



ASIC
Australian Securities &
Investments Commission

CONSULTATION PAPER 352

Communicating audit findings to directors, audit committees or senior managers

December 2021

About this paper

The *Australian Securities and Investments Commission Act 2001* (ASIC Act) allows the direct communication of specific financial reporting and audit quality findings from our reviews of audit files to directors, audit committees or senior managers of companies, responsible entities or disclosing entities.

This consultation paper seeks your feedback on our proposal to communicate findings from our reviews of audit files to directors of the entities audited on a routine basis rather than an exception basis.

Note: Draft updated RG 260, which is attached to this paper, is available at www.asic.gov.au/cp under CP 352.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This paper was issued on 2 December 2021 and is based on the Corporations Act as at the date of issue.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

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The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information.

We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on communicating specific financial reporting and audit findings to directors, audit committees or senior managers. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section C, 'Regulatory and financial impact'.

Making a submission

You may choose to remain anonymous or use an alias when making a submission. However, if you do remain anonymous we will not be able to contact you to discuss your submission should we need to.

Please note we will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any personal or financial information) as confidential.

Please refer to our [privacy policy](#) for more information about how we handle personal information, your rights to seek access to and correct personal information, and your right to complain about breaches of privacy by ASIC.

Comments should be sent by 11 February 2022 to:

Doug Niven
Chief Accountant
Australian Securities and Investments Commission
GPO Box 9827
Sydney NSW 2001
Email: auditsubmissions@asic.gov.au

What will happen next?

Stage 1	2 December 2021	ASIC consultation paper released
Stage 2	11 February 2022	Comments due on consultation paper
Stage 3	By end April 2022	Subject to feedback received on consultation paper, revised regulatory guide released

A Background to the proposals

Key points

The *Australian Securities and Investments Commission Act 2001* (ASIC Act) allows the direct communication of specific financial reporting and audit quality findings from our reviews of audit files to directors, audit committees or senior managers of companies, responsible entities or disclosing entities.

Our current policy is to communicate audit quality findings from our reviews of audits to directors or audit committees of entities on an exception basis.

This paper sets out our proposal to communicate audit quality findings from our reviews of audits to directors of the entities audited on a routine basis.

Our current practice for communicating audit findings

- 1 We currently communicate findings from our reviews of audit files in our audit firm inspection program to each firm through comment forms as each review is concluded. These comment forms include the firm's responses to our findings.
- 2 We publish findings from our reviews of audits in reports on each of the largest six Australian audit firms (BDO, Deloitte, Ernst & Young, Grant Thornton, KPMG and PricewaterhouseCoopers) for reviews substantially completed in each 12-month period to 30 June. We also publish an aggregate report covering findings across all firms inspected. These reports do not name the individual entities audited.
- 3 Section 127(2D) of the ASIC Act allows the ASIC Chairperson to communicate specific financial reporting and audit quality findings identified from reviews of audit files directly to directors, audit committees or senior managers of a company, responsible entity or disclosing entity to help the entity to properly manage its affairs. We must provide the auditor concerned with at least seven days' notice before communicating information.
- 4 The information disclosed must be:
 - (a) information obtained by ASIC while exercising its powers or functions:
 - (i) in relation to audit-related matters under Ch 2M, Ch 5C, Pt 7.8, Pt 9.2 or Pt 9.2A of the *Corporations Act 2001* (Corporations Act) or under other provisions of that Act that relate to that Chapter or that Part; or

- (ii) for the purposes of ascertaining compliance with those requirements; or
 - (iii) in relation to an alleged or suspected contravention of those requirements, or of a Commonwealth, state or territory law 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
 - (iv) for the purposes of an investigation under Div 1 of Pt 3 of the Corporations Act relating to a contravention referred to in (iii);
- (b) about how the audit of the entity was conducted by an Australian auditor; or
- (c) about the entity's compliance with:
- (i) the requirements in Ch 2M of the Corporations Act to prepare financial statements and reports; or
 - (ii) the continuous disclosure requirements of s674, 674A, 675 and 675A of the Corporations Act.

5 We issued [Regulatory Guide 260](#) *Communicating findings from audit files to directors, audit committees or senior managers* (RG 260) in June 2017 to explain which financial reporting and audit quality findings identified from our reviews of audit files we would communicate to directors, audit committees or senior managers. Our current policy is only to communicate audit quality findings on an exception basis. RG 260 also provides guidance on the process we will follow and the timing of our communication.

6 Audit quality findings are generally where, in ASIC's view, the auditor has not obtained reasonable assurance that a financial report is free of material misstatement. This criterion is based on the objective of an audit—as set out in the auditing standards. It is also the basis for measuring audit quality used by ASIC and adopted by the International Forum of Independent Audit Regulators and most other international audit regulators.

7 Our audit quality findings exclude:

- (a) matters that are within a range of reasonable judgement; and
- (b) genuine issues relating to the interpretation of the accounting and auditing standards, which may be matters for the relevant international standards-setting body.

8 We inform directors where we will be reviewing their entity's audit. Through [Information Sheet 196](#) *Audit quality: The role of directors and audit committees* (INFO 196) and other means, we encourage directors and audit committees to ask audit firms for the results of our reviews of the audit files relating to their entity. We understand that audit firms communicate the findings from our reviews of audit files when requested to do so by the directors or audit committee of the entity audited.

Purpose of this paper

- 9 This paper sets out our proposal to communicate audit quality findings from our reviews of audit files to directors of the entities concerned on a routine basis rather than an exception basis. A draft version of RG 260 is attached to this consultation paper to illustrate how the proposed new policy would be described. You can find draft RG 260 on the [CP 352](#) webpage.
- 10 We welcome any feedback you may have on our proposal. We will take your comments into account when finalising our approach and revised regulatory guide.

B Our proposal

Key points

We are proposing to communicate audit quality findings from our reviews of audit files to directors of companies, responsible entities or disclosing entities on a routine rather than an exception basis.

Audit quality findings to be communicated to directors

- 11 We propose to communicate audit quality findings from our reviews of audit files to directors of an audited company, responsible entity or disclosing entity where:
- (a) we have formed the view that an auditor has not obtained reasonable assurance that an entity's financial report is free of material misstatement;
 - (b) although reasonable assurance was obtained that the financial report for the current year was free of material misstatement, we consider that audit work should be improved in future years;
 - (c) we have concerns that the auditor did not meet the independence requirements of the Corporations Act (including professional requirements), has not addressed the matter, and has not adequately reported the matter in an auditor's independence declaration; or
 - (d) we consider any other matter should be drawn to the attention of the directors or audit committee of the audited entity.

Proposal

- B1** We propose to communicate audit quality findings to directors of an audited company, responsible entity or disclosing entity as outlined in paragraph 11 and to revise RG 260 accordingly.

Your feedback

- B1Q1 Should any of the types of audit quality findings outlined in paragraph 11 not be communicated?
- B1Q2 Are there any additional types of audit quality findings that should be communicated?
- B1Q3 Do you have any other comments on the types of audit quality findings proposed to be communicated as set out in paragraph 11?

Rationale

- 12 Directors and auditors are important gatekeepers in ensuring the quality of financial reports. When directors support and promote high-quality independent audits, they are supporting the quality of financial reports, and high-quality financial reports are key to investor and market confidence.
- 13 We would communicate any findings to the directors of an audited entity given the directors have statutory responsibilities in relation to the financial report. Companies may have an audit committee (being a Board subcommittee comprising directors) that oversees the financial reporting process and deals with the auditor. The directors may ask the audit committee to deal with any matters communicated in the first instance.
- 14 Our proposal to communicate the audit quality findings outlined in paragraph 11 rather than communicate findings on the present exception basis would:
- (a) promote further engagement by directors and through them audit committees in supporting the quality of the external audit;
 - (b) ensure that audit quality findings are communicated to directors and through them audit committees on a timely and comprehensive basis; and
 - (c) respond to calls from audit committee chairs of some larger listed companies for routine communication of ASIC's audit quality findings.
- 15 Information about ASIC's findings will enable the directors to ask the auditor about the steps they are taking to:
- (a) address any issues and concerns;
 - (b) improve audit quality; and
 - (c) support investor and market confidence in the quality of financial reports.
- 16 Where we believe that a matter should be communicated to the entity's directors, we will afford the auditor procedural fairness by giving them a reasonable opportunity to make submissions about disclosing audit quality findings to directors. We will provide the auditor with at least seven days' notice before making any proposed disclosure: s127(2F) of the ASIC Act.

C Regulatory and financial impact

- 17 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we think that the proposed criteria will result in useful and meaningful information for directors, and will facilitate consistency in our assessment of when our findings should be directly communicated to directors.
- 18 Before settling on the final criteria, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:
- (a) considering all feasible options, including examining the likely impacts of the range of alternative options which could meet our policy objectives;
 - (b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and
 - (c) if our proposed option has more than a minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).
- 19 All RISs are submitted to OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.
- 20 To ensure that we are in a position to properly complete any required RIS, please give us as much information as you can about our proposals or any alternative approaches, including:
- (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits.

See 'The consultation process', p. 4.

Key terms

Term	Meaning in this document
accounting standards	Standards issued by the Australian Accounting Standards Board under s334 of the Corporations Act
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
audit firm	A firm that is the auditor of a company, registered managed investment scheme or disclosing entity. For the purposes of this consultation paper, audit firm includes an authorised audit company or an individual auditor
auditing standards	Standards issued by the Auditing and Assurance Standards Board under s336 of the Corporations Act
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of the Act
financial report	A full-year or half-year financial report required under Pt 2M.3 of the Corporations Act
RG 260 (for example)	An ASIC regulatory guide (in this example numbered 260)
s674 (for example)	A section of the Corporations Act or the ASIC Act (in this example numbered 674), unless otherwise specified
senior manager	Used in s127(2D) of the ASIC Act and would include a Chief Executive Officer and Chief Financial Officer