

CS-054 Proposed consolidation of financial reporting and auditing instruments

ASIC

Submitter:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Phone:

[REDACTED]

Email:

[REDACTED]

Introduction

Thank you for the opportunity to comment on CS 54, Proposed consolidation of financial reporting and auditing instruments.

I support regulatory simplification where it makes obligations clearer, improves access to the law, removes duplication, and helps honest participants understand what they must do. ASIC's proposal to streamline 17 financial reporting and auditing relief instruments into two instruments has an understandable administrative purpose. ASIC says the proposed changes are intended to make available relief easier to understand, reduce the number of legislative instruments dealing with related subject matter, and support regulatory simplification by clarifying requirements to qualify for relief.

However, simplification is not neutral when the subject matter is financial reporting relief and audit relief. These instruments do not merely organise paperwork. They decide when companies, schemes, disclosing entities, foreign controlled entities, auditors, accountants and directors may avoid, modify or replace ordinary reporting and audit obligations. The public interest test is therefore not whether the instruments are shorter or easier for regulated entities to navigate. The public interest test is whether the consolidation improves transparency. At a minimum, it must preserve existing transparency, audit integrity, creditor protection, investor confidence, member rights and ASIC's ability to detect misconduct.

ASIC should not finalise CS 54 as a routine tidy up unless it can demonstrate that the consolidation improves transparency, or at a minimum preserves existing transparency.

It should also demonstrate that no substantive safeguard has been lost by consolidation, no relief has been widened by drafting accident, no cross-reference error creates uncertainty, and no obligation has been weakened without explicit public justification.

Relief instruments must justify themselves by public purpose

A relief instrument should not be preserved merely because it is familiar, convenient or administratively tidy. Every exemption from the ordinary Corporations Act framework should justify itself by clear public purpose, clear evidence, clear limits and clear protection for the people who carry the risk.

That principle is especially important in CS 54 because the proposal concerns relief from financial reporting and auditing obligations. Those obligations exist for a reason. They support public confidence in financial information, help creditors and members understand risk, assist investors and market participants, discipline directors and auditors, and give ASIC data that may reveal misconduct or emerging stress. Relief from those obligations may be justified in particular circumstances, but the burden should sit with ASIC and the beneficiaries of the relief to show that the exemption remains necessary, proportionate, confined and safe.

The absence of a visible controversy is not proof that relief is safe. It may only show that ASIC has not collected, published or analysed enough information to know how the relief is being used, who benefits from it, and whether risk has been shifted from regulated entities to investors, creditors, members, consumers or the public. ASIC should therefore not treat consolidation as a sufficient answer. A cleaner instrument is not a substitute for an evidence base.

The central question should be who gains, who carries the risk, what ordinary protections are lost or modified, what equivalent safeguards remain, and whether ASIC has enough visibility to supervise what it has exempted. If simplification makes relief easier for regulated entities to find and use, then ASIC must ensure that it also makes reliance on relief easier for ASIC to see, monitor and test.

Simplification must not become deregulation by stealth

The central risk in CS 54 is that a project described as simplification may operate in practice as deregulation by stealth. That risk does not arise because ASIC has acted improperly. It arises because consolidation of relief instruments is inherently risky if existing protections are moved, omitted, combined, reworded or narrowed without a full audit trail.

ASIC's Report 830 records support for simplification, but it also records stakeholder warnings against over simplifying legislative instruments in a way that may create

regulatory gaps, shift compliance burdens or omit necessary detail. It also records that stakeholder recommended separating audit related relief from financial reporting relief, which ASIC has accepted by proposing two instruments rather than one combined instrument.

That history matters because stakeholders supported clearer instruments, not weaker accountability. CS 54 must therefore be assessed against a hard standard. If ASIC cannot show exactly what has been preserved, what has been changed, what has been omitted, and why, then the consultation is not transparent enough for stakeholders to test the real effect of the proposal.

The most important improvement ASIC could make is to publish a provision-by-provision comparison table before finalising the instruments. That table should identify each existing instrument, each existing provision, the location of the carried over provision in the new draft, each drafting change, each omission, and ASIC's reason for the change or omission. Without that table, stakeholders are forced to reverse engineer the legal effect of the consolidation across numerous instruments and explanatory materials. That is the opposite of simplification.

The public trust context cannot be ignored

CS 54 is being considered in a period of serious public concern about large professional services firms, audit independence, confidential information, firm governance and the quality of professional gatekeeping. ASIC should not treat that context as external to this consultation, because financial reporting and auditing relief depends heavily on trust in directors, auditors, accountants and professional firms.

ASIC's own public material shows why caution is necessary. In October 2025, ASIC said auditor independence underpins stakeholder trust and confidence in the audit process and the reliability of audited financial information. ASIC also said many auditors failed to meet basic independence requirements, that 15 auditors were found likely to be in breach of rotation requirements, relationship prohibitions or prohibited non audit service rules, and that none of those 15 auditors had proactively reported the potential breaches to ASIC.

That goes directly to CS 54. The draft Auditing Instrument includes relief from disclosing certain auditor independence contraventions in the auditor's independence declaration where conditions are met. It also includes audit relief for certain proprietary companies. In a high trust environment, such relief might be treated as narrow technical relief. In the current environment, ASIC should assume that any reduction in public disclosure or independent audit scrutiny will be judged against a damaged trust backdrop.

Treasury is also consulting on options to improve the regulation of accounting, auditing and consulting firms in Australia. Treasury says high quality audit services are vital to the proper functioning of the Australian economy because they help build public trust, support investment and ensure financial markets operate effectively. Treasury's current consultation expressly refers to audit quality, enforceable ethical standards, auditor independence, audit surveillance, stronger penalties, regulatory resilience and confidence in Australia's audit market.

ASIC should ensure CS 54 does not pre-empt, dilute or cut across that broader reform process. This consultation should not quietly make audit relief easier to rely upon at the same time Government is considering whether the audit and consulting sector requires stronger oversight.

PwC, KPMG and EY show why private assurance is not enough

Recent public controversies involving PwC, KPMG and EY are relevant because they expose a common risk. Professional services firms and their personnel are often placed in positions of unusual trust, with access to confidential information, regulatory processes, client data, board material and market sensitive information. When that trust is breached, the harm is not confined to a single client. It damages confidence in the gatekeeping system itself.

The Senate's work on PwC identified serious concerns about the handling of confidential government information and recommended that PwC publish accurate and detailed information about the involvement of partners and staff in the breach. The same parliamentary material records that the committee concluded PwC Australia had not sufficiently addressed the issue inside the firm or in terms of public accountability. Reuters has reported that ASIC launched a formal investigation into KPMG Australia partners linked to whistleblower allegations that confidential client data was misused to win audit contracts. The Financial Times has reported that an EY employee was charged with unauthorised access to Prime Minister Anthony Albanese's banking details while on contract with Commonwealth Bank.

These matters are not identical to the relief instruments in CS 54, and ASIC should not treat allegations as findings beyond their proper status. Their relevance is narrower but important. They show that the regulatory system should not place excessive weight on private self-assessment, internal assurance, firm culture or after the event correction when the issue is public trust.

For that reason, ASIC should be cautious about any provision that allows an independence issue to be kept out of the public auditor independence declaration, or any audit relief that substitutes director resolutions, management accounts and compilation reports for independent audit scrutiny.

Audit relief requires stronger public justification

The draft Auditing Instrument would provide audit relief for certain large proprietary companies and small foreign controlled proprietary companies. The relief includes exemptions from having the company's financial report audited, from providing an auditor's report to members, and from some concise report related audit statements, subject to detailed conditions.

Those conditions are significant. They include requirements concerning the nature of the company, prior audits, director and member resolutions, notice rights for certain persons to require an audit, solvency declarations, procedures to assess solvency, quarterly management accounts, liabilities to tangible assets tests, profit requirements, accountant compilation, lodgement and disclosure in the directors' report that the financial report has not been audited.

Those safeguards do not remove the core problem. Audit relief means the ordinary independent audit is not performed. It means external assurance is reduced and replaced by internal processes, accountant compilation and later regulatory oversight. That may be justified for genuinely low risk private entities, but ASIC should not allow the consolidation process to expand the practical availability of that relief, soften the conditions, or remove prior safeguards without clear explanation.

A particular concern is ASIC's statement that the draft Auditing Instrument consolidates and replaces the existing audit relief instrument while omitting requirements in section 6(i), 6(s) and 6(v) of ASIC Corporations Audit Relief Instrument 2016/784. ASIC should explain, in plain terms, what each omitted requirement did, why it is now said to be unnecessary, and what equivalent safeguard remains. The consultation material also states that some relief and approvals have been omitted because they had become redundant or were inappropriate to include in the repeal provisions of the consolidated instruments.

If any omitted requirement concerned a proposed modified audit opinion, unresolved accounting disagreement, auditor concern or other warning sign that an audit may expose difficulty, then the omission is not merely technical. Audit relief should not become a pathway away from independent scrutiny when independent scrutiny is likely to be uncomfortable.

Auditor independence relief should be narrowed or made more transparent

The proposed relief from disclosure of certain auditor independence contraventions may be intended to deal with accidental, immaterial and quickly corrected financial interests. The draft Auditing Instrument provides that the lead auditor is relieved from setting out details of a contravention in the auditor's independence declaration where

the financial interest has not exceeded \$10,000, the engagement partner is satisfied that the interest was not material to the relevant person, written confirmation is obtained, the interest is divested as soon as possible and no later than seven days after awareness, the lead auditor reports to the directors, and the directors resolve that independence and objectivity were not affected.

That structure may be defensible as narrow relief, but it is too dependent on internal judgement in the present environment. ASIC's own independence findings show that auditors have failed to identify, evaluate and report independence breaches. It would therefore be inappropriate to frame independence disclosure relief as a mere technical tidying exercise.

ASIC should either retain public disclosure for all independence contraventions, or require a more transparent substitute. At minimum, ASIC should require reporting to ASIC of every instance where the relief is relied upon, including the audit firm, audited entity, value of the financial interest, duration, nature of the relationship, date of divestment, and confirmation of the directors' resolution. ASIC could determine whether any public register should be published in full or in de identified form, but there should be no invisible relief for independence breaches in the current public trust environment.

Where the ordinary law requires disclosure of an independence contravention, relief from public disclosure should not mean disappearance from regulatory sight.

Financial reporting relief is public information architecture

The draft Financial Reporting Instrument is not limited to ordinary accounts. It touches rounding, nil amount items, post balance date disclosure, directors' report information, parent entity financial statements, related schemes, non-reporting entities, disclosing entities, stapled groups, stapled issuers, foreign controlled companies, registered foreign companies, synchronisation of financial years, electronic lodgement, technical relief for fundraising and product disclosure, and natural person AFS licensee reporting. ASIC's CS 54 material confirms that the draft Financial Reporting Instrument consolidates instruments dealing with stapled entities, parent entity financial statements, natural person licensees, foreign controlled company reports, rounding, disclosing entities, synchronisation, directors' report relief, electronic lodgement, technical relief, post balance date reporting, non-reporting entities, related schemes and stapled group reports.

That breadth matters. Financial reporting relief can affect investors, creditors, employees, members, consumers, competitors and regulators. Relief for stapled groups and related schemes can affect how complex structures are presented. Relief for foreign controlled entities can affect the visibility of Australian operations within

foreign corporate groups. Relief concerning electronic lodgement affects how information reaches ASIC and the market. Relief concerning technical disclosure provisions can affect fundraising and financial product disclosure settings.

ASIC should therefore avoid describing the financial reporting instrument as a harmless consolidation. It is a consolidation of public information architecture. That architecture must be clear not only for companies and advisers but also for the people who rely on financial reports to understand risk, ownership, solvency, accountability and market conduct.

A reporting change should not be assessed only by whether it is easier for industry or administratively cleaner for ASIC. It should also be assessed by whether it strengthens ASIC's capacity to see risk that the public cannot see for itself. If ordinary reporting or audit obligations are reduced, ASIC should show where the equivalent or better visibility sits. If the answer is that ASIC will rely on private certification, management accounts, accountant compilation, directors' resolutions and after the event enforcement, then the relief is only as strong as ASIC's capacity to monitor it.

The submissions reveal pressure toward self-assessment

The submissions to ASIC's broader simplification work reveal a clear tension. Regulated industry supports simplification, but often uses simplification language to seek broader relief, lower reporting intensity, more materiality filters, more safe harbours, more no action positions, more digital flexibility and more reliance on internal judgement. Consumer and investor-oriented submissions are more concerned that simplification should not weaken protections.

That tension is relevant to CS 54 because financial reporting and auditing relief can be gamed if thresholds, entity categories, group structures, foreign control rules or audit conditions create incentives to organise affairs around the relief. A relief regime that is easier to find may also become easier to exploit unless ASIC retains strong visibility of who uses it and why.

ASIC should therefore treat requests for reduced reporting and simplified relief with caution. There is a genuine problem with low value reporting and duplicative regulatory burden, but the answer is not to return to a model where regulated entities decide privately what matters. The lesson of the Financial Services Royal Commission, PwC, KPMG, EY and ASIC's own independence findings is that private self-assessment, internal assurance and after the event correction are not enough where public trust is at stake.

The design principle should be simple. Complexity should not be pushed onto investors, creditors, members, consumers or the public. If a regulated entity chooses to

rely on relief, the burden should fall on that entity to explain the relief, satisfy the conditions, preserve evidence of compliance, and make reliance visible to ASIC.

ASIC's monitoring capability must be tested before relief is simplified

ASIC should not finalise CS 54 without confronting a practical question. Does ASIC have the management discipline, data visibility, specialist capability and resources to monitor reliance on financial reporting and audit relief effectively once the consolidated instruments are in force?

This is not an abstract concern. Relief instruments shift risk. Where an entity is relieved from ordinary audit or reporting obligations, the protection moves away from routine public scrutiny and toward internal processes, director certification, accountant compilation, lodgement rules, ASIC surveillance and after the event enforcement. That model is only safe if ASIC can see who is using relief, detect patterns of misuse early, and act against complex and well-resourced actors before consumer, investor, creditor or member harm has already crystallised.

The public record does not justify complacency. In July 2024, a Senate inquiry recommended splitting ASIC into two bodies after finding that ASIC had comprehensively failed in its role. Reuters reported that the Senate committee also recommended recording how ASIC handles reports of corporate misconduct and establishing a searchable public register of civil or criminal outcomes arising from those reports.

That finding should weigh heavily in this consultation. CS 54 should not assume that simplifying access to relief is harmless. If more entities can more easily identify and rely on relief, then ASIC must have stronger systems to monitor that reliance.

The history of Sterling, Trio, Shield and First Guardian demonstrates the problem. These matters differ in detail and should not be collapsed into one allegation. However, they share an important public policy lesson. Complex products, gatekeeper failures, weak disclosure, poor advice, platform failures, trustee failures and vulnerable investors can sit in plain sight until the damage is already done.

Shield and First Guardian are especially relevant because they are recent. ASIC has said around 11,000 Australians invested about \$1.1 billion in Shield and First Guardian, that less than 2,000 had lodged AFCA complaints by February 2026, and that nearly 50 people across ASIC were working across 26 investigations described as among the largest and most complex cases in ASIC's history. ASIC is investigating marketing lead generators, financial advisers, financial firms, superannuation trustees, auditors and scheme operators. ASIC has also recorded Netwealth's admissions that it failed to obtain and assess sufficient information about First Guardian, or make sufficient

independent inquiries, before or while offering First Guardian as an investment option to members.

These examples raise a direct CS 54 question. If ASIC is already stretched by complex collapses and must mobilise major resources after harm has occurred, why should ASIC make audit and reporting relief easier to rely upon without building stronger early warning visibility into the relief framework itself?

ASIC's enforcement history suggests that it can act, but too often the serious action comes after collapse, after loss, after retirement savings are exposed, or after public pressure makes the issue impossible to ignore. A regulator that is effective against low hanging fruit but slow against large, complex or familiar industry actors cannot safely administer a relief regime that depends on private self-certification and delayed detection.

This does not mean CS 54 should be rejected. It means ASIC should be required to build monitoring into the instruments themselves. ASIC should maintain a searchable internal register of entities relying on material financial reporting and audit relief. It should collect structured data on the type of relief used, the adviser or auditor involved, the entity group, the reason for relying on relief, the relevant solvency or asset tests, and any objections or qualifications. ASIC should publish aggregate data annually and should report whether reliance on relief is concentrated in particular sectors, adviser networks, audit firms, corporate groups or recurring structures.

ASIC should also state how it will resource surveillance of the consolidated instruments. It is not enough to simplify the law and then rely on after the event enforcement. ASIC should explain what data it will receive, how it will analyse it, what triggers review, how it will detect structuring around thresholds, and how it will deal with entities or professional firms that repeatedly rely on relief in ways that reduce public transparency.

The public interest rule should be clear. If ASIC cannot monitor the relief effectively, ASIC should not expand practical access to it. Simplification should improve ASIC's visibility, or at a minimum preserve it. It should not create a cleaner pathway for regulated entities to remove themselves from audit and reporting scrutiny while leaving ASIC to discover the problem years later.

Specific drafting concerns should be corrected before finalisation

The draft instruments appear to contain issues that should be corrected before finalisation.

The draft Financial Reporting Instrument's simplified outline appears to refer to relief for wholly owned entities, while ASIC's consultation material says the relief in ASIC

Corporations Wholly owned Companies Instrument 2016/785 has been omitted because it requires further review. That inconsistency should be corrected or explained, because users should not have to infer whether wholly owned company relief is included, excluded or reserved for later treatment.

The parent entity provisions in the draft Financial Reporting Instrument also appear to contain a cross-reference problem. The conditions provision appears to refer to subsection 14(1) and subsection 14(2), even though section 14 is the definitions section and the operative relief appears in section 15. That should be corrected because a consolidation instrument should not introduce avoidable interpretive uncertainty.

The draft Auditing Instrument also appears to contain a transitional cross reference concern. Its savings provision appears to refer to relief in subsection 15(1), even though the operative audit relief is in section 13 and section 15 concerns conditions for that relief. ASIC should check and correct that drafting before registration.

These matters may be capable of easy correction, but they illustrate the larger point. Consolidation is only useful if it increases certainty. If the process introduces cross reference errors or unexplained omissions, the result is not simplification. It is a transfer of interpretive burden from ASIC to the public.

ASIC should require visibility of reliance on relief

ASIC should not allow financial reporting and audit relief to operate as a private switch that is turned on inside a company file and only discovered later if there is a dispute. Where relief removes or modifies an ordinary reporting or audit obligation, ASIC should collect usable data on reliance.

At minimum, ASIC should publish or maintain a searchable register showing which entities rely on audit relief, which entities rely on small foreign controlled company reporting relief, and which entities rely on other material reporting relief that reduces public disclosure or independent assurance. If full publication is said to be commercially sensitive, ASIC should at least publish aggregate data by relief type, sector, entity size, group structure and audit firm involvement.

That visibility would help ASIC detect clustering, repeated reliance, sector patterns, adviser patterns and possible structuring around thresholds. It would also help Parliament and the public assess whether relief is operating as intended or becoming a shadow reporting regime.

Recommended approach

1. ASIC should proceed with consolidation only if it publishes a full audit trail before finalising the instruments. That audit trail should show each existing provision,

its new location, any wording change, any omitted condition, any changed threshold, any changed notice requirement, and the reason for the change.

2. ASIC should confirm that CS 54 does not widen substantive relief unless the widening is expressly identified and justified on public interest grounds. It should not remove any existing audit relief safeguard concerning proposed modified audit opinions, unresolved accounting disputes or auditor concerns unless ASIC explains why that safeguard is redundant and what equivalent protection remains.

3. ASIC should strengthen transparency where auditor independence disclosure relief is used, because ASIC's own findings show that independence failures are real and that auditors have not always proactively reported them. It should correct all cross references, remove inconsistency around wholly owned company relief, and state clearly how omitted relief will be handled before affected users are required to rely on the new instruments.

4. ASIC should ensure that the new instruments do not conflict with, pre-empt or weaken the Government's broader review of accounting, auditing and consulting firm regulation. It should also add monitoring and reporting around reliance on material relief so that simplification improves regulatory visibility rather than reducing it.

Conclusion

CS 54 should not be rejected merely because it consolidates relief. A clearer law is desirable, and ASIC is right to reduce fragmentation where that can be done safely. But financial reporting and auditing instruments are not ordinary administrative clutter. They sit close to the integrity of markets, the reliability of accounts, the independence of auditors, the rights of creditors and members, and the public's ability to see what is happening inside corporate structures.

The public environment has changed. ASIC is consulting on audit and reporting relief at a time when auditor independence, professional services firm governance, confidential information handling and Big Four accountability are under intense scrutiny. ASIC's own findings show that auditor independence compliance has been weaker than it should be. Treasury's current reform work shows that Government is considering stronger oversight of audit and consulting firms, not weaker reliance on private judgement.

In that context, ASIC should adopt a clear public interest rule. Simplification must mean clearer accountability, not less accountability. It must mean easier access to obligations, not easier escape from scrutiny. It must mean better visibility for ASIC, investors, creditors, members and the public, not a quieter pathway into relief.

CS 54 should proceed only if ASIC can demonstrate, provision by provision, that transparency, audit integrity and public protection have not been weakened.