



# ASIC

Australian Securities &  
Investments Commission

## REGULATORY GUIDE 34

# Auditor obligations: Reporting to ASIC

September 2025

### About this guide

This guide is for auditors, including individual auditors, audit companies, members of audit firms and lead auditors.

It gives guidance on auditors' obligations to report to ASIC:

- contraventions and suspected contraventions under s311, 601HG, 990K and 1226H of the *Corporations Act 2001* (Corporations Act) and s104 of the *National Consumer Credit Protection Act 2009* (National Credit Act);
- attempts to unduly influence, interfere, or mislead the auditor under s311, 601HG, 990K and 1226H of the Corporations Act and s104 of the National Credit Act;
- conflict of interest situations and circumstances involving relevant relationships as part of an auditor's independence obligations under s324CA–CC and s324CE–CG of the Corporations Act; and
- the auditor's own contraventions and suspected contraventions under s311, 601HG and 1226H of the Corporations Act.

This guide also provides guidance about lodging auditor notifications under these reporting obligations, how qualified privilege operates, and what happens when auditors do not meet their reporting obligations.

### 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 guide was issued in September 2025 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 34, updated 20 December 2007, and reissued May 2013 and March 2020;
- Superseded Policy Statement 34, issued 21 December 2004, and rebadged as a regulatory guide 5 July 2007; and
- Superseded Practice Note 34, issued 5 July 1993 and updated 6 December 2004.

### Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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## A Overview

### Key points

This guide is intended to help auditors to comply with their obligations to report certain matters to ASIC.

Auditors have reporting obligations to notify ASIC of suspected contraventions when conducting audits of:

- companies, disclosing entities, registered managed investment schemes (registered schemes) and corporate collective investment vehicles (CCIVs), and compliance plans of registered schemes and retail CCIVs: see Section B;
- registrable superannuation entities (RSEs): see Section C; and
- Australian financial services (AFS) and credit licensees: see Section D.

Auditors also have reporting obligations to notify ASIC about:

- attempts to unduly influence, interfere, or mislead the auditor;
- conflict of interest situations and circumstances involving relevant relationships; and
- the auditor's own contraventions and suspected contraventions under s311, 601HG and 1226H of the Corporations Act: see Section E.

We also provide guidance about lodging auditor notifications under the reporting obligations, how qualified privilege operates, and what happens when auditors do not meet their reporting obligations: see Section F.

## Auditor reporting obligations

RG 34.1 Auditor reporting obligations have been part of Australian company law for many years. These obligations require timely auditor reporting of certain contraventions and other matters to ASIC when conducting audits, including audits conducted at ASIC's direction.

Note 1: In this guide, we refer to the obligations to report a contravention or suspected contraventions and other matters to ASIC under s311, 324CA–CC, 324CE–CG, 601HG, 990K or 1226H of the *Corporations Act 2001* (Corporations Act) and s104 of the *National Consumer Credit Protection Act 2009* (National Credit Act) as the 'auditor reporting obligations'.

Note 2: The auditor reporting obligations apply to individual auditors, audit companies, members of audit firms and lead auditors (as defined in s324AF of the Corporations Act).

Note 3: In this guide, references to chapters (Chs), parts (Pts), divisions (Divs) and sections (s) are to the Corporations Act, unless otherwise specified.

- RG 34.2 We believe that auditor reporting obligations are a key aspect of the auditor's role in conducting an audit and should be included in the audit plan and program for each entity subject to audit. Staff reporting to an auditor should be made aware of these obligations.

### **Auditor reporting obligations to notify suspected contraventions**

- RG 34.3 Auditors have obligations to notify ASIC of suspected contraventions when undertaking audits of:

- (a) a company, disclosing entity, registered scheme or CCIV under s311 or a compliance plan of a registered scheme or retail CCIV under s601HG and 1226H: see Section B;

Note: A retail CCIV has the meaning given by s1222J(1): see s9.

- (b) an RSE under s311: see Section C; and
- (c) an AFS licensee under s990K of the Corporations Act or a credit licensee under s104 of the National Credit Act: see Section D.

- RG 34.4 While we do not expect auditors to engage in a systemic search for all possible contraventions that may require reporting to ASIC, auditors should be alert to matters that come to their attention that may indicate a suspected contravention, and make an appropriate assessment.

- RG 34.5 Auditors may have multiple reporting obligations to notify ASIC of suspected contraventions. If more than one obligation applies, all obligations should be met (i.e. by lodging a separate auditor notification for each entity), noting that the requirements (including reporting thresholds and timing requirements for notifying ASIC) for each obligation can vary. For example, an auditor may conduct separate audits for:

- (a) the RSE (s311) and the licensee operating the RSE (s990K); or
- (b) the registered scheme (s311), the registered scheme's compliance plan (s601HG) and the responsible entity for the scheme (s990K).

Note: For the purposes of this guide, an 'auditor notification' refers to a notification to ASIC by the auditor of a breach, contravention or other matter required under the Corporations Act or National Credit Act.

- RG 34.6 If an auditor notifies ASIC of a suspected contravention under its reporting obligations and then becomes aware of further contraventions—including new contraventions of the same provision (e.g. a failure to lodge a specific document the following year)—the auditor must lodge a further auditor notification with ASIC. However, the continued failure to address a specific instance (e.g. the continued failure to lodge a specific document that was due for lodgement in an earlier period) only needs to be reported once.

RG 34.7 Although AFS and credit licensees have an obligation to report significant breaches of specific obligations to ASIC under Div 3 of Pt 7.6 of the Corporations Act and Div 5 of Pt 2–2 of the National Credit Act respectively, self-reporting to ASIC by the licensee does not exempt an auditor from reporting the same matter under their auditor reporting obligations.

RG 34.8 Auditors must also notify us about contraventions or suspected contraventions that come to the auditor's attention, even if:

- (a) they have come to the auditor's attention other than during the audit or review; or
- (b) ASIC may already be aware of the conduct (e.g. through media coverage or self-reporting by the company).

### Other reporting obligations

RG 34.9 Auditors also have obligations to report to ASIC:

- (a) attempts to unduly influence, interfere, coerce, manipulate or mislead the auditor during an audit under s311, 601HG, 990K and 1226H of the Corporations Act and s104 of the National Credit Act; and
- (b) conflict of interest situations or circumstances involving a relevant relationship as part of an auditor's independence obligations under s324CA–CC and s324CE–CG of the Corporations Act; and
- (c) the auditor's own contraventions and suspected contraventions under s311, 601HG and 1226H of the Corporations Act: see Section E.

### Reporting obligations to other regulators

RG 34.10 This guide does not provide guidance about auditors' reporting obligations to other regulators under legislation administered by other regulators, including:

- (a) the Australian Prudential Regulation Authority (APRA) under s88 of the *Life Insurance Act 1995*; or
- (b) APRA or the Australian Taxation Office under the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

Note: Reporting to another regulator will generally not relieve the auditor from its obligations to notify ASIC of a breach, contravention or other matter required under the Corporations Act or National Credit Act.

## Lodging auditor notifications

RG 34.11      Section F provides guidance about lodging auditor notifications, how qualified privilege protects auditors, and what happens when an auditor fails to report or notify ASIC.

## B Reporting obligations for suspected contraventions by companies, disclosing entities, registered schemes and CCIVs

### Key points

An auditor of a company, disclosing entity, registered scheme or CCIV must notify ASIC if they have reasonable grounds to suspect that there has been a contravention of the Corporations Act that is:

- significant; or
- not significant, but the auditor believes that the contravention has not been or will not be adequately dealt with by commenting on it in the auditor's report or bringing it to the attention of the directors.

This obligation applies to the auditor when they are conducting audits or reviews of a financial or sustainability report or a compliance plan for a registered scheme or retail CCIV.

This section gives guidance for auditors on complying with these obligations, including:

- what are 'reasonable grounds to suspect' a contravention;
- what is a 'significant' contravention; and
- what an auditor should do when a suspected contravention is not 'significant' but is not likely to be 'adequately dealt with'.

Auditor notifications must be lodged with ASIC as soon as practicable or within 28 days of the auditor becoming aware of it.

### What must an auditor report to ASIC?

RG 34.12 An auditor of a company, disclosing entity, registered scheme or CCIV, or the compliance plan of a registered scheme or retail CCIV must notify ASIC if they become aware of circumstances that give them reasonable grounds to suspect that there has been a contravention of the Corporations Act: see s311, 601HG and 1226H.

Note 1: These reporting obligations apply to individual auditors (s311(1), 601HG(4) and 1226H(1)), audit companies (s311(2), 601HG(4A) and 1226H(2)), and lead auditors (s311(3), 601HG(4B) and 1226H(3)).

Note 2: For ASIC guidance about what are 'reasonable grounds to suspect' a contravention, see RG 34.18–RG 34.21.

RG 34.13 This reporting obligation applies if the suspected contravention is:

- (a) significant; or



Note: Subsection 311(4), 601HG(10) and 1226H(4) set out the matters to have regard to when determining whether a contravention is significant for the purposes of s311, 601HG and 1226H.

- (b) not significant, but the auditor believes that the contravention has not been (or will not be) adequately dealt with by commenting on it in the auditor's report or by bringing it to the attention of the directors.

### **Reporting obligations under s311**

- RG 34.14 The obligations under s311 apply to reporting suspected contraventions that come to the attention of the auditor of an annual financial report, sustainability report or half-year financial report.

### **Reporting obligations under s601HG and 1226H**

- RG 34.15 All registered schemes and retail CCIVs are required to have a compliance plan that meets the requirements of Pt 5C.4 and Div 4 of Pt 8B.3 respectively. The Corporations Act also requires certain compliance plan audit work to be carried out by a registered company auditor.
- RG 34.16 A compliance plan's auditor must provide a report to the responsible entity for the scheme or the corporate director of the retail CCIV within three months after the end of the financial year. Their report must state whether, in the auditor's opinion, the responsible entity or corporate director complied with the compliance plan and if the plan continues to meet the requirements under Pt 5C.4 or Div 4 of Pt 8B.3: see s601HG and s1226G.
- RG 34.17 The obligations to report suspected contraventions under s601HG and 1226H apply to any suspected contraventions of the Corporations Act that come to the attention of the compliance plan auditor.

## **What are 'reasonable grounds to suspect' a contravention?**

- RG 34.18 Under s311, 601HG and s1226H, an auditor is required to notify ASIC if they have 'reasonable grounds to suspect' there has been a significant contravention of the Corporations Act. Establishing 'reasonable grounds to suspect' requires both a suspicion and a just cause for that suspicion.
- RG 34.19 The test is satisfied by the existence of facts or circumstances that would create in the mind of a reasonable auditor an honest and reasonable suspicion that a contravention has occurred. A single allegation by an employee or customer that is unsupported by any evidence is unlikely to amount, by itself, to a reasonable suspicion.
- RG 34.20 In ASIC's view, a reasonable suspicion can exist without the auditor having conducted exhaustive and conclusive investigations into the matter. Grounds

for suspicion may be based on the auditor's professional judgment, experience, knowledge of a particular industry and information collected, or matters that have come to the auditor's attention during the audit. The auditor does not need evidence to satisfy themselves that a contravention of the Corporations Act has occurred, and any evidence does not have to be evidence that would be admissible in judicial proceedings.

RG 34.21 The auditor should document the grounds for suspicion in their working papers.

## What is a 'significant' suspected contravention?

RG 34.22 The factors that an auditor must consider in determining whether a suspected contravention is significant for the purposes of s311, 601HG and s1226H are:

- (a) the level of penalty for the contravention;
- (b) the effect that the contravention has, or may have on:
  - (i) the overall financial position of the entity; or
  - (ii) the adequacy of the information available about the overall financial position of the entity; and
- (c) any other relevant matter: see s311(4), 601HG(10) and 1226H(4).

Note: The reportable situation obligation for AFS and credit licensees are separate obligations from the reporting obligations for auditors. Auditors should use their own judgement to consider whether a contravention meets the 'significant' threshold in s311, 601HG and 1226H. Auditors should not rely on the licensee's assessment of whether a contravention is 'significant' under s912D of the Corporations Act and 50A of the National Credit Act.

### Level of penalty

RG 34.23 Contraventions attracting five years' imprisonment or more, or any civil penalty provision under the Corporations Act, are likely to be significant contraventions.

### Any other relevant matter

RG 34.24 ASIC considers that other factors an auditor may consider when determining whether a suspected contravention is significant include:

- (a) whether contraventions of the same or similar nature are suspected to have occurred in more than one area of the audited body;
- (b) whether the suspected contraventions are systemic, multiple or continuing;
- (c) the seniority of the people involved in the suspected contravening conduct;

- (d) whether there is any apparent dishonesty involved in the conduct;
- (e) the potential impact of the contravention on other parties (e.g. clients, fund members, or existing or potential investors or creditors); and
- (f) whether the audited body or any of its officers or senior managers have previously contravened the Corporations Act by engaging in similar conduct.

RG 34.25 This list of factors is not exhaustive or a checklist. The auditor reporting obligations require the auditor to consider all the facts and circumstances of the situation and make their own reasonable judgement about whether a suspected contravention is significant and must be reported.

### Examples of significant suspected contraventions

- RG 34.26 ASIC considers suspected contraventions that will be, or are likely to be, significant include:
- (a) insolvent trading and the inability to continue as a going concern;
  - (b) a breach of the accounting or sustainability standards;
  - (c) a breach of the true and fair view requirement;
  - (d) a breach of the unconscionable conduct and consumer protection provisions in relation to financial services outlined in Div 2 of Pt 2 of the *Australian Securities and Investments Commission Act 2001*;
  - (e) fraud or a breach of the general duties by officers or employees;
  - (f) a breach that may cause a significant loss to any person or class of persons;
  - (g) breaches associated with related party transactions;
  - (h) a breach of the requirement to have the minimum number of directors;
  - (i) a breach of the requirement to keep books and records, including financial and sustainability records;
  - (j) a breach of the requirement to lodge financial or sustainability reports; and
  - (k) ongoing breaches of the requirement to comply with a compliance plan.

Note: See the [Explanatory Memorandum](#) to the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2004 (CLERP 9 Bill EM) at paragraph 5.245.

RG 34.27 For examples of suspected contraventions and discussion about whether we consider they would be significant, see Table 1 and Table 2 in the Appendix to this guide.

## Adequately dealing with a suspected contravention

- RG 34.28 If the suspected contravention is not significant, s311, 601HG and 1226H require an auditor to form a belief about whether the matter will be adequately dealt with by commenting on it in the auditor's report or by bringing the matter to the attention of the directors.
- RG 34.29 If an auditor notes suspected contraventions in their report to members and as part of their feedback to directors, this will not necessarily mean that the suspected contravention has been adequately addressed. The auditor must report the suspected breach to ASIC if they believe a suspected contravention will not be dealt with adequately by simply noting these matters in the auditor's report or by bringing the matter to the attention of the directors.
- RG 34.30 It is a matter of opinion, based on the facts as known to an auditor, whether the contravention will be adequately addressed by commenting on it in an auditor's report or by bringing the matter to the attention of the directors.
- RG 34.31 The auditor should not delay reporting the suspected breach to ASIC to allow further consultation with the directors if the auditor believes that this consultation may not adequately deal with the matter.
- RG 34.32 For examples of suspected contraventions that are unlikely to be significant but that may be adequately dealt with by commenting on it in the auditor's report or by bringing the matter to the attention of the directors, see Table 2 in the Appendix to this guide.

## When must an auditor report to ASIC?

- RG 34.33 After an auditor becomes aware of a contravention or suspected contravention under s311, s601HG and s1226H, they must lodge an auditor notification with ASIC as soon as practicable, and in any case within 28 days, even if the matter has been rectified during this period. An auditor should not wait until the conclusion of an audit to notify us.

## C Reporting obligations for suspected contraventions by RSEs

### Key points

An auditor of an RSE must notify ASIC if they have reasonable grounds to suspect that there are circumstances that amount to a contravention of the Corporations Act.

This obligation applies to all suspected contraventions, irrespective of materiality or significance, or whether the contravention has been adequately dealt with.

Auditor notifications must be lodged with ASIC as soon as practicable or within 28 days of the auditor becoming aware of it.

### What must an RSE auditor report to ASIC?

- RG 34.34 An auditor of an RSE's financial or sustainability report must notify ASIC if they have reasonable grounds to suspect that there are circumstances that amount to a contravention of the Corporations Act. All matters must be reported to ASIC, irrespective of materiality or significance, or whether the contravention has been adequately dealt with: see s311.

Note 1: For the purposes of s311, an RSE is a registrable superannuation entity within the meaning of the SIS Act but does not include an exempt public sector superannuation scheme, an excluded approved deposit fund (within the meaning of the SIS Act) or a small APRA fund (within the meaning of s1017BB of the Corporations Act).

Note 2: This reporting obligation applies to individual auditors (s311(1A)–(1C)), audit companies (s311(2A)–(2C)), members of audit firms (s311(2D)–(2G)), and lead auditors (s311(3A)–(3C)).

- RG 34.35 For guidance about what are 'reasonable grounds to suspect' a contravention, see RG 34.18–RG 34.21. For examples of suspected contraventions, see Table 1 and Table 2 in the Appendix to this guide, noting that an RSE auditor is required to notify ASIC about all suspected contraventions relating to an RSE audit, irrespective of materiality or significance, or whether the contravention has been adequately dealt with.

### When must an auditor report to ASIC?

- RG 34.36 After an auditor becomes aware of a contravention or suspected contravention under s311 they must lodge an auditor notification with ASIC as soon as practicable and in any case, within 28 days, even if the matter has been rectified during this period. An auditor should not wait until the conclusion of an audit to notify us.

## D Reporting obligations for suspected contraventions by AFS and credit licensees

### Key points

An auditor of an AFS or credit licensee must report to ASIC matters adversely affecting the ability of the licensee to meet their licensee obligations.

Auditors must also report contraventions of specified provisions or licence conditions. All contraventions of these provisions must be reported, irrespective of materiality or significance, or whether the contravention has been adequately dealt with.

Auditor notifications must be lodged with ASIC within seven days of becoming aware of the matter.

### What must an AFS and credit licensee auditor report to ASIC?

RG 34.37 AFS and credit licensee auditors must report to ASIC matters that:

- (a) have adversely affected, are adversely affecting, or may adversely affect the ability of the licensee to meet their licence obligations: see s990K(2)(a) of the Corporations Act and s104(2)(a) of the National Credit Act; or
- (b) constitute, or may constitute, a contravention of specified provisions or a condition of the licensee's AFS or credit licence: see s990K(2)(b) of the Corporations Act and s104(2)(b) of the National Credit Act.

Note: Section 104 of the National Credit Act applies to auditors when they are performing their duties under s49(3) of the National Credit Act (where ASIC has given a written notice to the credit licensee directing it to obtain an audit report) and s100(2) of the National Credit Act (where the credit licensee must lodge an audit report with a trust account statement).

### Contravention of specified provisions or licence conditions

RG 34.38 Section 990K(2)(b) of the Corporations Act and s104(2)(b) of the National Credit Act do not include a 'significance' test. All matters must be reported to ASIC, irrespective of materiality or significance, or whether the contravention has been adequately dealt with.

Note: Matters that are not contraventions of specified provisions may still need to be reported to ASIC if the matter results in a breach of a condition of the licensee's AFS or credit licence; has an 'adverse effect' on the licensee's ability to meet its obligations; or must be reported under s311—if the auditor also audits the entity that holds the licence (see Section B).

**AFS licensee audits**

RG 34.39 Under s990K(2)(b), auditors must report to ASIC suspected breaches or contraventions of:

- (a) conditions of a licensee's AFS licence; and

Note 1: Unless the context indicates otherwise, a reference to a condition in relation to an AFS licence includes a restriction: see the definition of 'condition' in s9.

Note 2: The auditor should obtain a copy of the licensee's AFS licence and consider reg 7.6.04 of the *Corporations Regulations 2001* (Corporations Regulations) to determine what conditions ASIC has imposed on the licensee.

- (b) a provision of:

- (i) Subdiv A or B of Div 2 of Pt 7.8: Dealing with client's money—Money other than loans, and loan money;
- (ii) Div 3 of Pt 7.8: Dealing with other property of clients; and
- (iii) Subdiv B or C of Div 6 of Pt 7.8: Financial records, statements and audit—Financial records, and statements of financial services licensees.

Note: The specified provisions of the Corporations Act include any regulations made under these provisions.

RG 34.40 Examples of suspected contraventions of specified provisions include:

- (a) a failure to pay client money into a trust account in accordance with s981B or designate the account to be a trust account under reg 7.8.01 of the Corporations Regulations;
- (b) the withdrawal of money from a trust account other than in the circumstances permitted under reg 7.8.02 of the Corporations Regulations (s981C);
- (c) a failure to keep financial records in sufficient detail to clearly understand the assets and liabilities held on behalf of clients (s988A–s988B); and
- (d) a failure to keep financial records that enable the profit and loss and balance sheet to be prepared and audited (s988B).

**Credit licensee audits**

RG 34.41 Under s104(2)(b) of the National Credit Act, auditors must report to ASIC suspected breaches or contraventions of:

- (a) conditions of the licensee's credit licence;

Note: The auditor should obtain a copy of the licensee's credit licence and consider regs 9, 9AA and 9AB and 9A of the *National Consumer Credit Protection Regulations 2010* to determine what conditions are imposed on the licensee.

- (b) a provision of:

- (i) Div 2 of Pt 2–5 of the National Credit Act: Financial records, trust accounts and audit reports—Financial records of licensees; and
- (ii) Div 3 of Pt 2–5 of the National Credit Act: Financial records, trust accounts and audit reports—Trust accounts of credit service licensees.

Note: The specified provisions of the National Credit Act include any regulations made under these provisions.

## **When must an auditor report to ASIC?**

RG 34.42      Auditor notifications must be lodged with ASIC within seven days of becoming aware of the matter, even if the matter has been rectified during this period: see s990K(1) of the Corporations Act and s104(1) of the National Credit Act.



## E Other reporting obligations

### Key points

Auditors also have obligations to report to ASIC attempts to unduly influence, interfere or mislead when conducting an audit of:

- a company, disclosing entity, registered scheme, CCIV, or compliance plan of a registered scheme or retail CCIV; and
- an AFS and credit licensee.

As part of their independence obligations, all auditors have obligations to notify ASIC about conflict of interest situations and circumstances involving relevant relationships.

Auditors also have obligations to notify ASIC about their own contraventions and suspected contraventions of the Corporations Act.

### Attempts to unduly influence, interfere and mislead

#### Audits of companies, disclosing entities, registered schemes and CCIVs

RG 34.43 An auditor of a company, disclosing entity, registered scheme or CCIV or a compliance plan auditor for a registered scheme or retail CCIV must notify ASIC if the auditor is aware of circumstances that amount to an attempt by any person:

- (a) to unduly influence, coerce, manipulate or mislead a person involved in the conduct of an audit; or

Note: A 'person involved in the conduct of an audit' includes the auditor, the lead auditor, review auditor, a professional member of the audit team or any other person involved in the conduct of the audit: s311(6), 601HG(12) and s1226H(7).

- (b) to otherwise interfere with the proper conduct of an audit: see s311, 601HG and 1226H.

Note: These reporting obligations apply to individual auditors (s311(1)(a), 601HG(4)(a), and 1226H(1)(a)), audit companies (s311(2)(a), 601HG(4A)(a) and 1226H(2)(a)), and lead auditors (s311(3)(b), 601HG(4B)(b) and 1226H(3)(b)).

RG 34.44 Auditors must notify ASIC in writing as soon as practicable, and in any case within 28 days of becoming aware of the attempt, even if the matter has been rectified during this period.

## RSE audits

- RG 34.45 Auditors of RSEs are not required to report these matters to ASIC under s311 but must report these matters to the relevant regulator: see s130BA and 130BAA of the SIS Act.

## AFS and credit licensee audits

- RG 34.46 AFS and credit licensee auditors must notify ASIC if they become aware of an attempt to unduly influence, coerce, manipulate or mislead the auditor in the conduct of an audit: see s990K(2)(c) of the Corporations Act and s104(2)(c) of the National Credit Act.
- RG 34.47 AFS and credit licensee auditors must notify ASIC in writing within seven days of becoming aware of a breach: see s990K(1) of the Corporations Act and s104(1) of the National Credit Act.

## Auditor independence and conflicts of interest obligations

- RG 34.48 All auditors have reporting obligations connected with their auditor independence obligations to report:
- (a) conflict of interest situations under s324CA–CC; and
 

Note: This reporting obligation applies to individual auditors and audit companies (s324CA(1A)), members of audit firms (s324CB(1A)), and directors of audit companies (s324CC(1A)).
  - (b) circumstances involving relevant relationships under s324CE–CG.
 

Note: This reporting obligation applies to individual auditors (s324CE), audit firms (s324CF), and directors of audit companies (s324CG).
- RG 34.49 A conflict of interest situation exists in relation to an audited entity if:
- (a) the auditor (or a professional member of the audit team) cannot exercise objective and impartial judgement in the conduct of the audit; or
  - (b) a reasonable person, with full knowledge of all relevant facts and circumstances, would conclude that the auditor (or a professional member of the audit team) cannot exercise objective and impartial judgement in the conduct of the audit: see s324CD(1).
 

Note: For the purposes of determining whether a conflict of interest exists under s324CA–CC, you should have regard to the relationships set out in s324CD(2).
- RG 34.50 A circumstance involving a relevant relationship exists if the auditor (or one of the people or entities in s324CE(5), 324CF(5) or 324CG(9)) has a relationship with the audited entity described in s324CH.
- Note: For the purposes of s324CE–CG, a relevant relationship is a relationship set out in s324CH.

## When must an auditor report to ASIC?

- RG 34.51 If an auditor becomes aware of a conflict of interest situation or a circumstance involving relevant relationships between the auditor (or its team members) and the audited entity, the auditor must notify ASIC if the situation or circumstance is ongoing after seven days. Failure to comply with this obligation is an offence.

Note 1: If the conflict of interest situation or circumstance is not resolved within 21 days from notifying ASIC, the appointment of the auditor ceases automatically and our consent to the resignation or removal is not required. For more information see s327B, 331AAA and 331AH and Regulatory Guide 26 *Resignation, removal and replacement of auditors* ([RG 26](#)).

Note 2: ASIC will give a copy of the notice of the conflict of interest or circumstance involving a relevant relationship to the audited entity.

Note 3: There are also rules for retiring partners of audit firms and retiring directors and professional members of audit companies: see s324CI–324CK.

## Obligation to report the auditor's own contraventions and suspected contraventions of the Corporations Act

- RG 34.52 Under s311, 601HG and 1226H, auditors also have obligations to notify ASIC of the auditor's own contraventions and suspected contraventions of the Corporations Act, including contraventions of:

- (a) the auditor independence and conflicts of interest obligations in Div 3 of Pt 2M.4; and
- (b) the auditor rotation requirements in Div 5 of Pt 2M.4.

Note 1: For further information about the reporting obligations that apply when undertaking audits of a company, disclosing entity, registered scheme or CCIV under s311 or a compliance plan of a registered scheme or retail CCIV under s601HG and 1226H: see Section B.

Note 2: For further information about the reporting obligations that apply when undertaking audits of an RSE under s311: see Section C.

Note 3: For further information about the auditor rotation requirements, see Regulatory Guide 187 *Auditor Rotation* ([RG 187](#)).

- RG 34.53 ASIC considers that a breach of these auditor independence requirements is likely to be significant and should be reported.

Note 1: Each case must be considered on its merits, and auditors must apply professional judgement and consider the particular facts and circumstances of each case when deciding whether to notify ASIC.

Note 2: An RSE auditor is required to notify ASIC about all suspected contraventions relating to an RSE audit, irrespective of materiality or significance, or whether the contravention has been adequately dealt with.

RG 34.54      After an auditor becomes aware of their own contravention or suspected contravention under s311, s601HG and s1226H, they must lodge an auditor notification with ASIC as soon as practicable, and in any case within 28 days, even if the matter has been rectified during this period. An auditor should not wait until the conclusion of an audit to notify us.

## F Lodging auditor notifications

### Key points

This section explains:

- the information to include in auditor notifications;
- how qualified privilege protects auditors;
- how to lodge auditor notifications; and
- what happens when an auditor fails to report to or notify ASIC.

### Information to include in auditor notifications

RG 34.55 Auditors must notify ASIC in writing of the circumstances giving rise to any:

- (a) suspected contraventions (see Sections B, C, D and Section E at RG 34.52—RG 34.54);
- (b) attempts to unduly influence, interfere or mislead the auditor (see Section E at RG 34.43—RG 34.47); or
- (c) conflict of interest situations and circumstances involving relevant relationships (see Section E at RG 34.48—RG 34.51).

RG 34.56 Auditor notifications should provide sufficient detail to allow us to understand and evaluate the issue being reported. Auditors should provide information about:

- (a) the audited entity—including the name of the entity, and as applicable, the Australian Business Number (ABN), Australian Company Number (ACN), Australian Registered Scheme Number (ARSN), Unique Superannuation Identifier (USI) and licence number;
- (b) the circumstances alerting the auditor to the issue, including when the auditor became aware of it;
- (c) the nature and extent of the issue being reported, including the relevant legislative provision(s) that may have been contravened; and
- (d) actions being taken by the entity, directors, licensee or auditor in relation to the issue.

Note 1: Auditor notifications about suspected contraventions under s311, 601HG, 990K and 1226H should be lodged using the 'submit auditor breach report' form on the [ASIC Regulatory Portal](#) (see [Submitting breach reports on the portal](#)). The information required by the form will depend on the circumstances of the suspected breach.

Note 2: Auditor notifications about suspected contraventions under s104 of the National Credit Act should be lodged by emailing the report to [feedback.breach@asic.gov.au](mailto:feedback.breach@asic.gov.au).

Note 3: An auditor notification about multiple suspected contraventions (e.g. a breach of the requirement to keep books and records *and* a breach of the requirement to lodge financial reports) may be lodged with ASIC under a single lodgement provided the notifications all relate to the same entity.

## How qualified privilege protects auditors

RG 34.57 An auditor lodging auditor notifications has qualified privilege under s601HG(8), 990L, 1226G(5) and s1289 of the Corporations Act and s105 of the National Credit Act.

Note: 'Qualified privilege' is defined as protection from proceedings for defamation: see s89 of the Corporations Act and s16 of the National Credit Act.

RG 34.58 In essence, qualified privilege is available if an auditor has acted in good faith and solely for the purpose of discharging the statutory obligation to notify or report to us. An auditor must not have acted maliciously or for any other improper purpose.

RG 34.59 Statutory privilege does not displace any privilege that the auditor may be entitled to rely on under the common law: see s89(3) of the Corporations Act and s16(3) of the National Credit Act.

## How to lodge auditor notifications

RG 34.60 Auditor notifications should be lodged online through the [ASIC Regulatory Portal](#) (see [Submitting breach reports on the portal](#)).

Note: Auditor notifications about suspected contraventions under s104 of the National Credit Act should be lodged by emailing the report to [feedback.breach@asic.gov.au](mailto:feedback.breach@asic.gov.au).

## What happens when an auditor fails to report or notify ASIC?

RG 34.61 An auditor who fails to comply with the auditor reporting obligations is guilty of an offence. The relevant criminal penalties (fine and/or term of imprisonment) are set out in Sch 3 of the Corporations Act and s104(3) of the National Credit Act.

Note: ASIC has a range of powers that enable us to respond flexibly and proportionately to a broad range of individual and corporate misconduct. For more information about ASIC's approach to enforcement, including the factors ASIC may consider when deciding whether to apply to the Companies Auditors Disciplinary Board for disciplinary action of an auditor, see Information Sheet 151 *ASIC's approach to enforcement* ([INFO 151](#)).

## Appendix: Contravention examples—companies, disclosing entities, registered schemes and CCIVs

### Important information about examples

- RG 34.62 The examples in this appendix are not a checklist and their inclusion in this guide does not indicate that we will always consider the suggested treatment to be appropriate in all cases. Each case must be considered on its merits, and auditors must apply professional judgement and consider the particular facts and circumstances of each case when deciding whether to notify ASIC.
- RG 34.63 Some of these examples may also be relevant to an RSE auditor's obligation to notify ASIC about suspected contraventions. However, under s311, an RSE auditor is required to notify ASIC about all suspected contraventions relating to an RSE audit, irrespective of materiality or significance, or whether the contravention has been adequately dealt with.

### Examples of significant suspected contraventions

- RG 34.64 Table 1 sets out examples of suspected contraventions that ASIC considers are likely to be significant and require notification. This is not an exhaustive list.

**Table 1: Suspected contraventions that are likely to be significant**

Suspected contravention	ASIC guidance
<p><b>Insolvent trading and inability to continue as a going concern</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• s588G</li> <li>• <a href="#">CLERP 9 Bill EM</a> at paragraph 5.245</li> </ul>	<p><b>Insolvent trading</b></p> <p>ASIC considers that insolvent trading is a significant contravention—especially having regard to the possible detriment to creditors or employees—and should be reported to ASIC.</p> <p>Suspected insolvent trading may become apparent at any time during the year, including during the conduct of audit or review procedures after balance date and before the signing of the financial report.</p> <p><b>Going concern issues</b></p> <p>Where a financial report has been prepared on a going concern basis and the auditor gives a modified audit report on the appropriateness of using the going concern basis, ASIC considers there is a significant contravention and should be reported to ASIC.</p> <p>With all other going concern issues, the auditor should consider the effect of the going concern issues identified on:</p> <ul style="list-style-type: none"> <li>• the overall financial position of the entity; or</li> <li>• the adequacy of the information available about the overall financial position of the entity: see s311(4)(b).</li> </ul> <p>An auditor that identifies going concern issues should perform sufficient work to establish whether there are reasonable grounds to suspect insolvent trading.</p> <p>The auditor should not delay notifying us of suspected insolvent trading until they have resolved going concern considerations, or in the hope that the company will obtain new financial support before signing the financial report.</p>
<p><b>Breach of accounting or sustainability standards</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• s296, 296A(2), 296B, 296C</li> <li>• CLERP 9 Bill EM at paragraph 5.245</li> </ul>	<p>ASIC considers that suspected non-compliance with an accounting or sustainability standard would be significant in most circumstances and should be reported to ASIC.</p> <p>An auditor should notify ASIC if:</p> <ul style="list-style-type: none"> <li>• an entity's financial or sustainability report fails to comply with the accounting or sustainability standards and was materially misstated; and</li> <li>• a previously issued financial or sustainability report was materially misstated—even if the misstatement was unintentional or is revealed by new information that has come to light.</li> </ul> <p>Non-compliance with an accounting or sustainability standard could require the restatement of a previously issued financial or sustainability report or the issuance by the auditor of a modified audit or review report.</p> <p>However, we do not consider that an auditor would be required to notify ASIC if:</p> <ul style="list-style-type: none"> <li>• an entity's financial or sustainability report complied with the accounting or sustainability standards when that report was issued; and</li> <li>• a restatement is required by the relevant accounting or sustainability standard due to the adoption of a new accounting or sustainability standard.</li> </ul>



Suspected contravention	ASIC guidance
<p><b>Modified audit or review reports</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• s297, 308 and 309</li> <li>• CLERP 9 Bill EM at paragraph 5.245</li> </ul>	<p>ASIC considers that a breach of the 'true and fair view' requirement would be significant and should be reported to ASIC.</p> <p>An auditor should consider its reporting obligations if:</p> <ul style="list-style-type: none"> <li>• an auditor's report is <b>modified in relation to a scope limitation</b>—with consideration given to whether the circumstances that led to the scope limitation gives rise to reasonable grounds to suspect a contravention of the Corporations Act; and</li> <li>• an <b>emphasis of matter paragraph is included</b> in an unmodified audit report—although this may not necessarily relate to a circumstance that amounts to a significant contravention of the Corporations Act, the auditor should consider the underlying basis for that emphasis of matter and whether it requires the auditor to notify us.</li> </ul>
<p><b>Fraud by officers or employees of the entity</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• CLERP 9 Bill EM at paragraph 5.245</li> </ul>	<p>ASIC considers that suspected fraudulent conduct or financial reporting by officers or employees of the audited body would be significant in most circumstances and should be reported to ASIC.</p> <p>If fraudulent conduct or financial reporting by officers or employees of the audited body is suspected, the auditor should perform sufficient work to establish whether there are reasonable grounds to suspect a significant contravention of the Corporations Act has occurred or is continuing to occur.</p> <p>In considering whether the contravention or suspected contravention is significant, the auditor should have regard to the actual or potential loss resulting from the alleged fraud, number or frequency of the fraudulent events and the seniority of the individual involved.</p> <p>In particular, ASIC should be notified if the scale of the alleged fraud is likely to adversely affect:</p> <ul style="list-style-type: none"> <li>• the overall financial position of the entity; or</li> <li>• the adequacy of the information available about the overall financial position of the entity: see s311(4)(b).</li> </ul>
<p><b>Breach of general duties of officers and employees</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• s180-184</li> </ul>	<p>ASIC considers that a suspected breach by an officer or employee of the general duties in s180-184 would generally be significant as it effects the governance of the entity and should be reported to ASIC.</p>
<p><b>Related party transactions</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• Ch 2E</li> <li>• Regulatory Guide 76 <i>Related party transactions</i> (<a href="#">RG 76</a>)</li> </ul>	<p>ASIC considers that a suspected contravention associated with related party transactions would generally be significant and should be reported to ASIC.</p> <p>This is because there is a risk that the interests of a related party may influence the decision-making of directors to the detriment of the interests of members of the entity.</p>
<p><b>Composition of the board of directors</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• s201A</li> </ul>	<p>ASIC considers that a suspected failure to have the minimum number of directors would generally be significant as it affects the governance of the company and should be reported to ASIC.</p>

Suspected contravention	ASIC guidance
<p><b>Breach of the requirement to keep books and records</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• s286 and 286A</li> </ul>	<p>ASIC considers that a suspected failure to maintain adequate books and records, including financial or sustainability records, would likely be significant and should be reported.</p> <p>The auditor should notify ASIC about these breaches regardless of whether the matter has been reported in the audit report.</p>
<p><b>Non-lodgement of financial and sustainability reports</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• s319 and 320</li> </ul>	<p>ASIC considers that a suspected failure to lodge a financial or sustainability report is significant and should be reported to ASIC:</p> <ul style="list-style-type: none"> <li>• for listed entities or disclosing entities—if the report has not been lodged by its due date; or</li> <li>• for all other entities—if the report remains outstanding 28 days after its due date.</li> </ul> <p>Note 1: RSE auditors must notify ASIC if an RSE has failed to lodge a financial or sustainability report if the report has not been lodged by its due date.</p> <p>Note 2: For further information about sustainability reporting, see Regulatory Guide 280 <i>Sustainability reporting</i> (<a href="#">RG 280</a>).</p>
<p><b>Ongoing breaches of the requirement to comply with a compliance plan</b></p> <p>See:</p> <ul style="list-style-type: none"> <li>• s601FC(1)(h) and 1224D(2)(g)</li> </ul>	<p>ASIC considers that suspected ongoing compliance failures identified in an audit relating to a compliance plan are significant and should be reported.</p> <p>In assessing the significance of instances of non-compliance and whether these should be reported, an auditor should consider matters <i>including</i> whether:</p> <ul style="list-style-type: none"> <li>• there are any monetary or adverse impacts to investors or investor protection issues;</li> <li>• the breaches identified indicate a systemic failure in the compliance processes of the audited body;</li> <li>• the instances of non-compliance were the subject of previous audit findings that have not been addressed by the entity; and</li> <li>• the break down in compliance processes may impact the ability of the entity to achieve any compliance plan objectives and/or statutory obligations.</li> </ul> <p>Notification of these matters to ASIC does not change the auditor's obligation to issue a modified audit opinion if circumstances require it.</p>

## Examples of insignificant contraventions

RG 34.65 Table 2 sets out examples of suspected contraventions that ASIC considers unlikely to be significant. This is not an exhaustive list.

**Table 2: Suspected contraventions that are unlikely to be significant**

Suspected contravention	ASIC guidance
<b>Failure to assist the auditor</b> See: <ul style="list-style-type: none"> <li>• s312</li> </ul>	<p>An isolated and relatively minor incident of an officer of the audited body failing to assist an auditor as required by s312 is unlikely to be a significant contravention.</p> <p>The auditor may be able to adequately deal with the contravention by bringing the matter to the attention of directors, provided the directors take appropriate action. In this case, if the suspected contravention is not significant and has been adequately dealt with, there is no requirement for the auditor to report the matter to ASIC. However, the auditor should notify ASIC if the failure continues.</p>
<b>Failure to correct an extract of particulars</b> See: <ul style="list-style-type: none"> <li>• s346C</li> </ul>	<p>An entity's isolated failure to correct an extract of particulars in contravention of s346C is unlikely to be a significant contravention.</p> <p>An auditor may be able to deal adequately with the contravention by notifying the directors. In this case, if the suspected contravention is not significant and has been adequately dealt with, there is no requirement for the auditor to report the matter to ASIC. However, the auditor is then on notice of a possible continuing breach, and should notify ASIC if the failure continues.</p>

## Key terms

Term	Meaning in this document
ABN	Australian Business Number
ACN	Australian Company Number
AFS licence	An Australian financial services licence under s913B that authorises a person who carries on a financial services business to provide financial services
AFS licensee	A person who holds an AFS licence
APRA	Australian Prudential Regulation Authority
ARSN	Australian Registered Scheme Number
ASIC	Australian Securities and Investment Commission
auditor	An individual auditor, registered company auditor or the lead auditor of an authorised audit company
auditor notification	A notification to ASIC by the auditor of a breach, contravention or other matter required under the Corporations Act or National Credit Act
auditor reporting obligations	The obligations to report a contravention or suspected contraventions and other matters to ASIC under s311, 324CA–CC, 324CE–CG, 601HG, 990K or 1226H of the Corporations Act and s104 of the National Credit Act
CCIV	A Corporate collective investment vehicle
Ch 2E (for example)	A chapter of the Corporations Act (in this example numbered 2E), unless otherwise specified
CLERP 9 Bill EM	<a href="#">Explanatory Memorandum</a> to the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2004
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purpose of that Act
Corporations Regulations	<i>Corporations Regulations 2001</i>
credit licence	An Australian credit licence under s35 of the National Credit Act that authorises a licensee to engage in particular credit activities
credit licensee	A person who holds an Australian credit licence under s35 of the National Credit Act
Div 3 (for example)	A division of a part of a chapter of the Corporations Act (in this example numbered 3), unless otherwise specified

Term	Meaning in this document
lead auditor	Has the meaning in s324AF
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
Pt 7.6 (for example)	A part of a chapter of the Corporations Act (in this example numbered 7.6), unless otherwise specified
Reg 7.6.04 (for example)	A regulation of the Corporations Regulations (in this example numbered 7.6.04), unless otherwise specified
registered scheme	A managed investment scheme that is registered under s601EB
retail CCIV	Has the meaning given by s1222J(1) Note: This is a definition contained in s9.
RSE	A registrable superannuation entity within the meaning of the SIS Act but does not include the following: <ul style="list-style-type: none"> <li>• an exempt public sector superannuation scheme;</li> <li>• an excluded approved deposit fund (within the meaning of the SIS Act); and</li> <li>• a small APRA fund (within the meaning of s1017BB of the Corporations Act)</li> </ul>
SIS Act	Superannuation Industry (Supervision) Act 1993
s311 (for example)	A section of the Corporations Act (in this example numbered 311), unless otherwise specified
USI	Unique Superannuation Identifier

## Related information

### Headnotes

AFS licence, auditor obligations, credit licence, contraventions, licence conditions, qualified privilege, reasonable grounds, significant contravention, suspected contravention

### Regulatory guides

[RG 26](#) *Resignation, removal and replacement of auditors*

[RG 76](#) *Related party transactions*

[RG 187](#) *Auditor rotation*

[RG 280](#) *Sustainability reporting*

### Information sheets

[INFO 151](#) *ASIC's approach to enforcement*

### Legislation

*Australian Securities and Investments Commission Act 2001*, Pt 2, Div 2

Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2004

*Corporations Act 2001*, Ch 2E; Pt 2M.4, Divs 3 and 5; Pt 5C.4; Pt 7.6, Div 3; Pt 7.8, Div 2, Subdivs A and B, Pt 7.8, Div 3, Pt 7.8, Div 6, Subdivs B and C; Pt 8B.3, Div 4; s9, 89, 180–184, 201A, 286, 286A, 296, 296A(2), 296B, 296C, 297, 308, 309, 311, 312, 319, 320, 324AF, 324CA–CK, 327B, 331AAA, 331AH, 346C, 588G, 601FC, 601HG, 912D, 981B, 981C, 988A, 988B, 990K, 990L, 1017BB, 1222J(1), 1224D(2)(g), 1226G, 1226H, 1289 and Sch 3

*Corporations Regulations 2001*, reg 7.6.04, 7.8.01 and 7.8.02

[Explanatory Memorandum](#) to the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2004

*Life Insurance Act 1995*, s88

*National Consumer Credit Protection Act 2009*, Pt 2–2, Div 5; Pt 2–5, Divs 2 and 3; s16, 49(3), 50A, 100(2), 104 and 105

*National Consumer Credit Protection Regulations 2010*, regs 9, 9AA, 9AB and 9A

*Superannuation Industry (Supervision) Act 1993*, s130BA and 130BAA