

7 February 2019

Adam Bogiatzis  
Consumer and Corporations Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email:- [ASICFunding@treasury.gov.au](mailto:ASICFunding@treasury.gov.au)

Dear Adam

### **Exposure Draft – Treasury Laws Amendment (ASIC Cost Recovery and Fees) Regulations 2019**

CPA Australia represents the diverse interests of more than 163,000 members working in 125 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest. We have restricted our comments below to the proposed regulatory amendments to *Corporations (Fees) Regulations 2001* set out in Schedule 2 – Registry fees.

#### **Fees relating to changes in auditor circumstances**

We support the reduction of the fee, from \$3,487 to \$40, for an application by an auditor, for the consent of the Australian Securities and Investments Commission (ASIC) to resign as the auditor of a public company, under Corporations Act 2001 s.329(5)(a). The reduction removes the large disparity between the fee for the resignation of public company auditors, and the removal of auditors by the company and the resignation of auditors of proprietary companies and small companies limited by guarantee, both of which carry no fee.

The Exposure Draft Explanatory Statement notes that the calculation of ASIC fees for regulatory services are intended to “ensure a close alignment with ASIC’s actual costs in undertaking the regulatory activities”. However, we note that there are other fees in relation to changes in auditor circumstances where it is not clear that there is a close alignment to the cost to ASIC in processing the application or notification. For example, no fees are charged for many changes in auditor circumstances listed in Appendix 1 to this submission.

In contrast, the following fees are charged for:

- Self-managed superannuation funds — Application for cancellation of registration as SMSF auditor is \$899, according to ASIC’s [Cost Recovery Implementation Statement \(CRIS\) - Fees for service](#).
- [Form 5112](#) Application for consent from ASIC to remove compliance plan auditor under *Corporations Act 2001* 601HH(1)(b) is \$791.

It is unclear why these two scenarios result in greater administrative costs for ASIC, than for the circumstances listed in Appendix 1. Potential unintended consequences may arise. For example, a Self-Managed Superannuation Fund (SMSF) auditor may choose to become dormant, and merely cease doing audits, rather than resigning their registration and paying \$899. Eventually, ASIC may be faced with a register that includes inactive

auditors, which it will need to review regularly and take action to maintain its currency. Arguably, this is not in the public interest and could actually increase ASIC's administrative costs. Consequently, we recommend that the fees for SMSF auditor registration cancellation be removed to align with comparable circumstances outlined in Appendix 1, which carry no ASIC fees.

Likewise, we recommend that the fee for application to remove compliance plan auditors under *Corporations Act 2001* 601HH(1)(b) be removed, to align with the approach for the removal of company auditors, which carries no fee.

### **ASIC search fees**

It is CPA Australia's view that all publicly available electronic information on ASIC registers should be accessible to all, at no cost. It is disappointing to note that the proposed search fee reductions are limited to only a few types of ASIC registry searches, and fee exemptions are restricted to a limited range of users. In particular, we note that no reduction is proposed for fees relating to obtaining financial reports, which remains at \$40. We have previously articulated some of the benefits of free access, in our submissions in response to the consultations on Modernising Business Registers, and we reproduce these below:

- Improving the probability of business success as ready and free access to financial and other information about suppliers, customers and other entities assists businesses in making more informed decisions about with whom they should interact.
- Reducing the risk of illegal phoenix activities (for example, when a new company is created to continue the business of a company that has been deliberately liquidated to avoid paying its debts) and other similar activity.
- Assisting businesses to meet certain regulatory obligations; for example, undertaking customer due diligence under Anti Money Laundering legislation.
- Allowing for a deeper understanding of Australian businesses and the economy through macro-level research and analysis of such data.

Free access to the ASIC company registry will potentially reduce the costs of doing business and improve access to economic information important to the operations of small and medium businesses. Additionally, continuing to charge a fee for registry searches is inconsistent with international best practice; searches of similar registries in the US, UK and New Zealand are free.

If you require further information on the views expressed in this submission, please contact either:

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Yours sincerely

**Gary Pflugrath**

Head of Policy and Advocacy

**CPA Australia**

## Appendix 1

- [Form 315](#) Notification of resignation, removal or cessation of auditor under *Corporations Act 2001* s.319(5)(a), 324(1) & (2), 327(4) & (15), 329(11)(c) and 330
- [Form 905](#) Notification of ceasing to practise as, or change to details of, an auditor *Corporations Act 2001* s.1285, 1299F, 1285(1), 1287(1) and 1290(1)
- [Form 5133](#) Notification of resignation, removal or cessation of a registered scheme auditor *Corporations Act 2001* s.331AA, 331AB, 331AC(7), 331AD
- [Form 5132](#) Application for consent from ASIC for resignation or removal of scheme auditor under *Corporations Act 2001* s.331AC(1) or s.331AC(2)(a)
- [Form 5114](#) Notification of request by responsible entity to change compliance plan auditor under *Corporations Act 2001* 601HI
- [Form 5113](#) Application for consent from ASIC to resign as compliance plan auditor under *Corporations Act 2001* s.601HH(2)
- [Form FS09](#) Notification of cessation of an auditor of an Australian financial services licensee under *Corporations Act 2001* Section 990G
- [Form FS08](#) Application for consent from ASIC to resign as an auditor of an Australian financial services licensee under *Corporations Act 2001* s.990G(1)
- [Form FS07](#) Application for consent from ASIC to remove an auditor of an Australian financial services licensee under *Corporations Act 2001* s.990F(b)
- [Form CL18](#) Australian Credit Licence - Application for approval from ASIC to resign as a trust account auditor under *National Consumer Credit Protection Regulations 2010*
- [Form CL17](#) Australian Credit Licence - Application for approval from ASIC to replace a trust account auditor