



**CHARTERED SECRETARIES
AUSTRALIA**

Leaders in governance

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By email: bfraser@treasury.gov.au

Dear Bede

Modifications to ASIC Form 315

Chartered Secretaries Australia (CSA) is the independent leader in governance, risk and compliance. As the peak professional body delivering accredited education and the most practical and authoritative training and information in the field, we are focused on improving organisational performance and transparency. We proactively encourage federal and state governments to create legislative frameworks that foster sound practices in stewardship, accountability and transparency, as well as ethical behaviour. We represent over 8,000 governance professionals working in public and private companies, all of whom, due to their involvement in corporate administration and compliance, have a thorough working knowledge of the *Corporations Act*, and all of whom liaise with the Australian Securities and Investments Commission (ASIC) regularly in the course of their work.

Background

CSA meets formally with ASIC via a Liaison Committee four times each year. ASIC is represented at these meetings by John Price, Senior Executive, Corporations, Douglas Niven, Acting Chief Accountant, and other staff as appropriate.

Following discussion at these meetings, CSA members undertook to formally submit our concerns that ASIC Form 315 is out of date, which in turn creates difficulties for companies seeking to meet their compliance obligations.

Shareholder approval of auditor at first public company AGM and director-appointed auditor ceasing to be auditor

Directors of a public company have to appoint an auditor within one month of a public company being formed (s 327A(2)). Shareholders have to appoint the auditor at the first AGM (s 327B (1)).

However, if the auditor appointed by the directors ceases to be the auditor and shareholders appoint a different auditor at the first AGM, there is no provision on Form 315 to accommodate notification of this occurrence. CSA notes that in these situations, the auditor appointed by the directors of the public company did not resign. ASIC Form 315 deals with the resignation of auditors. At present, should shareholders at the first AGM appoint a different auditor than the auditor appointed by the directors of a public company, companies need to write a covering letter, attached to Form 315, to notify ASIC of this occurrence.

CSA recommends that ASIC Form 315 be modified to create provision for notifying ASIC that the auditor appointed by the directors of a public company ceased to be auditor at the first AGM and that shareholders appointed a different auditor at the first AGM.

Section numbers in Guide to ASIC Form 315

CSA notes that the section numbers in the Guide to ASIC Form 315 (revised in May 2007) relate to the appointment of auditors and not the resignation of auditors. However, ASIC form 315 covers the resignation of auditors only, not the appointment of auditors.

The section numbers currently available for reference on Form 315 are, therefore, out-of-date.

ASIC has advised CSA that the original Form 315 had included questions relating to the appointment of auditor and change of name of auditor. At the time of the repeal of the annual return, as part of the reduction in regulation to which companies are subject, ASIC did not consider it appropriate to create a new form. The creation of a new form would have undermined the reduction in red tape that was being enacted.

However, CSA notes that out-of-date references on ASIC forms create confusion concerning compliance obligations.

CSA recommends that the section numbers in the Guide to ASIC Form 315 be updated to refer to the resignation of auditors.

Conclusion

CSA urges Treasury to effect amendments to ASIC Form 315 through amendments to the Corporations Regulations that would ameliorate the process difficulties currently being experienced that affect the ability of companies to meet their regulatory obligations.

Yours sincerely



Tim Sheehy
CHIEF EXECUTIVE