the CLERP 9 Bill, competency standards have been introduced to provide an alternative means by which an applicant may satisfy us that they have sufficient practical experience to be registered as a company auditor.

2 Historically, a significant concern about registration of company auditors has been the inability of applicants from regional areas to meet the experience requirements in regulation 9.2.04. The number of companies in regional communities has sometimes been too small for local accounting firms to have an audit practice that could give enough practical experience for applicants to meet the prescribed requirements. The result is that some regions may have had few or no registered company auditors.

3 The Audit Review Working Party's 1997 report, *Review of Requirements for the Registration and Regulation of Company Auditors*, which examined (among other things) the existing hours-based regime compared with a competency-based regime, recognised this problem. It concluded that competency standards should be adopted as the principal basis for determining the appropriate level of practical experience for registration as a company auditor.

Note: The Audit Review Working Party was established by the Ministerial Council for Corporations to examine (among other things) the system of registration, appointment and supervision of auditors under the corporations legislation and to consider whether the system was adequate, or needed to be revised or replaced.

4 To demonstrate that a competency standard is 'sufficiently rigorous, transparent and objective', your application should include an analysis of the underlying methodologies that were used in developing the competency standard to meet these key objectives. This may be in the form of academic studies, empirical evidence, or any other research work. The analysis should also include a discussion of what consultation has been undertaken in developing the competency standard.

5 A competency standard should set out objective criteria and require evidence to assess an auditor's basic competency. This includes the matters mentioned in policy proposal paragraph [B4].

6 In addition to covering basic audit competencies, such as planning an audit, control and substantive testing, forming opinions and so on, we would expect a competency standard to require assessment of, but not be limited to, the following additional considerations:

- (a) *Currency and continuity of the audit experience*: for example, emphasis should be placed on audit experience within recent years of the application, and experience over a continuous period.
- (b) *Complexity of audit experience*: whether the person has experience with audits that are reasonably complex and include a range of types of companies. Where all audits were very straightforward or were conducted on only a limited number of companies, the experience gained might not be adequate.
- (c) *Supervision of audits*: the applicant must have adequate experience in managing all aspects of an audit, including planning the audit, risk assessment, evidence gathering and evaluation, and opinion forming.

7 Prior to the commencement of the Bill, we will work with bodies with well-advanced draft competency standards for which they are seeking approval. Our aim will be to expedite the approval of those competency standards as soon as practicable after the CLERP 9 Bill commences.

C Lodgment of annual statements

Policy proposal	Your feedback
<p>Our approach</p> <p>C1 Registered company auditors and authorised audit companies must lodge an annual statement with us. The regulations will specify the contents of the statement. We will use the information in annual statements to monitor the activities of auditors after registration.</p> <p>Extensions</p> <p>C2 We will provide an extension of time for lodgment of an annual statement only in exceptional circumstances outside the control of the auditor, such as injury or serious ill-health.</p> <p>C3 We will not provide an extension of time for the following:</p> <ul style="list-style-type: none"> (a) unexpected heavy workload; (b) adverse financial or personal circumstances; (c) unavailability of company records; or (d) unavailability of the auditor (e.g. because they were interstate or overseas). 	<p>C2Q1 Do you agree with this approach? If not, give reasons.</p> <p>C3Q1 Do you agree with this approach? If not, give reasons.</p>

Explanation

Our approach

1 One of the purposes of the requirement to lodge an annual statement is to provide us with up-to-date information that may, if necessary, be used as the basis for targeted monitoring purposes.

2 The regulations will prescribe the content of annual statements. At this stage, we believe that the following information is likely to be required (Explanatory Memorandum to the CLERP 9 Bill, para 5.99):

- (a) updated personal particulars;
- (b) details of the nature and complexity of major audit work undertaken; and
- (c) details concerning compliance with conditions on registration.

Extensions

3 As one of the purposes of the annual statement is to provide us with up-to-date information for monitoring purposes, we will grant extensions only in exceptional circumstances outside the control of the auditor. We generally won't provide extensions for matters within the control of the auditor such as heavy workloads.

Transitional arrangements

4 Clause 1457 of the CLERP 9 Bill presently provides that the annual statement requirements for auditors will apply from the calendar year ending 31 December 2004.

Schedule: The auditor registration process

The information in this schedule aims to provide you with an indication of the general systems and procedures that we intend to put in place for the auditor registration process.

The proposals in this schedule do not form part of the auditor registration policy proposals in the main paper but we welcome any feedback you may have, particularly on any practical difficulties with the process proposed.

Proposal

The registration process

S1 Applications for registration can be made electronically through our website. We encourage you to apply online as this will help us process your application more quickly and accurately.

The application forms for auditor registration will request all necessary information on your experience, qualifications and capacity to be registered as a company auditor or an authorised audit company: see paragraphs [S2]–[S5] for details of the kind of information required.

Documents evidencing this information must be lodged with us separately: see paragraphs [S6]–[S10] for details of the documents required.

Applications that are incomplete will not be assessed. An application will be incomplete if all the required information, documents and prescribed fee are not received by us.

After you have lodged your application with the necessary accompanying information and documents, we will process it and advise you on whether you have been granted or refused registration. The time we take to decide on your application may depend on factors such as whether:

- (a) the information or documentation is incomplete;

- (b) we need to undertake additional verification of certain information or supporting documentation; or
- (c) we believe that conditions should be imposed on registration.

If we plan to impose conditions we will give you preliminary notification of the conditions.

If we decide to refuse your application for whatever reason, you will have the opportunity to appear before, or be represented at, a private hearing and to make submissions on your application.

General information we require

S2 We will need the following kinds of information to process your application:

- (a) personal information, including your qualifications and practical experience (see paragraph [S3]);
- (b) evidence that you are capable of performing duties and, that you meet the fit and proper requirements (see paragraph [S4]); and
- (c) various company details for authorised audit companies (see paragraph [S5]).

Personal information

S3 Personal information that we require includes:

- (a) personal details such as your names, address and current employment;
- (b) residency details, both current and in the last five years;
- (c) details of educational and professional qualifications (including membership of professional bodies);
- (d) details of practical experience gained including whether a competency standard is being relied on; and
- (e) details of supervisors who attest to your practical experience or competence.

Capable of performing duties

- S4** Evidence that you are capable of performing duties and, that you meet the fit and proper requirements, includes details of:
- (a) any disciplinary action taken against you such as a disqualification from managing a corporation, or exclusions by certain bodies such as the Companies Auditors and Liquidators Disciplinary Board or ASIC;
 - (b) any current disciplinary or legal proceedings pending against you that may warrant disclosure;
 - (c) any prior convictions;
 - (d) any prior applications for registration that have been refused, and whether you have previously resigned or been removed from office as an auditor; and
 - (e) referees.

Authorised audit companies

- S5** Authorised audit companies need to include details of:
- (a) the company;
 - (b) the directors and the chief executive officer of the company;
 - (c) the fitness and propriety of the directors including (where applicable), disqualifications from managing a corporation, exclusions from practising as an auditor, insolvency and disciplinary proceedings;
 - (d) the share ownership structure;
 - (e) any history of external administration or similar action taken against the company; and
 - (f) professional indemnity insurance.

Documents to accompany your application

- S6** We will require the following kinds of documents before we consider your application:
- (a) documents certifying qualifications and detailing practical experience (see paragraph [S7]);
 - (b) documents evidencing that you are capable of performing duties and, that you meet the fit and proper

requirements (see paragraph [S8]); and

- (c) for authorised audit companies, documents on share structure and external administration (see paragraphs [S9]–[S10]).

Qualifications and practical experience

S7 Documents we require include:

- (a) a certified copy of your degree, diploma or certificate;
- (b) a certified copy of your certificate from your university or institution certifying that the course represents a course of study in accountancy of not less than three years and in commercial law of not less than two years;
- (c) a certified copy of your certificate indicating that you have completed a prescribed course in auditing;
- (d) documents evidencing your qualifications and auditing experience—we will expect detailed information on things such as the types of audit undertaken, their complexity, audit fees involved, and number of hours spent on audit work (these documents should be attested to by your supervisor or employer).

Capable of performing duties

S8 Documents that we require showing that you are capable of performing duties and, that you meet the fit and proper requirements, include:

- (a) a signed statement containing details of any previous disqualifications or exclusions;
- (b) a signed statement containing the details of any disciplinary action or legal proceedings taken against you;
- (c) a signed statement containing details of any convictions;
- (d) a signed statement containing details of any previous applications;
- (e) a signed statement containing details of any resignations or removals; and
- (f) referees' reports.

Share structure (for authorised audit companies)

S9 We require a signed statement providing details of:

- (a) the current shareholdings in the company; and
- (b) the voting rights attaching to the shareholdings in the company.

External administration (for authorised audit companies)

S10 We require a signed statement containing details of any external administration or similar action taken against the company.

Regulatory and financial impact

We have considered the regulatory and financial impact of the policy proposals in this paper. Based on the information currently available to us, we believe that implementing the proposals will strike an appropriate balance between facilitating the provision of company auditing services and consumer protection.

So that we can more fully assess the financial and regulatory impact of our proposals, in seeking your views we specifically invite you to comment on:

- (a) the likely financial impact of the proposals, including the impact on small business and existing registered company auditors; and
- (b) whether the proposals provide sufficient investor protection, including the extent to which the proposals affect the reliability and credibility of financial statements.

Development of policy proposal

We have developed this policy proposal paper by considering:

- (a) the *Corporate disclosure: strengthening the financial reporting framework* discussion paper issued by Treasury in September 2002 and submissions received in response to that discussion paper;
- (b) a review of the Exposure Draft CLERP 9 Bill and public submissions made in response to that Bill;
- (c) a review of transcripts of public hearings held as part of the inquiry into the Exposure Draft CLERP 9 Bill by the Parliamentary Joint Committee on Corporations and Financial Services;
- (d) the Explanatory Memorandum to the CLERP 9 Bill and the Second Reading Speech in the House of Representatives on the introduction of the CLERP 9 Bill into Federal Parliament and subsequent Parliamentary debate about the CLERP 9 Bill; and
- (e) a review of existing ASIC procedures, policies and practices relevant to the registration of auditors under the Act; and
- (e) *Review of requirements for the registration and regulation of company auditors*, report of a Working Party of the Ministerial Council for Corporations (July 1997).

Key terms

In this policy proposal, terms have the following meaning:

Act The *Corporations Act 2001* (Cth).

ASIC Australian Securities & Investments Commission.

auditing competency standard An auditing competency standard approved by ASIC under cl 1280A of the CLERP 9 Bill.

clause 1280A or **cl 1280A** (for example) A clause of the CLERP 9 Bill (in this example, cl 1280A).

CLERP 9 Bill or **Bill** The Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003, as introduced into the House of Representatives on 4 December 2003.

Exposure Draft CLERP 9 Bill The Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003, as published by Treasury on 8 October 2003.

policies or policy publications ASIC policy statements and practice notes.

s311 (for example) A section of the Act (in this example, numbered 311).

What will happen next?

Stage 1

5 April 2004

ASIC policy proposal paper released

Stage 2

18 May 2004

Comments due on the policy proposal

Stage 3

23 June 2004

Policy statement released

Important note: The timing and content of ASIC's policy and other publications depends on the timing of the CLERP 9 Bill's progress through Parliament and whether amendments are made to it during the legislative process.

Your comments

You are invited to comment on the proposals and issues for consideration in this paper.

Comments are due by 18 May 2004 and should be sent to:

Liz Roberts
Regulatory Policy Branch
Australian Securities & Investments Commission
GPO Box 9827
Sydney NSW 2001
email: policy.submissions@asic.gov.au

You can also contact the ASIC Infoline on 1300 300 630 for information and assistance.

Related policy proposal papers

This policy proposal paper is part of a set of CLERP 9 policies, including the CLERP 9 Administrative Framework Guide issued in February 2004, the policy proposal paper *Licensing: managing conflicts of interest* issued in October 2003 and three policy proposal papers issued together in April 2004 on the implementation of the CLERP 9 Bill. As outlined in the CLERP 9 Administrative Framework Guide, we intend to issue further proposal papers and guides in the coming months on the implementation of the CLERP 9 Bill.

The other CLERP 9 policy documents issued as at 5 April 2004 are:

- policy proposal paper *Product disclosure*; and
- policy proposal paper *Auditor and financial reporting obligations*.

Copies of papers

Download them from the ASIC home page:
<http://www.asic.gov.au>

You can also get copies of ASIC papers from:
ASIC Infoline on 1300 300 630

To find out more about CLERP 9

Keep up to date through our website

Click on 'CLERP' on the top right of our homepage at www.asic.gov.au. Select the 'CLERP 9' link.

Email us for general inquiries

Email your general inquiries about our plans to implement the CLERP 9 Bill to CLERP9@asic.gov.au. These inquiries are allocated to people best placed to answer them. We will aim to respond to your inquiries as soon as we can.

Use professional bodies, industry associations and consumer groups

We also suggest that you channel inquiries and comments through your professional body, industry association or a relevant consumer group. We are working closely with a number of these bodies in preparing to administer the new regime. These bodies act as a central point for collecting information and questions on how the CLERP 9 Bill will affect members of each group. It makes sense for us to use them as a way of communicating with each other.