



Deloitte Touche Tohmatsu  
ABN 74 490 121 060

Grosvenor Place  
225 George Street  
Sydney NSW 2000  
PO Box N250 Grosvenor Place  
Sydney NSW 1220 Australia

Tel: +61 2 9322 7000  
Fax: +61 2 9322 7000  
[www.deloitte.com.au](http://www.deloitte.com.au)

Mr Doug Niven  
Senior Executive Leader, Financial Reporting and Audit  
Australian Securities and Investments Commission  
GPO Box 9827  
Sydney  
NSW 2001

25 October 2016

Dear Doug

**Re: Consultation Paper 265 Communicating audit findings to directors, audit committees or senior managers**

Deloitte is pleased to respond to the Australian Securities and Investments Commission's ("ASIC") Consultation Paper 265 Communicating audit findings to directors, audit committees or senior managers ("CP 265").

We believe that the ASIC inspection process serves an important role in the achievement of our shared objectives of improving audit quality and serving investors and the public interest. Executing high quality audits is a priority for our firm. We are confident that the investments we have made and are continuing to make in our audit processes, policies, and quality controls are enhancing the quality of our audits

Overall, we are supportive of CP 265 and ASIC's intention to issue a regulatory guide setting out its policy for communicating specific financial reporting and audit findings to directors, audit committees or senior managers. We set out below some general observations on CP 265 in addition to a response to each of the specific questions raised in the consultation paper.

We note that whilst CP 265 seeks input on the proposed criteria for communicating financial reporting and audit findings, it does not outline the process that will be adopted prior to communication. We acknowledge that paragraph two, section A, notes that ASIC must provide the auditor concerned with at least seven days notice before communicating the information. We believe that the policy and resulting regulatory guide needs to cover not only the criteria used in determining when to report but also the process for communicating financial reporting and audit findings.

That process needs to give due consideration as to the timing of communication with the entity. We note that depending on the size and complexity of an entity that the inspection process can extend over many months. In our opinion, ASIC should defer communicating with the client in circumstances where the nature of ASICs findings are subject to debate with the firm and that prior to communicating with the entity there should be an appropriate escalation and review process within ASIC.

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## Question B1Q1 Do you have any comments on our proposed criteria set out in Table 1?

### Criteria 1 Communication of material misstatement will assist in timely resolution of a matter

No comment.

### Criteria 2 Finding from a previous year has not been addressed

It is proposed that ASIC would communicate in circumstances where ASIC identified that an auditor did not obtain reasonable assurance that an entity's financial report was free from material misstatement in a previous year and ASIC's follow up review reveals that ASIC's concerns have not been addressed. CP 265 has a notation which states "follow up reviews are usually only undertaken when there are **particularly significant findings** (emphasis added)". The term "particularly significant finding" is not contained in the auditing standards. Clarification is required as to the basis upon which ASIC determines that a finding is a "particularly significant finding"

### Criteria 3 Planned enforcement action

We do not agree with your proposal to communicate to directors of an entity about planned enforcement action against an individual either through the Company Auditors and Liquidators Disciplinary Board (CALBB) or through the courts. We recommend that ASIC allow these processes to occur and decisions/judgements to be made before communicating with the entity. Doing so affords the auditor appropriate procedural fairness. A further consideration is the potential for early communication to waive claims for privilege that the auditor may have.

### Criteria 4 Independence requirements not met

We question the need for ASIC to communicate breaches of the independence requirements given the auditor's ethical obligations to communicate in writing with those charged with governance. However, in the event that there has been a clear breach of independence, which the auditor has not communicated to the client, we would be supportive of ASIC doing so.

### Criteria 5 Failure to obtain reasonable assurance that a financial report is free from material misstatement across a number of key areas

We have a number of concerns with respect to the proposed criteria set out in this section the details of which are set out below:

- Paragraph 5(a) talks about the relative severity of the matters, taking into account ASIC's assessment of the possible impact and the probability of that impact occurring. We would like to better understand how ASIC would make this assessment and judgement.
- One of the consideration points in criteria 5(d) is whether the audit firm can demonstrate that it has already satisfactorily communicated the matter to the entity's audit committee or directors in a comprehensive manner. We note that at present the auditor is prohibited from sharing comment forms with clients. We recommend that ASIC provide further guidance as to how the auditor might demonstrate to ASIC that communication had taken place in a comprehensive manner.
- Paragraph 5 (e) references the fact that there are circumstances where there may be genuine uncertainty about the level of audit work required by the auditing standards or accounting standards. It is the responsibility of management and those charged with governance to prepare the financial report in accordance with the requirements of the accounting standards and the Corporations Act. The auditor's obligation is to conduct an audit in accordance with auditing standards which are principles based and require the auditor to identify the risks of material misstatement. There may be circumstances where a difference of opinion can occur between the auditor and ASIC in respect of the assessed risk of material misstatement and extent of work required to respond to that risk. Further information is needed on the basis upon which ASIC would conclude that it should communicate with the entity when there is a difference of opinion with the auditor.

**B1Q2 Are there any additional criteria that we should consider including?**

No comment

**B2Q1 Do you agree that we should let directors know that we will be reviewing audit files related to an entity as part of a routine audit firm inspection?**

Whilst we do not believe that there is a need for ASIC to advise the directors that they will be reviewing files as part of the routine audit firm inspection we have no objection to ASIC doing so. Once we have been notified that a file has been selected for review by ASIC, as part of the routine audit firm inspection, we immediately advise the client of this fact. Furthermore, in our experience, the directors make regular enquiry on the findings from the inspection.

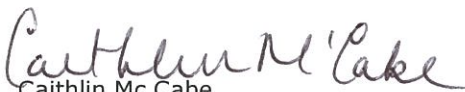
We respectfully suggest that if ASIC were to adopt this approach in respect of the audit inspection program that a similar approach should be adopted for ASIC's financial reporting surveillance program, that is, once the financial report of an entity has been selected for review by ASIC that the directors are advised of that fact. This would appear to be consistent with rationale set out in paragraph 10 of CP 265 which states "*auditors and directors are important gatekeepers in ensure the quality of financial reports, which promotes investor and market confidence*".

**B2Q2 should we also let directors of an audited entity know that we will be reviewing audit files relating to an entity as part of a surveillance activity where we already have reason for concern about the adequacy of the audit?**

It is unclear the basis upon which ASIC concludes they "already have reason for concern about the adequacy of the audit". We recommend that ASIC provide more detail on the facts and circumstances that they would consider in reaching the conclusion that they already have concerns about the adequacy of the audit and therefore to communicate with the entity.

If you have any questions about this submission, please do not hesitate to contact me on (02) 9322 7288. We would welcome the opportunity to engage with ASIC further on the proposal.

Yours sincerely



Caithlin Mc Cabe  
Audit Quality & Regulatory Partner  
Deloitte Touche Tohmatsu

