

**SECOND SUBMISSION ON THE  
RAMSAY REPORT - AUDIT  
INDEPENDENCE**

**Prepared by the  
National Institute of Accountants**



## **RAMSAY REPORT**

### **NIA SECOND SUBMISSION**

#### **Introduction**

This submission is the second submission from the National Institute of Accountants (NIA) on the Ramsay Report into Audit Independence. This submission is in addition to the first submission sent to you in February. The first submission was a general response to the key points of the Ramsay Report. This submission focuses on two specific sections of the report; Disciplinary Procedures beginning at paragraph 6.106 and the Recommendations of the Audit Review Working Party in Part 7.

#### **NIA's response to Disciplinary Procedures section**

As will be discussed in the next section of this submission, the report of the Audit Review Working Party was issued in July 1997. Since that time, significant consultation between Mr Les Pascoe of Treasury, the three professional accounting bodies and other key stakeholders have substantially refined the report Professor Ramsay is referring to.

It must also be noted at this juncture that the NIA is supportive of the work done by the Audit Review Working Party, however the broad consensus that Professor Ramsay indicates as having been achieved by the Working Party and reflected in its report, is not correct. The NIA, a professional accounting body with over 12,000 members who work in all spheres of the accounting profession, including auditing, do not agree with all the proposals of the Working Party. We remain actively engaged with Treasury to ensure those issues are properly worked through so that the final report to Government on the issue reflects those concerns.

On the issue of the Companies Auditors and Liquidators Disciplinary Board (CALDB), the NIA supports the focus of the Working Party in examining aspects of the requirements for disciplinary auditors. In particular whether the existing institutional arrangements for dealing with disciplinary matters operate in an efficient and effective manner and whether CALDB and/or Australian Securities and Investment Commission (ASIC) should be authorised to exchange information with the three accounting bodies for the purpose of investigation and disciplinary processes.

In reviewing Professor Ramsay's summation of the CALDB response to the recommendations of the Working Party, the NIA agree that membership of the CALDB should be broadened. In broadening membership, the NIA agrees with the CALDB that such broadening should not lead to a diminishing of technical skills needed to handle the issues before the CALDB.

This leads onto paragraph 6.120 of the Report, in which the CALDB proposes to expand its membership through the appointment of reserve members from both the Institute of Chartered Accountants in Australia (ICAA) and CPA

Australia. Being one of the three professional bodies, the NIA can see no merit or plausible reason why these proposed reserve members or members of the CALDB can not be members of the NIA nor appointed by the NIA.

Whilst agreeing that nominees for the CALDB should be from the accounting and legal profession, it should not be only members of the ICAA or CPA Australia who make up the composition of the CALDB. It is anti-competitive and not in the public interest that the NIA remain excluded from being able to nominate members, deputies and reserves to the CALDB and until such time as the CALDB includes members, deputies and reserves from the NIA, the CALDB is not truly representative of the Australian accounting profession. If the NIA were permitted to make such appointments, the NIA agrees with the proposal of the CALDB that some of those proposed be current or former insolvency practitioners.

Therefore in response to Professor Ramsay's recommendation at paragraph 6.122, the NIA would like to make the following comments and strongly recommend that the Government give full consideration to those comments. This is to ensure that the Government's response to Professor Ramsay's report takes account of the entire Australian accounting profession, which includes CPA Australia, the ICAA and the NIA.

The NIA agree that the *ASIC Act* should be amended to provide for the appointment of a chairman for the CALDB and allow the CALDB to sit in more than one Division simultaneously.

However the NIA does not agree that such a Division be constituted by:

- (A) the Chairman or Deputy Chairman;
- (B) a member, deputy of the member or a reserve member nominated by CPA Australia; and
- (C) a member deputy of the member or a reserve member nominated by the ICAA.

#### Recommendation 1

The NIA submit that for the above reasons the wording of paragraph 6.122(a)(iii) should read:

- (iii) ***provide that a Division of the CALDB be constituted by the Chairman or Deputy Chairman plus two people from any of the below three categories:***
  - (A) ***a member, deputy of the member or a reserve member nominated by CPA Australia;***
  - (B) ***a member, deputy of the member or a reserve member nominated by ICAA; or***
  - (C) ***a member, deputy of the member or a reserve member nominated by NIA;***

The NIA does not agree, for reasons stated earlier in this submission that the *ASIC Act* continue to exclude the NIA from nominating members, deputies or members and the proposed reserve members to the CALDB.

## **Recommendation 2**

The NIA submit that for the above reasons the wording in paragraph 6.122(a)(iv) of the proposed amendment should read:

- (iv) *provide for CPA Australia, ICAA and NIA to each submit a panel of not less than seven and not more than ten names from which the Minister will appoint:*
- (A) *one CPA Australia member, a deputy of the CPA Australia member and up to two CPA Australia reserve members;*
  - (B) *one ICAA member, a deputy of the ICAA member and up to two ICAA reserve members; and*
  - (C) *one NIA member, a deputy of the NIA member and up to two NIA reserve members.*

The NIA agree with the proposed wording in paragraph 6.122(b) as it would provide greater technical skill to enable the CALDB to carry out its responsibilities effectively.

The NIA also agree with the wording of paragraph 6.122(c) especially sub item (iii) as it would allow the effective flow of information between the CALDB and the three accounting bodies that the three accounting bodies need to ensure its disciplinary procedures are effective. This move also brings the CALDB into line with other similar Government statutory bodies as the Tax Agents Board. It is also interesting to note that the NIA is included in (c), hence, why is it not included in (a) and (b) of the recommendation at paragraph 6.122?

## **Professor Ramsay's discussion on the Audit Review Working Party**

As discussed previously in this submission, the NIA would like to highlight that since the Audit Review Working Party made its recommendations in July 1997, upon which Professor Ramsay has performed his analysis, much has changed. Therefore any recommendations Professor Ramsay makes to the Working Party's own recommendations must be considered in this light.

The NIA supports the general work of the Working Party and believe that the recommendation Professor Ramsay should have made is that the Working Party be re-constituted and work towards completion of its work as a matter of urgency. The Government should also treat the final recommendations as a legislative and administrative priority. Given that the Review began in 1994, it is unacceptable for the auditing profession to continue to be kept in "limbo". Therefore priority is essential.

**Recommendation 3**

The Audit Review Working Party be re-established (and include key stakeholders that were not part of the original Working Party such as the NIA).

**Recommendation 4**

The Audit Review Working Party visit its previous work and the developments since its previous work and put forward final recommendations as a matter of urgency.

**Recommendation 5**

Upon receipt of the final recommendation of the Working Party, the Government give priority to any legislative and administrative changes recommended by the Working Party.

As stated in Recommendation 3, the Working Party membership should be expanded to include other key stakeholders who were not in the original Working Party, such as the NIA. Expanded membership will mean that the recommendations better reflect the opinions of a wider cross-section of the accounting and auditing profession, end users and regulators. This would therefore "do away with" or reduce the need for further public consultation on the recommendations of the Working Party, thus reducing the time the Government needs to respond to the recommendations.

***Performing the registration and supervisory functions***

As is stated in paragraph 7.04 of the Ramsay Report, the Working Party recommended that ASIC should be able to delegate the registration and regulation of company auditors to each professional body that satisfies a series of tests.

This adoption of the UK model has never been supported by the NIA for a number of reasons. These include that we believe ASIC should undertake this role and therefore can not delegate such responsibility, the professional bodies do not have the necessary structures in place to become a regulator and nor should Government abrogate its financial responsibility to regulate the auditing profession.

Having said this, if the Government were to adequately fund the establishment and ongoing maintenance of the structures necessary to be regulator and that the conditions upon which an accounting body would need to satisfy before ASIC could delegate functions were inclusive and therefore not aimed at excluding the NIA particularly, then the NIA may reconsider its position on the Working Party recommendations.

*Pre-requisite for registration as a company auditor*

The NIA continue to have significant concerns over the Working Party's recommendations in this area as reflected in paragraphs 7.07 to 7.11 of the Ramsay Report. The concern is that the recommendations are exclusionary and create an anti-competitive situation in favour of CPA Australia and ICAA for no practical reason.

The NIA support the enhancement of the education requirements for registration but can not see why the requirement must be the auditing module of two unaccredited courses run by private organisations (being the CPA program and the ICAA's CA program formerly the Professional year) or equivalent. Surely the Government must encourage auditors to undertake a post-graduate qualification run by an accredited awarding institution which must abide by the quality assurance guidelines set by the Australian Universities Quality Assurance Council.

**Recommendation 6**

**The education requirements for registration be enhanced by requiring all applicants to have completed a specialist course or module in auditing provided by an approved awarding institution.**

The NIA supports the Working Party recommendation in paragraph 7.09 as we are concerned about the fact that a number company auditors do not belong to any of the three professional bodies and are therefore not bound by ethical requirements or enforcement of those ethical requirements. As the NIA's Code of Ethics is equivalent of the joint Code of Professional Conduct of the other two professional bodies, the NIA expect that our Code of Ethics and other rules be included. It is absurd for members of the NIA who are company auditors to be required to abide by the rules of other bodies when the NIA rules are equivalent.

In respect of people who are not members of any of the three professional bodies, the recommendation in our first submission, that such people should abide by a set of ethical rules as laid down by ASIC in a Policy Statement rather than abide by the rules of any of the three professional bodies which they, for whatever reason have decided not to be a member of.

In respect of paragraph 7.10, the NIA fully support the recommendation that the existing measures for practical experience in auditing be replaced with competency standards.

The only concern the NIA has with that suggestion is that the competency standards are being developed without all of the key stakeholders including the NIA being involved. As discussed previously, this will delay the process and disenfranchise those not involved in the development of such standards.

**Recommendation 7**

**The NIA and other key stakeholders be included in the development of competency standards for auditors as a matter of urgency.**

Given these suggestions, there is therefore no need to continue to mention membership of professional body as a requirement for registration as a company auditor. Continuing mentioning of membership in the *Corporations Act* in anti-competitive in favour of CPA Australia and ICAA for no good public policy reason that the NIA is aware of.

**Recommendation 8**

**The professional association membership requirements of s1280(2)(a)(i) of the *Corporations Act 2001* be repealed or else the NIA be included.**

**Recommendation 9**

**The list of overseas professional associations in *Corporations Regulation 9.2.01* be repealed as this favours members of foreign bodies over indigenous bodies such as the NIA for no reason at all.**

Paragraph 7.14 again repeats the error in the Working Party's Report by requiring that registered company auditors undertake a minimum amount of professional development prescribed by CPA Australia and the ICAA. The error is that the NIA have exactly the same professional development requirements as those two bodies and the recommendation of the Working Party should reflect that.

**Recommendation 10**

**The minimum amount of professional development that registered company auditors must undertake be similar to that required of CPA Australia, ICAA and NIA members who hold public practice certificates.**

In response to comments made at paragraph 7.17, the NIA support the need for annual statements from registered company auditors and a "clamp down" by ASIC on registered company auditors who do not undertake any substantive audit work in the preceding five years.

On the statement on professional development and quality reviews, the NIA support the statement that such requirements be part of the ethical codes and other requirements of the three professional bodies, however by including such requirements in legislation, it reinforces the importance of such issues to auditors.

***Professional liability***

The NIA have yet to be substantially involved in any discussion on an auditor/accountant's unlimited professional liability with governments and look