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### Section 3 - Making it easier to interaction with ASIC

**Question 11: With respect to interacting with ASIC, other than the work we've outlined, is there anything else we should prioritise?**

There are currently multiple lodgment and communication channels that auditors and audited entities have to utilise to meet their reporting and notification obligations. We believe consolidating these interaction channels and streamlining some of the processes would be highly beneficial, including for:

- Appointment and resignation of auditors, which currently requires the auditor and/or audited entity to notify ASIC via different channels depending on the entity type.
- Bulk resignations / appointments could be enabled for multiple schemes and group entities under Regulatory Guide 26<sup>1</sup>.
- All paper-based documents that need to be mailed to ASIC (e.g. for registered schemes) should be replaced by electronic lodgment via an existing ASIC portal. This includes lodgment of compliance plan audit reports and auditor appointment, resignation and removal forms.

Based on our experience, ASIC has specific expectations on wording formats in director's declarations and resignation letters, which vary depending on the entity type (e.g., Superannuation Funds). This has frequently led to back-and-forth communication with ASIC to clarify the required language for resignation submissions as auditors of both Trustee (Responsible Entity) and the Fund, where the wording tends to differ slightly. To streamline this process, we recommend that ASIC provides clear and consistent guidance on its expectations.

We would also welcome having a single point of contact at ASIC for auditors and audited entities to resolve issues or prioritise certain cases and track progress, which is especially important for time-sensitive matters that are subject to strict regulatory deadlines.

### Section 4 - Simplification through law reform

**Question 16: What changes, if any, should be made to the reportable situations regime and substantial holding notices?**

We are supportive of the work that ASIC is undertaking together with the Treasury to consider simplification opportunities in relation to the reportable situations regime applicable to Australian Financial Services (AFS) licensees and credit licensees.

As per Regulatory Guide 34<sup>2</sup>, auditors are required to report all suspected contraventions by Registered Superannuation Entities (RSEs), AFS licensees and credit licensees. However, this differs to reporting requirements applicable to other entity types where there is a significance threshold.

We question whether all suspected contraventions should be reported, irrespective of materiality or significance or whether the contravention has been adequately dealt with. As recognised in the consultation paper REP 813, ASIC receives a large volume of reports about trivial matters that are of limited regulatory value as part of the reportable situations regime, and industry feedback has

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<sup>1</sup> [RG 26 Resignation, removal and replacement of auditors | ASIC](#)

<sup>2</sup> [RG 34 Auditor obligations: Reporting to ASIC | ASIC](#)

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suggested legislative changes to apply a significance test for certain reportable situations. We believe there should be similar considerations for auditor's reporting obligations in relation to RSEs, AFS and credit licensees, including the self-reporting obligations with respect to auditor independence breaches which can often be inadvertent and immaterial. For example, the spouse of a partner in the same office as the lead audit partner inadvertently made a small investment in a RSE.

In the absence of any immediate legislative changes, we recommend that ASIC permits auditors to provide bulk reporting of suspected contraventions by RSEs, AFS licensees and credit licensees.

Furthermore, under the Corporations Act Section 990K, an auditor of AFS licensee is required to report certain matters that the licensee has already reported to ASIC. We suggest that the following options are considered to simplify the process:

- Short form notification - if a reporting obligation has already been fulfilled by the AFS licensee, then the auditor can simply reference the licensee's reported breach, or
- Legislative change to eliminate duplicate reporting - only require auditors to report matters that a licensee has not already reported, and
- Align the timing of breach reporting by the two parties. AFS licensees generally have 30 days to report while auditors only have 7 days to report.

**Question 17: Are there any other regulatory reform ideas within ASIC's remit that could simplify the application of the law, or otherwise make it easier for individuals and businesses to meet their compliance obligations?**

In our view, there is an opportunity for ASIC and APRA to further enhance information sharing. While we recognise that ASIC already shares certain information with APRA relating to entities that are regulated by both regulators, it would be beneficial to introduce an explicit option allowing regulated entities to request the sharing of specific information via ASIC's portals - such as breach reports, auditor appointment or resignation notifications.

Without this explicit option, regulated entities are unaware of what has been shared between the regulators and are therefore required to submit the same regulatory information to both ASIC and APRA, resulting in unnecessary duplication.

### Concluding questions

**Question 20: Are there any additional areas of simplification you would like us to consider?**

Whilst not technically a simplification, we would like ASIC to consider amending its criteria for granting auditor rotation relief pursuant to section 342A of the Corporations Act to prioritise the desire to maintain audit quality.

ASIC's relief power under section 342A can modify the auditor rotation requirements by:

- i. Extending the period before the time-out rule will apply (by not more than 2 successive financial years); or
- ii. Extending the period before the 5/7 rule will apply (by allowing an auditor to play a significant role in the audit for not more than 1 additional financial year).



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Currently, section 342A only permits ASIC to grant this auditor rotation relief if ASIC is satisfied, without modification, that the rotation requirements would impose an unreasonable burden on:

- i. The audited body; or
- ii. The registered company auditor (RCA); or
- iii. The audit firm or authorised audit company on whose behalf the RCA is acting.

Applying the 'unreasonable burden' test may in some cases result in an outcome that is inconsistent with the desire to maintain audit quality. For example, EY recently applied for such auditor rotation relief pursuant to section 342A. In the situation for which relief was sought, the incumbent lead audit partner would be on maternity leave during the year end audit and we requested that the previous lead audit partner, who had served five cumulative years as audit partner, be permitted to serve one additional year, thus serving as lead audit partner for six cumulative financial years within a period of seven successive financial years. Considering the previous auditor partner's cumulative knowledge of the client, we were of the view that granting of relief for this scenario was consistent with maintaining the quality of the audit provided to the client. ASIC rejected our application for relief on the basis that the 'unreasonable burden' test was not met. We expect there will be an increasing demand for rotation relief in these circumstances.

Accordingly, we suggest that ASIC, together with the Treasury, consider whether the legislation could be amended to permit ASIC to grant relief in other exceptional circumstances deemed appropriate by ASIC. The Regulatory Guide 187<sup>3</sup> could then be revised to recognise parental leave and unexpected short-term medical leave of the incumbent lead auditor as a potential basis for granting relief to the rotation requirements.

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<sup>3</sup> [RG 187 Auditor rotation | ASIC](#)