

Audit Firms - Cheating on exams and other assessments

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Key Messages

ASIC does not have the authority to act against audit firms in Australia in relation to partners and staff cheating on external and internal and assessments.

International regulators do have such powers and examples of sanctions include:

- The US Public Company Accounting Oversight Board (PCAOB) acted against KPMG Australia for cheating on internal assessments
- The US Securities and Exchange Commission sanctioned EY in the US for cheating on external exams.
- The PCAOB sanctioned PricewaterhouseCoopers LLP in Canada for cheating on internal exams.

ASIC only registers individuals as Registered Company Auditors (RCAs). This registration does not extend to the firm, or all staff employed to assist in conducting the audit. Cheating by audit firm staff on exams and other assessments relate to the audit firm's processes and does not result in contraventions of the Corporations Act 2001 (Corporations Act) by the individual audit partners or staff of the firms.

Amendment to the Corporations Act would be required to empower ASIC to review audit firm compliance with quality management standards.

Background

On 13 September 2021, the PCAOB imposed sanctions on KPMG by censuring it, imposing a US\$450,000 civil penalty on it, and requiring KPMG to undertake certain remedial actions because KPMG violated PCAOB rules and quality control standards between at least 2016 to early 2020. Findings included that 1,131 KPMG personnel (including about 250 audit partners and staff) improperly shared answers (either by providing or receiving the answers) in connection with tests for KPMG's mandated training covering topics that included independence, auditing and accounting.

KPMG:

- self-reported these violations to the PCAOB, ASIC and Chartered Accountants Australia and New Zealand (CA ANZ) in late March 2020
- investigated the matter and sanctioned 1,131 individuals (or approximately 12% of KPMG's personnel) for their involvement in answer sharing.

Media reported that KPMG forced two partners to retire over the cheating and 16 partners (most not RCAs) received formal warnings their income was docked by tens of thousands of dollars.

The US Securities and Exchange Commission (SEC) fined EY US \$US100 million (\$144 million) - the largest ever penalty for an audit firm - after finding dozens of EY US audit personnel had cheated on the ethics portion of the US Certified Public Accountant exam and that the firm had misled regulators probing the conduct. This matter did not impact EY Australia who have advised ASIC that it is not aware of any cheating in EY Australia.

The U.S. PCAOB fined PricewaterhouseCoopers LLP Canada US\$750,000 (\$900,000) for having faulty quality control standards that allowed more than 1,200 professionals (more than 1,100 from the

firm's assurance practice) to cheat on internal training courses covering auditing, accounting, and professional independence from at least 2016 until early 2020. We are not aware of any cheating having been identified in PwC Australia.

ASIC Action

ASIC regulates RCAs under the Corporations Act for compliance with auditing standards and whether they are fit and proper to carry out their role as an RCA.

ASIC cannot act in relation to any audit firm operating in Australia in relation to internal or external exam or assessment heating because unlike the PCAOB:

- The Australian quality control standard was made as an auditing standard under the Corporations Act, however ASIC can only act against a lead audit partner for non-compliance with an auditing standard in the conduct of an individual audit.
- ASIC registers individual audit partners as RCAs, not audit firms and has no ability to act against a firm, or staff of a firm who are not RCAs or in relation to conduct or training of staff.

ASIC has imposed a condition on all auditors registered since 2004 to undertake the number of hours education required by the professional accounting bodies. We understand that the RCAs involved complied with this condition.

Absent a possible breach of a provision of the Corporations Act, ASIC has no power to obtain any documents under notice from any audit firm concerning such cheating.

While ASIC can apply to the Company Auditors Disciplinary Board seeking deregistration or suspension of an RCA under a fit and proper person test that is a high test and any action would be unlikely to succeed.

Media initially reported CA ANZ did not take action against the KPMG partners and staff. CA ANZ subsequently investigated and formally sanctioned eight KPMG accountants. CA ANZ has also announced a review of its own disciplinary processes by a former Federal Court Justice.

CPA Australia (CPAA) had ended its investigation into the KPMG matter and announced it was taking no action because it was satisfied that KPMG had addressed the matter appropriately. KPMG is CPAA's external auditor.

On 1 December 2021, following the release of documents from ASIC related to the KPMG matter under FOI, the AFR published an article that included some of ASIC's internal correspondence in relation to ASIC's inability to take action against KPMG. The AFR has made a further FOI request in relation to this matter.

We previously replied to Questions on Notice indicating that ASIC:

- has no regulatory remit or powers in relation to an audit firm's internal training;
- has not written to government seeking any amendment to the law to give ASIC powers in this area; and
- does not oversee the role and responsibilities of CA ANZ and CPAA,

Amendment to the Corporations Act would be required to empower ASIC to review audit firm compliance with quality management standards.

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